



THE UNIVERSITY OF TENNESSEE BOARD OF TRUSTEES

SPECIAL MEETING OF THE BOARD OF TRUSTEES	
9:00 a.m. EDT/8:00 a.m. CDT	Virtual Meeting
Tuesday	Video/Teleconference
August 4, 2020	Knoxville, Tennessee

AGENDA

- I. Call to Order and Roll Call
- II. Opening Remarks of the Chair
- III. President Update
- IV. [Title IX Revisions to UAPA Rules](#) Tab 1
 - A. [UTC \(Student Code of Conduct\)](#) - Action/Roll Call Vote Tab 1.1
 - B. [UTHSC \(Student Code of Conduct\)](#) - Action/Roll Call Vote Tab 1.2
 - C. [UTK \(Student Code of Conduct\)](#) - Action/Roll Call Vote Tab 1.3
 - D. [UTM \(Student Code of Conduct\)](#) - Action/Roll Call Vote Tab 1.4
- V. [Title IX Revisions to Board Policy BT0006 - Policies Governing Academic Freedom, Responsibility, and Tenure](#) - Action/Roll Call Vote Tab 2
- VI. [Grant of Tenure upon Initial Appointment](#) - Action/Roll Call Vote Tab 3
- VII. Closing Remarks
- VIII. Adjournment*

(*) Only the agenda items stated in the call of a special meeting may be considered by the Board.



THE UNIVERSITY OF TENNESSEE BOARD OF TRUSTEES

AGENDA ITEM SUMMARY

Meeting Date: August 4, 2020

Item: Adoption of Revised UAPA Rules (Student Codes of Conduct)

Type: Action

Presenter: Ryan Stinnett, General Counsel

Background Information

On May 6, 2020, the U.S. Department of Education released new regulations implementing Title IX of the Education Amendments of 1972 (Title IX). The regulations become effective on August 14, 2020. The new regulations apply to all reports of "sexual harassment," as that term is defined in the regulations, including reports by and against students, faculty, and staff.

As one step in implementing the new regulations, each campus must revise its student code of conduct. Accordingly, the Office of General Counsel, in collaboration with campus student affairs officials, has drafted revisions to the existing student codes of conduct to bring those student codes into compliance with the new Title IX regulations.

The four current student codes of conduct are administrative rules of the University. Accordingly, the University must follow the rulemaking provisions of the Uniform Administrative Procedures Act (UAPA) to amend those rules. For the University to adopt amended rules prior to the August 14 implementation date for the new Title IX regulations, the University is proposing to promulgate the revised rules as emergency rules.

This emergency rulemaking process is allowed under Tennessee Code § 4-5-208, which provides that a state agency may adopt an emergency rule if it finds that the rule "is required by an agency of the federal government and adoption of the rule through ordinary rulemaking procedures...might jeopardize the loss of a federal program or funds."



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Upon adoption by the Board, the emergency rules will be submitted to the Tennessee Attorney General for final approval and then filed with the Tennessee Secretary of State under the rulemaking procedures of the UAPA. The emergency rules will be effective for up to 180 days. Prior to expiration of the emergency rules, the University intends to promulgate permanent rules to implement these changes to the student codes of conduct.

The revised student codes of conduct for each campus, drafted as emergency rules in the required UAPA rule format, follow this summary. The most significant proposed changes to these documents are as follows:

1. New definitions have been added for terms related to the regulations, including "Formal Complaint," "Sexual Harassment," and "Title IX Allegations."
2. The codes now differentiate between two types of Formal Complaints in Sexual Harassment cases:
 - (1) Formal Complaints that involve allegations that a Respondent's conduct constitutes Sexual Harassment in the University's education program or activity in the United States as defined in the regulations ("Title IX Allegations"); and
 - (2) Formal Complaints that involve allegations that do not meet the jurisdictional requirement in the regulations but still violate the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking.

The codes treat all Formal Complaints in the same manner from the initial notice through the end of the investigation. The process for the two types of Formal Complaints diverges at the hearing stage. Formal Complaints involving Title IX Allegations will proceed to a newly created Title IX Hearing. All other Formal Complaints will continue to be resolved and heard under the existing code processes.

3. In all cases with Formal Complaints, provisions regarding advisors and the role of advisors have been expanded or added. The codes include the parties' right to an advisor throughout the conduct process and the University's obligation to provide an advisor free of charge to any party in a Title IX Hearing who does not have one.



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4. For all Formal Complaints, notice provisions have been added, providing the required initial notice to both parties of the substance of the allegations, the identity of the parties, and the parties' rights in the process.
5. The standard for removing a student from the University (i.e., interim suspension) prior to the conclusion of the student conduct process has been changed for Title IX Allegations. The standard in the regulations requires a higher threshold than the standards currently in the codes for taking interim action against a student in other cases.
6. For all Formal Complaints, the codes include provisions setting out the parties' rights during an investigation, including the right to examine all of the evidence prior to the completion of the investigative report and to provide written responses to both the evidence and the report.
7. For Formal Complaints involving Title IX Allegations, the codes include the parties' option to resolve the complaint through an informal resolution process (and without a hearing) if both parties consent.
8. For Formal Complaints involving Title IX Allegations, the codes include sections setting forth the procedures for Title IX Hearings, including the appointment of the hearing officer, preliminary notice requirements, the information that is permitted and excluded in the hearing, and the parties' rights to question each other and witnesses in real time through their advisors.
9. For Formal Complaints involving Title IX Allegations, the codes include the parties' rights to appeal a decision from a Title IX Hearing, including both the grounds for appeal and the process.

Board Action

The Board Chair will ask a member of the Board to make a motion to approve a resolution adopting emergency rules for each campus.

**RULES
OF
THE UNIVERSITY OF TENNESSEE (CHATTANOOGA)**

**CHAPTER 1720-02-05
STUDENT CODE OF CONDUCT**

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1720-02-05-.01 PREAMBLE.

- (1) Students at the University of Tennessee at Chattanooga ("University") 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 and in compliance with University rules and policies. The University has established the Student Code of Conduct ("Code") in order to advance the mission of the University by maintaining a safe and secure learning environment, 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 institutional integrity and property, encouraging students to engage in conduct that brings credit to themselves and to the University, and ensuring that each student who matriculates at the University graduates ready to contribute to society as an ethical and law-abiding individual.
- (2) The University's behavioral standards are set forth in the Code. Students who engage in conduct in violation of the Code are subject to University disciplinary sanctions. The University investigates and resolves alleged violations of the Code through the student conduct process and utilizes the process to promote learning and the development of 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.
- (3) Primary authority and responsibility for the Code is delegated to the Vice Chancellor for Student Affairs, who has delegated certain authority and responsibility for administration and enforcement of the Code to the Office of Student Conduct.
- (4) The University is committed to respecting students' constitutional rights. Nothing in this Chapter is intended or will be interpreted in a manner that restricts a student's constitutional rights, including, but not limited to, a student's right to freedom of speech and freedom of assembly.
- (5) Students are responsible for being knowledgeable about and complying with the Code, applicable academic catalogues (undergraduate or graduate), and all other University rules, policies, and procedures.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed September 15, 1976; effective October 15, 1976. Repealed by Public Chapter 575; effective July 1, 1986. New rule filed May 27,

1986; effective August 12, 1986. Amendment filed March 12, 1987; effective June 29, 1987. Amendment filed June 22, 2006; effective October 27, 2006. Repeal and new rule filed April 17, 2012; effective September 28, 2012. Repeal and new rule filed September 30, 2019; effective December 29, 2019.

1720-02-05-.02 DEFINITIONS.

The following words, terms, or phrases, when used in the Code, shall have the following meanings:

- (1) Advisor: A person who provides assistance to a Complainant or Respondent during the student conduct process, as provided under Section .05(3) of this Chapter.
- (2) Business day: An official workday during which the University conducts business. Typically, a business day is a weekday (Monday through Friday), excluding any weekdays designated by the University as a holiday or in which the University is administratively closed. Each business day commences at 8:00 a.m. and ends at 5:00 p.m.
- (3) Chancellor: The University's chief executive officer to whom the President of the University of Tennessee system has delegated primary responsibility for administration of University operations, policies, and procedures.
- (4) Code: The Student Code of Conduct of the University of Tennessee at Chattanooga, as set forth under this Chapter.
- (5) Complainant: Any person, group, or organization that may have been subjected to conduct that violates the Code, regardless of whether that person, group, or organization makes a complaint or reports an alleged violation of the Code to the University.
- (6) Designee: A University official or office designated with the authority to carry out a duty or role on behalf of another University official or office.
- (7) Faculty: A University employee who holds faculty rank and whose primary appointment is to engage in academic instruction, research, or service.
- ~~(8)~~ (9) Formal Complaint: A document filed by a Complainant (or signed by the Title IX Coordinator) alleging that a Respondent engaged in sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation, and requesting that the University investigate the allegation. There are two types of Formal Complaints: (i) Formal Complaints that include Title IX Allegations (as defined under Section .02(29)); and (ii) Formal Complaints that do not include Title IX Allegations, but do otherwise include allegations of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation.
- ~~(8)~~(9) Formal Hearing: A University hearing before a fair and impartial decision-maker in which a Respondent may contest charges of Code violations and/or disciplinary sanctions issued against the Respondent, as provided under Section .07(1) of this Chapter.
- ~~(9)~~(10) 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 its truth.
- ~~(10)~~(11) Hearing Officer: A University employee designated by the Office of Student Conduct to conduct a Preliminary Meeting, as provided under Section .06(3) of this Chapter, or to conduct and serve as the decision-maker in a Hearing Officer Hearing, as provided under Section .08 of this Chapter.
- ~~(11)~~(12) Hearing Officer Hearing: A type of Formal Hearing in which a Hearing Officer serves as the

decision-maker, as provided under Section .08 of this Chapter.

~~(12)~~(13) Member of the University community: Any person who is a student, faculty member, staff employee, campus visitor, or participant in a University-sponsored or University-affiliated activity, or any organization that participates in a University-sponsored or University-affiliated activity.

~~(13)~~(14) Notice: Notice given in writing and transmitted by one (1) or more of the following: (i) e-mail to a student's University-issued e-mail account; (ii) United States mail, (iii) courier service, and/or (iv) hand-delivery to the address the University's Records Office has on file for the student. When a notice is transmitted by e-mail, the notice is effective on the date the e-mail is sent. E-mail to a student's University-issued e-mail address is an official method of communication used by the University for student conduct matters. 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.

~~(14)~~(15) Office of the Dean of Students: The University office designated with primary responsibility for the administration of the Office of Student Conduct. The Office of the Dean of Students may act as or on behalf of the Office of Student Conduct.

~~(15)~~(16) Office of Student Conduct: The University office designated with primary responsibility for administering and enforcing the Code and implementing student conduct-related rules, policies, procedures, training, and education.

~~(16)~~(17) Possession: Direct, indirect, or communal control of a substance or property, actual knowledge of a substance or property, and/or being in such close proximity to the substance or property that a reasonable presumption could be made that one had possession of the substance or property.

~~(17)~~(18) Relevant information: Information having any tendency to make the existence of any fact that is of consequence to determining whether a Respondent violated the Code more probable or less probable than it would be without the information. [This definition does not apply to Title IX Hearings.](#)

~~(18)~~(19) Respondent: A student who has been charged with violating the Code and/or whose alleged misconduct is being investigated by the Office of Student Conduct.

~~(20)~~ Sexual Harassment: Conduct on the basis of sex that satisfies one or more of the following: (i) an employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct; (ii) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or (iii) sexual assault, dating violence, domestic violence, or stalking.

~~(19)~~(21) Staff: Any full-time or part-time University employee not primarily engaged in academic instruction, research, or service, who holds either an exempt or non-exempt position with or without administrative, executive, or managerial responsibilities, excluding student employees of the University.

~~(20)~~(22) Student: A person who:

- (a) Is admitted, enrolled or registered for study at the University, either full-time or part-time, pursuing undergraduate, graduate, professional, and/or non-degree courses; or
- (b) Has completed a preceding academic term at the University and is eligible for re-enrollment without re-applying for admission and/or otherwise has a continuing

relationship with the University; or

- (c) Attended the University during a previous academic term and engaged in conduct in violation of the Code during his or her time of enrollment; or
- (d) Is admitted to the University and later matriculated at the University, and committed conduct in violation of the Code during the application process or during the period of time between admission and matriculation at the University.

Except where explicitly provided otherwise in this Code, the term "student" shall also refer to student organizations.

~~(21)~~(23) Student Conduct Board: A hearing board consisting of students, faculty, and staff appointed by the Office of the Dean of Students (or designee), which serves as the decision-maker in a Student Conduct Board Hearing, as provided under Section .09 of this Chapter.

~~(22)~~(24) Student Conduct Board Chairperson: A University employee appointed by the Office of the Dean of Students (or designee) to preside over and facilitate a Student Conduct Board Hearing.

~~(23)~~(25) Student Conduct Board Hearing: A type of Formal Hearing in which a Student Conduct Board serves as the decision-maker, as provided under Section .09 of this Chapter.

~~(24)~~(26) Student conduct process: The processes and procedures for resolving alleged violations of the Code as set forth in University rules.

~~(25)~~(27) Student conduct record: The collective printed or electronic record of any cases involving alleged violations of the Code by a student. A student conduct record may include, without limitation, incident report(s), correspondence, investigation report(s), interview records, demographic information, evidence, hearing records and recordings, and the student's conduct history.

~~(28)~~ Student organization: An organization, club, fraternity, sorority or other group whose membership is composed of University students and which is formally registered and recognized by the University according to University rules, or which has submitted a pending application for registration with the University according to University rules.

~~(29)~~ Title IX Allegations: Allegations within a Formal Complaint that a Respondent's conduct constitutes Sexual Harassment (as defined under Section .02(20)) in the University's education program or activity and occurred within the United States as defined in 34 C.F.R. 106.30(a).

~~(30)~~ Title IX Hearing: A type of Formal Hearing in which a Title IX Hearing Officer serves as the decision-maker, as provided under Section .10 of this Chapter.

~~(26)~~(31) Title IX Hearing Officer: A person or persons appointed to conduct a Title IX Hearing.

~~(27)~~(32) UAPA: The Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-101 *et seq.*

~~(28)~~(33) UAPA Administrative Judge: A hearing officer who presides over and serves as the decision-maker in a UAPA Hearing.

~~(29)~~(34) UAPA Hearing: A type of Formal Hearing conducted by a UAPA Administrative Judge in accordance with Chapter 1720-01-05 and the UAPA.

~~(30)~~(35) University: The University of Tennessee at Chattanooga.

~~(31)~~(36) University-affiliated activity: Any activity, on or off University-controlled property, that is initiated, aided, authorized, sponsored, or supervised by the University.

~~(32)~~(37) University-controlled property: All land, buildings, facilities, grounds, structures, or any other property owned, leased, used, maintained, or operated by the University. For purposes of this rule, University-controlled property includes all streets, alleys, sidewalks, and public ways abutting such property. University-controlled property also includes, but is not limited to, computers and network systems owned, maintained, controlled, or funded by the University.

~~(33)~~(38) University official: A University employee when acting in the course and scope of his or her employment duties.

~~(34)~~(39) Vice Chancellor for Student Affairs: The University's chief student affairs officer to whom the Chancellor has delegated primary authority and responsibility for the administration of the Code.

~~(35)~~(40) 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, without limitation, any firearm (loaded or unloaded); real firearm or device that would appear to a law enforcement officer to be a real firearm; ammunition; electronic control device (including, but not limited to, a Taser gun or stun gun); device designed to discharge an object (including, but not limited to, a BB gun, air/CO² gun, pellet gun, potato gun, paintball gun, or slingshot), excluding water guns; dangerous chemical (including, but not limited to, tear gas or oleoresin capsicum), explosive or explosive device, including a substance or combination of substances possessed or prepared for producing a visible or audible effect by combustion, explosion, deflagration or detonation (including, but not limited to, a bomb, grenade, or firework); martial arts weapon; bow and arrows; metal knuckles; nightstick; blackjack; dirk; knife with a fixed blade longer than four (4) inches (not including an ordinary eating utensil); switchblade, dagger, and sword. The term "weapon" does not include an ordinary pocket knife that folds; an available over-the-counter chemical repellent for self-defense (including, but not limited to, mace); or an instrument used solely for personal hygiene, preparation of food, maintenance, University-related instruction, or University employment-related duties.

Authority: T.C.A. §§ 4-5-101, et seq., 49-7-1702(1), 49-7-1703(c), and 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64.

Administrative History: Original rule filed September 15, 1976; effective October 15, 1976. Repealed by Public Chapter 575; effective July 1, 1986. New rule filed May 27, 1986; effective August 12, 1986. Amendment filed October 31, 1990; effective January 29, 1991. Amendment filed November 20, 1990; effective February 27, 1991. Amendment filed September 3, 1992; effective December 29, 1992. Amendment filed June 18, 1996; effective October 28, 1996. Amendment filed June 22, 2006; effective October 27, 2006. Repeal and new rule filed April 17, 2012; effective September 28, 2012. Emergency rule filed August 27, 2015; effective through February 23, 2016. Amendment filed September 14, 2015; effective December 13, 2015. Emergency rules filed June 29, 2018; effective through December 26, 2018. Amendments filed June 29, 2018; effective September 27, 2018. Repeal and new rule filed September 30, 2019; effective December 29, 2019.

1720-02-05-.03 JURISDICTION AND APPLICATION.

- (1) Jurisdiction. The Code applies to the conduct of a student that occurs on University-controlled property. With respect to conduct that does not occur on University-owned property, the University has the discretion to discipline a student for conduct in violation of the Code if the student's conduct adversely affects the interests of the University, including, without limitation, when the conduct:
 - (a) Occurs during or in connection with a University-affiliated activity, including, without limitation, an overseas study program, clinical or field placement, internship, or in-service experience;
 - (b) Consists of academic dishonesty or research misconduct;

- (c) Is prohibited by local, state, or federal law;
 - (d) Involves another member of the University community; or
 - (e) Threatens, or indicates that the student may pose a threat to, the health or safety of the student or other person, or the security of any person's property, including, without limitation, alcohol-related misconduct, drug-related misconduct, arson, battery, fraud, theft, hazing, participation in group violence, ~~sexual~~ Sexual Harassment, misconduct, relationship violence, stalking, and sexual exploitation-theft.
- (2) Time Period of Application to Students. The Code applies to a student's conduct from the time the student applies for admission to the University through the entire time that the student is a candidate for and/or is awarded a degree from the University (even if a student's conduct which violates the Code is not discovered by the University until after the University awards a degree to the student). The Code applies to a student's conduct that occurs during the academic year, between semesters, and during periods between terms of actual enrollment at the University.
- (3) Conduct Attributable to Student Organizations. Each student organization is responsible for conduct fairly attributable to the student organization. A determination that conduct is fairly attributable to a student organization does not preclude holding student members of the student organization accountable for acts committed in relation to the student organization's conduct. The chief student officer of the student organization (e.g., president or equivalent) or his or her designee will serve as the representative of the student organization during any proceedings against the student organization under the Code. In determining whether misconduct in violation of the Code is fairly attributable to a student organization, the University will consider the following factors:
- (a) Whether one (1) or more officers of the student organization had prior knowledge that the misconduct was reasonably likely to occur and failed to take reasonable preventative or corrective action, failed to attempt to stop known misconduct while it was occurring, and/or helped to plan, promote, or carry out the misconduct.
 - (b) Whether the misconduct occurred in connection with an activity: (i) 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; (ii) related to initiation into, admission into, affiliation with, or as a condition for continued membership in the student organization; and/or (iii) advertised, promoted, or publicized in such a way that a reasonable person viewing or hearing the advertisement, promotion, or publication would believe that the activity was affiliated with the student organization.
 - (c) Whether the misconduct occurred on property owned, controlled, rented, leased, and/or used by the student organization and/or any of its members or alumni acting on the student organization's behalf.
 - (d) Whether a member of the student organization attempted to conceal the activity connected with the misconduct or concealed the misconduct of another member of the student organization.
- (4) Relation to Criminal and Civil Legal Proceedings. The Code has been adopted in furtherance of the University's interests and serves to supplement, rather than substitute for, the enforcement of criminal and civil law. Accordingly, a Respondent may be charged with violating the Code for conduct that also constitutes a violation of criminal or civil law without regard to whether criminal or civil legal proceedings have been initiated against the Respondent. Disciplinary action for student conduct in violation of the Code may be carried out prior to, simultaneously with, or following criminal or civil proceedings regarding the same conduct. A Respondent charged with violating the Code may not challenge University proceedings in the

student conduct process on the grounds that a criminal or civil legal proceeding (or another University proceeding) regarding the same misconduct is pending or has been dismissed, or otherwise that criminal charges or civil claims regarding the same misconduct have been adjudicated, settled and/or reduced. When appropriate, the University may refer student conduct matters involving violations of the law to federal, state, or local authorities for prosecution.

- (5) Misconduct Not Excused by Intoxication or Impairment. The intoxication or impairment of a student by alcohol, drugs, or other substances will not diminish or excuse any conduct in violation of the Code that the student commits while intoxicated or impaired, except as provided under Section .16 of this Chapter.
- (6) Concurrent Honor Code and Non-Honor Code Violations of the Code. Notwithstanding anything in this Chapter to the contrary, allegations of violations of Section .04(1) of this Chapter will be resolved in accordance with the Honor Code procedures under Chapter 1720-02-01. In cases involving allegations of both Honor Code violations and non-Honor Code violations of the Code, the alleged Honor Code violations will be resolved in accordance with the Honor Code procedures under Chapter 1720-02-01 separately from resolution of the alleged non-Honor Code violations, which will be resolved pursuant to the Code procedures under this Chapter. In such cases, disciplinary sanctions may be issued against the Respondent for any Honor Code violations separate from and additional to disciplinary sanctions issued for any non-Honor Code violations of the Code.
- (7) Violations of Professional Standards or Ethics. Graduate or professional programs within the University may take separate and independent action against students for alleged violations of professional and/or ethical standards using procedures other than those contained in the Code.
- (8) Effect on Coursework. Coursework performed by a Respondent during the student conduct process will be considered conditional. Credit for such coursework may be affected, delayed, denied, and/or revoked based on a finding of a Code violation and/or disciplinary sanctions imposed against the Respondent under the Code. In addition, subject to the other provisions of the Code, a delay in the granting of a degree or diploma may be imposed, or a degree that is awarded prior to a decision under the Code may be revoked.
- (9) Withdrawal During the Student Conduct Process. If a Respondent voluntarily withdraws from the University before the conclusion of the student conduct process, the Office of Student Conduct retains the right to investigate and resolve the allegations against the Respondent as a condition of the Respondent being allowed to re-enroll in the University. A Disciplinary Hold on the Respondent's record, as provided under Section .143(2) of this Chapter, may be implemented or remain in place after the Respondent withdraws in order to enforce this Section .03(98).
- (10) Time Extensions and Rescheduling. Any time period specified under the Code may be extended for good cause at the discretion of the Office of Student Conduct. Any hearing or meeting described in the Code may be rescheduled for good cause at the discretion of the Office of Student Conduct.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed September 15, 1976; effective October 15, 1976. Repealed by Public Chapter 575; effective July 1, 1986. New rule filed May 27, 1986; effective August 12, 1986. Amendment filed March 12, 1987; effective June 29, 1987. Amendment filed June 22, 2006; effective October 27, 2006. Repeal and new rule filed April 17, 2012; effective September 28, 2012. Repeal and new rule filed September 30, 2019; effective December 29, 2019.

1720-02-05-.04 STANDARDS OF CONDUCT.

All students are prohibited from engaging in the following:

- (1) Academic Dishonesty/Honor Code Violation: Cheating, plagiarism, or any other act of academic dishonesty, including, but not limited to, an act in violation of the Honor Code.
- (2) Providing False Information: Providing false information to a University official.
- (3) Misuse of Information in Connection with a University Investigation or Hearing: Falsifying, distorting, misrepresenting, or withholding information in connection with a University investigation or hearing, except for the withholding of information as provided under Section .05(1)(d) and Section .05(2)(c) of this Chapter.
- (4) Misuse of Records, Identification, and/or Documents: Forging, altering, destroying, falsifying, or misusing records, identification, or documents, whether in print or electronic form.
- (5) Harm and/or Endangerment: Causing physical harm to any person, including oneself; endangering the health, safety, or welfare of any person, including oneself; engaging in conduct that causes a reasonable person to fear harm to his or her health, safety, or welfare; or making an oral or written statement that a 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 [directed toward another person that is discriminatory on a basis prohibited by federal, state, or local law, and](#) that is [determined by a reasonable person to be](#) so severe, pervasive, and objectively offensive, that it effectively bars 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 including, but not limited to, mere insulting or offensive speech. [Notwithstanding any provisions in this Section .04\(6\) to the contrary, harassment based on sex, including Sexual Harassment, shall constitute conduct as defined under Section .02\(20\) of this Chapter in accordance with the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking.](#)
- (7) ~~Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Misconduct, Relationship Violence, Stalking, Sexual Exploitation, and/or Retaliation:~~ Engaging in conduct ~~that violates prohibited by~~ the University's Policy on Sexual ~~Harassment, Sexual Assault, Dating and Domestic Violence, Misconduct, Relationship Violence, and Stalking,~~ [including sexual exploitation](#) and ~~Retaliation/retaliation.~~
- (8) Invasion of Privacy: Invasion of another person's privacy when that person has a reasonable expectation of privacy, including, but not limited to, by 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 a shower, locker rooms or restrooms. The storing, sharing, and/or distributing of such unauthorized recordings by any means is also prohibited.
- (9) Theft, Misappropriation and/or Unauthorized Possession/Sale: Theft, misappropriation, unauthorized possession, or unauthorized sale of private or public property, including but not limited to, University-controlled property.
- (10) Vandalism: Vandalizing, destroying, damaging, engaging in conduct that reasonably could cause damage to, or misusing private or public property, including but not limited to, University-controlled property.
- (11) Hazing: Any intentional or reckless act on or off University-controlled property by one (1) student, acting alone or with others that is directed against any other student, that endangers the mental or physical health, safety, or welfare of that student, or that induces or coerces a student to endanger his or her mental or physical health, safety, or welfare. "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.

- (12) **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.
- (13) **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.
- (14) **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.
- (15) **Arson and/or 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.
- (16) **Unauthorized Possession and/or Access to University Property:** Possessing, using, or duplicating University keys, access cards, parking permits, or identification cards without authorization; or possessing, using, or entering University-controlled property without authorization.
- (17) **Misuse of University Information and/or 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 employee, 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 rules or policies on the acceptable use of information technology resources.
- (18) **Unauthorized Use of Weapons and Related Misconduct:** 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 or her designee) of the University Police Department or unless federal or state law affirmatively gives a student a right, irrespective of the Code, to possess or carry a weapon on University-controlled property or in connection with a University-affiliated activity.
- (19) **Alcohol-Related Misconduct:** Consuming, manufacturing, possessing, distributing, dispensing, or selling alcohol or alcohol paraphernalia, or being under the influence of alcohol, on University-controlled property or in connection with a University-affiliated activity, unless expressly permitted by University rules or policy.
- (20) **Violation of Federal, State, or Local Alcohol Laws:** Consuming, manufacturing, possessing, distributing, dispensing, or selling alcohol or alcohol paraphernalia, or being under the influence of alcohol, if prohibited by federal, state, or local law.
- (21) **Providing Alcohol to Minors:** Providing alcohol to a person younger than twenty-one (21) years of age, unless permitted by law.

- (22) **Drug-Related Misconduct:** Using, manufacturing, possessing, distributing, selling, or dispensing drugs or drug paraphernalia, or being under the influence of drugs, if prohibited by federal, state, or local law; using or possessing a prescription drug if the prescription is not issued to the student using or in possession of the prescription drug; or distributing or selling a prescription drug to a person to whom the prescription was not originally issued.
- (23) **Obstruction or Disruption of University Activities:** 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. In no event shall this rule be construed to discipline a student for speech protected by the First Amendment to the United States Constitution.
- (24) **Failure to Comply with University Request or Directive:** Failing to respond to a request to report to a University administrative office; failing to comply with a lawful directive of a University official or other public official acting within the scope of his or her duties, except as provided under Section .05(1)(d) and Section .05(2)(c) of this Chapter; or failing to identify oneself to a University official or other public official acting within the scope of his or her duties when requested to do so.
- (25) **Failure to Pay Financial Obligation:** Failing to pay a bill, account, or other financial obligation to the University.
- (26) **Failure to Appear at Hearing:** Failing to appear at a University hearing, including, but not limited to, a Formal Hearing or a hearing related to alleged violations of the Honor Code, following a request to appear either as a party or as a witness, unless the student has a right to not appear under state or federal law.
- (27) **Retaliation:** Retaliation is an act or omission committed by a student because of another person's participation in a protected activity that would discourage a reasonable person from engaging in protected activity, including, without limitation, any act or omission constituting "retaliation" under the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence Misconduct, Relationship Violence, and Stalking, and University rules, and Retaliation. Retaliation violates the Code regardless of whether or not the underlying allegation of a violation of the Code is ultimately found to have merit. Retaliation can include, without limitation: (i) an act or omission committed against a person's family, friends, advisors, and/or other persons reasonably expected to provide information in connection with a University investigation or hearing; and (ii) an act or omission committed by a student through a third party.
- (28) **Violation of Housing & Residence Life Policies:** Violating any obligations under a University Housing & Residence Life contract for University residential housing and/or any policies under the Housing & Residence Life Student Handbook.
- (29) **Violation of Other University Rule, Policy, or Procedure:** Violating any University rule, policy, or procedure other than the Code, including, without limitation, University rules or policies relating to use of University facilities, smoking, the acceptable use of information technology resources, research misconduct, University libraries, dining services, parking or transportation, University identification card use, and registered student organizations.
- (30) **Violation of Federal, State, or Local Law:** Committing an act that is prohibited by federal, state, or local laws, regulations, and/or ordinances.
- (31) **Attempt to Commit or Accessory to a Violation:** Attempting to commit a violation of a Standard of Conduct set forth under this Section .04 or being an accessory to the commission of an act or attempted act in violation of a Standard of Conduct set forth under this Section .04.

- (32) Violation of University Action: Violating the terms of an interim action under Section .143 of this Chapter (including, but not limited to, a no-contact directive, interim restriction, or interim suspension); Behavioral Agreement; Resolution Agreement, Alternative Resolution Agreement, Informal Resolution, disciplinary sanction; or restriction, sanction, or condition of enrollment or re- enrollment imposed by the University.

Authority: T.C.A. §§ 49-7-123(a)-(b), 49-7-1702(3), 49-7-2406(a)-(b), and 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64.

Administrative History: Original rule filed September 15, 1976; effective October 15, 1976. Repeal filed August 22, 1980; effective November 5, 1980. Repealed by Public Chapter 575; effective July 1, 1986. New rule filed May 27, 1986; effective August 12, 1986. Amendment filed June 22, 2006; effective October 27, 2006. Repeal and new rule filed April 17, 2012; effective September 28, 2012. Emergency rule filed August 27, 2015; effective through February 23, 2016. Amendment filed September 14, 2015; effective December 13, 2015. Repeal and new rule filed September 30, 2019; effective December 29, 2019.

1720-02-05-.05 DUE PROCESS RIGHTS AND CONFLICTS OF INTEREST.

- (1) Rights of the Respondent.

A Respondent will have the following rights during the student conduct process:

- (a) The right to a prompt, thorough, and equitable investigation.
- (b) The right to meet with the Office of Student Conduct to ask questions and receive information about the student conduct process, including, without limitation, the status of an investigation.
- (c) The right to be informed of all alleged Code violation(s) or charges in writing. The date, time, and place of occurrence of the alleged Code violation(s) will be stated in the written notice ~~of charges~~.
- (d) The right to remain silent in any investigation, meeting, or hearing.
- (e) The right to a fair and equitable hearing.
- (f) The right to the initial presumption ~~that the Respondent is not responsible for the alleged Code violation(s) of innocence (i.e., the University has the burden of presenting information demonstrating that it is more likely than not that the Respondent violated a Standard of Conduct)~~.
- (g) The right to receive notice of hearings at which the Respondent may be present.
- (h) The right to access any information or documents that will be used during a hearing, unless prohibited by law, and in a Title IX Hearing, the right to access and refer to any evidence obtained as part of the investigation that is directly related to the Title IX Allegations.
- (i) The right to challenge, for good cause, the fairness and/or impartiality of any Hearing Officer, Student Conduct Board Chairperson, Student Conduct Board member, Title IX Hearing Officer, or UAPA Administrative Judge. The Vice Chancellor for Student Affairs (or his or her designee) will decide on challenges to Hearing Officers, ~~or~~ Student Conduct Board Chairpersons, or Title IX Hearing Officers. The Student Conduct Board Chairperson will decide on challenges to Student Conduct Board members. Challenges to UAPA Administrative Judges will be decided according to the UAPA Hearing procedures under Chapter 1720-01-05.
- (j) The right to challenge all charges and testimony against the Respondent; to present

witnesses and other evidence; and to challenge the admissibility or relevance of evidence.

- (k) The right not to be questioned directly by the Complainant during a hearing, unless otherwise provided by federal or state law.
- (l) The right to be informed in writing of the decision of the decision-maker in a case, and if applicable, the proper procedure for appealing the decision.
- (m) The right to appeal the decision of the decision-maker in a Hearing Officer Hearing, Student Conduct Board Hearing, Title IX Hearing, or UAPA Hearing.
- (n) The right to be assisted by an advisor during all stages of the student conduct process in accordance with Section .05(3) of this Chapter.

(2) Rights of the Complainant.

A Complainant will have the following equivalent rights granted to a Respondent during the student conduct process, unless otherwise provided by federal or state law:

- (a) The right to a prompt, thorough, and equitable investigation.
- (b) The right to meet with the Office of Student Conduct to ask questions and receive information about the student conduct process, including, without limitation, the status of an investigation.
- (c) The right to remain silent in any investigation, meeting, or hearing.
- (d) The right to receive notice of any hearings at which the Complainant may be present.
- (e) The right to access any information or documents that may be used during a hearing, unless prohibited by law, and in a Title IX Hearing, the right to access and refer to any evidence obtained as part of the investigation that is directly related to the Title IX Allegations.
- (f) The right to challenge, for good cause, the fairness and/or impartiality of any Hearing Officer, Student Conduct Chairperson, Student Conduct Board member, Title IX Hearing Officer, or UAPA Administrative Judge. The Vice Chancellor for Student Affairs (or his or her designee) will decide on challenges to Hearing Officers, ~~or~~ Student Conduct Board Chairpersons, or Title IX Hearing Officers. The Student Conduct Board Chairperson will decide on challenges to Student Conduct Board members. Challenges to UAPA Administrative Judges will be decided according to the UAPA Hearing procedures under Chapter 1720-01-05.
- (g) The right to challenge all testimony against the Complainant; to present witnesses and other evidence; and to challenge the admissibility or relevance of evidence.
- (h) The right not to be questioned directly by the Respondent during a hearing, unless otherwise provided by federal or state law.
- (i) The right to be informed in writing of the decision of the decision-maker in a case, and if applicable, the proper procedure for appealing the decision.
- (j) If applicable and where provided by law or University rules or policy, the right to appeal the decision of the decision-maker in a Hearing Officer Hearing, Student Conduct Board Hearing, Title IX Hearing or UAPA Hearing.

- (k) The right to be assisted by an advisor during all stages of the student conduct process in accordance with Section .05(3) of this Chapter.
- (3) Right to an Advisor.
- (a) The Complainant and the Respondent each may choose to be assisted by one (1) advisor during all stages of the student conduct process.
- (b) The University encourages a Complainant or Respondent who chooses to be assisted by an advisor to consider selecting a University employee who has received training about the student conduct process from the Office of Student Conduct. The Complainant and the Respondent may obtain the names of trained advisors from the Office of Student Conduct. 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. That person may be, but is not required to be, an 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, as delays will generally not be granted due to the scheduling conflicts of an advisor. If a Complainant or Respondent does not have an advisor present at a Title IX Hearing, the University must provide one (selected by the University) without fee or charge to that party.
- (c) The role of an advisor is limited to assisting, advising, and/or supporting a Complainant or Respondent during the student conduct process, including at all meetings, investigative interviews, and hearings. 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, except that an advisor in a Title IX Hearing is permitted to speak on behalf of a Complainant or Respondent for the purposes of asking questions of the other party and witnesses, in accordance with Section .10 of this Chapter including, without limitation, a Hearing Officer Hearing or Student Conduct Board Hearing. However, in a UAPA Hearing, the Complainant and the Respondent are entitled to be represented by legal counsel at their own expense, and in accordance with state law.
- (4) Restrictions on Participation Imposed by Law. Notwithstanding any provisions of the Code to the contrary, including, without limitation, any provisions in this Section .05, a Complainant will not have the right to attend a meeting or hearing, receive information concerning a case, or otherwise participate in the student conduct case, if such attendance, receipt of information, or participation would violate federal or state law.
- ~~(5) Rights in Sexual Harassment, Sexual Assault, Dating Violence, Domestic Misconduct, Relationship Violence, Stalking, Sexual Exploitation, and/or Retaliation Cases.~~
- ~~(6) Notwithstanding any provisions of the Code to the contrary, including, without limitation, any provisions in this Section .05, in cases involving alleged conduct that violates violations of Standard of Conduct 7 under Section .04(7) of this Chapter the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Misconduct, Relationship Violence, and Stalking, the Complainant and Respondent will have the rights outlined in this Section .05 and any additional rights granted in the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking and University rules, and Retaliation:~~
- ~~The Respondent and the Complainant will have the rights outlined in the University's Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation, 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 laws, and~~
- ~~(11)(5) The University shall provide the Respondent with notice of the extent to which the~~

~~University may allow a licensed attorney or other advisor to represent or advise the Respondent in the investigation or student disciplinary proceeding.~~

~~(12)(6)~~ Conflicts of Interest.

- (a) The student conduct process must be carried out in a manner that is free from conflicts of interest or bias consistent with due process of law.
- (b) In all cases involving alleged conduct that violates the University's Policy on Sexual ~~Harassment, Sexual Assault, Dating and Domestic Misconduct, Relationship~~ Violence, and Stalking, and Retaliation, the student conduct process must include protections for the Respondent analogous to, and no less protective than, the conflict of interest provisions of Tenn. Code Ann. § 4-5-303. Notwithstanding the preceding sentence: (i) an attorney for the University is allowed to provide legal advice to multiple University employees who serve in different roles in the student conduct process; and (ii) the University is allowed to provide the Complainant with equivalent rights as the Respondent during the student conduct process.

Authority: T.C.A. §§ 4-5-101, et seq., 49-7-1703(a), 49-7-1704(a) and (d), and 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64.
Administrative History: Original rule filed September 15, 1976; effective October 15, 1976. Repeal filed August 22, 1980; effective November 5, 1980. Repealed by Public Chapter 575; effective July 1, 1986. New rule filed May 27, 1986; effective August 12, 1986. Amendment filed June 22, 2006; effective October 27, 2006. Repeal and new rule filed April 17, 2012; effective September 28, 2012. Emergency rule filed August 27, 2015; effective February 23, 2016. Amendment filed September 14, 2015; effective December 13, 2015. Repeal and new rule filed September 30, 2019; effective December 29, 2019.

1720-02-05-.06 STUDENT CONDUCT PROCESS – INITIAL AND PRE-RESOLUTION STAGES.

- (1) Initiation of the Student Conduct Process.
 - (a) The University may initiate the student conduct process on the basis of written allegations received from any source including, without limitation, students, faculty members, staff employees, or law enforcement agencies. The University may also initiate the student conduct process in the absence of written allegations if the University becomes aware, through other means, of potential Code violations committed by a student. Notwithstanding any provisions of this Section .06(1)(a) to the contrary, the student conduct process for cases involving alleged violations of Standard of Conduct 7 under Section .04(7) of this Chapter is initiated in accordance with Section .06(1)(c).
 - (b) Upon receipt of written allegations or other information concerning potential Code violations, the Office of Student Conduct, on behalf of the University, will review the information and determine whether or not to initiate the student conduct process. The Office of Student Conduct's determination of whether to initiate the student conduct process generally will be based on: (i) a preliminary investigation by the Office of Student Conduct or other University official(s) into the allegations or information received; (ii) a determination of whether the alleged conduct falls within the jurisdiction of the Code; and (iii) a determination of whether the alleged conduct, if true, violated the Code.
 - (c) Notwithstanding any provisions in this Section .06(1) to the contrary, in cases involving alleged violations of Standard of Conduct 7 under Section .04(7) of this Chapter, the student conduct process is initiated upon the filing of a Formal Complaint by a Complainant or by the Title IX Coordinator. As soon as practicable after the filing of a Formal Complaint, the Office of Student Conduct will provide a Notice of Receipt of Formal Complaint to the parties who are known. The Notice of Receipt of Formal Complaint shall include the following information: (i) notice of the student conduct process that applies to the allegations; (ii) the identities of the parties involved in the

incident; (iii) the conduct allegedly constituting the violation; (iv) the date and location of the incident, if known; (v) a statement that the Respondent is presumed not responsible for the alleged conduct; (vi) a statement that a determination regarding responsibility is made at the conclusion of the student conduct process; (vii) the parties' right to have an advisor of their choice, who may be, but is not required to be, an attorney; (viii) the parties' right to inspect and review evidence; and (ix) notice of the provisions of the Code that prohibit providing false information to a University official. In cases involving alleged violations of Standard of Conduct 7 under Section .04(7) of this Chapter, a Notice of Receipt of Formal Complaint shall be provided to the parties in lieu of the Respondent being provided a Notice of Allegations under Section .06(2).

(2) Notice of Allegations.

- (a) If the Office of Student Conduct determines to initiate the student conduct process, it will provide a Notice of Allegations to the Respondent.
- (b) The Notice of Allegations will:
 1. Inform the Respondent that the University has received allegations that the Respondent has violated the Code and that the University has begun or will begin an investigation of the alleged violations;
 2. Provide a brief description of the alleged Code violation(s);
 3. Notify the Respondent of his or her right to be assisted and/or supported by an advisor at all stages of the student conduct process;
 4. Instruct the Respondent to contact the Office of Student Conduct within five (5) business days of the effective date of the notice to schedule a Preliminary Meeting as provided under Section .06(3) of this Chapter;
 5. Inform the Respondent of the consequences for failure to schedule or appear at a Preliminary Meeting, as provided under Section .06(3) of this Chapter; and
 6. Advise the Respondent to review the Code for information about the student conduct process.
- (c) Notwithstanding any provisions of this Section .06(2) to the contrary, in cases which a Formal Complaint is filed alleging violations of Standard of Conduct 7 under Section .04(7) of this Chapter, a Notice of Receipt of Formal Complaint shall be provided to the Complainant and Respondent as provided under Section .06(1)(c) in lieu of a Notice of Allegations being provided to the Respondent.

(3) Preliminary Meeting.

After a Notice of Allegations is issued to a Respondent, a Hearing Officer, appointed by the Office of Student Conduct, will hold a Preliminary Meeting with the Respondent, unless the Respondent fails to schedule a Preliminary Meeting as provided under Section .06(3)(a) of this Chapter or fails to appear at a scheduled Preliminary Hearing as provided under Section .06(3)(b) of this Chapter.

- (a) Failure to Schedule Preliminary Meeting. If the Respondent fails to contact the Office of Student Conduct within five (5) business days of the effective date of the Notice of Allegations to schedule the Preliminary Meeting, the Respondent waives his or her right to a Preliminary Meeting and the right to select the type of Formal Hearing for resolution of the allegations, unless the Respondent's failure to contact the Office of Student Conduct is excused by the Office of Student Conduct upon a showing of good cause. If

the Respondent waives his or her right to a Preliminary Hearing as provided under this Section .06(3)(a) and the Hearing Officer determines that charges should be issued based on the information available, the Hearing Officer will select the type of Formal Hearing for resolution of the charge(s) and provide the Respondent with a Notice of Charges in accordance with Section .06(5) of this Chapter. Notwithstanding any provisions to the contrary in this Section .06(3)(a), in cases in which the Respondent has the right to a UAPA Hearing, the Respondent waives his or her right to a UAPA Hearing only as provided under Section .07(1)(e) of this Chapter.

- (b) Failure to Appear at Preliminary Meeting. If the Respondent fails to appear at a scheduled Preliminary Meeting, the Respondent waives his or her right to a Preliminary Meeting and the right to select the type of Formal Hearing for resolution of the allegations, unless the Respondent's failure to appear at the Preliminary Meeting is excused by the Office of Student Conduct upon a showing of good cause. If the Respondent waives his or her right to a Preliminary Hearing as provided under this Section .06(3)(b) and the Hearing Officer determines that charges should be issued based on the information available, the Hearing Officer will select the type of Formal Hearing for resolution of the charge(s) and provide the Respondent with a Notice of Charges in accordance with Section .06(5) of this Chapter. Notwithstanding any provisions to the contrary in this Section .06(3)(b), in cases in which the Respondent has the right to a UAPA Hearing, the Respondent waives his or her right to a UAPA Hearing only as provided under Section .07(1)(e) of this Chapter.
- (c) Appearance at Scheduled Preliminary Meeting. If the Respondent appears at a scheduled Preliminary Meeting, the Hearing Officer will conduct the Preliminary Meeting in the following general manner:
 1. The Hearing Officer will inform the Respondent of the allegations against the Respondent and the potential disciplinary sanction(s) that could be issued against the Respondent.
 2. The Respondent may ask questions and seek clarification about the allegations and any other information regarding the student conduct process.
 3. The Hearing Officer will provide the Respondent with an opportunity to respond to the allegations through various means, including, without limitation, the presentation of any information for consideration by the Office of Student Conduct and/or the identification of any witnesses the Respondent believes have relevant information.
 4. If the Hearing Officer determines at the Preliminary Meeting that additional investigation is not needed and that charges should not be issued against the Respondent, the Preliminary Meeting will be concluded and the Hearing Officer will provide a Notice of Decision to the Respondent in accordance with Section .132(1) of this Chapter.
 5. If the Hearing Officer determines at the Preliminary Meeting that no additional investigation is needed and that charges should be issued against the Respondent, the Hearing Officer will inform the Respondent of the determination, the proposed disciplinary sanction(s) to be issued, and the applicable options available for resolution of the charge(s) provided under Section .07 of this Chapter. The Respondent will then be provided the opportunity to state whether the Respondent wishes to accept responsibility for the charge(s) and the proposed disciplinary sanction(s), or contest the charge(s) and/or proposed disciplinary sanction(s) in a Formal Hearing.
 - (i) If the Respondent wishes to accept responsibility for the charge(s) and sanction(s), or otherwise not to contest the charge(s) and sanction(s) in a

Formal Hearing, the Respondent may either:

- (I) Enter into a Resolution Agreement accepting responsibility for the charge(s) and sanction(s) in accordance with Section .07(2) of this Chapter; or
 - (II) Sign a written waiver of Respondent's right to contest the charge(s) and sanction(s) in a Formal Hearing. In such case, the Hearing Officer will provide a Notice of Decision to the Respondent in accordance with Section .132(3) of this Chapter.
- (ii) If the Respondent wishes to contest the charge(s) and/or the sanction(s) in a Formal Hearing, the Preliminary Meeting will be concluded and the Respondent will be issued a Notice of Charges in accordance with Section .06(5) of this Chapter, except as provided under Section .08(3) of this Chapter.

6. If the Hearing Officer determines at the Preliminary Meeting that additional investigation is needed before the Hearing Officer determines whether or not charges should be issued against the Respondent, the Preliminary Meeting will be concluded and the Office of Student Conduct will continue its investigation of the allegation(s).

- (d) The preceding provisions of this Section .06(3) do not apply to cases in which a Formal Complaint has been filed alleging violations of Standard of Conduct 7 under Section .04(7) of this Chapter. All Formal Complaints will be investigated by the Office of Student Conduct without any preliminary determinations as to whether investigation is needed or whether charges should be issued.

(4) Investigations.

- (a) Investigations of alleged violations of the Code will be conducted by the Office of Student Conduct unless another person or organization is designated to serve as the investigator in accordance with University rules or policy.
- (b) Investigations will be conducted in a prompt, thorough, ethical, and equitable manner.
- (c) When conducting an investigation, the Office of Student Conduct (or other designated investigator) will act as a fair and impartial party rather than as a representative of the person, office, unit, or organization that submitted the allegations.
- (d) During an investigation, the Complainant(s), the Respondent(s), witnesses, or any other persons may be interviewed, and other relevant information and documentation will be obtained as applicable. The Office of Student Conduct (or other designated investigator) is not obligated to interview a witness identified by the Complainant or the Respondent if the Office of Student Conduct (or other designated investigator) believes the witness is not likely to possess relevant information, the information from the witness is not likely to lead to the discovery of relevant information, or the information the witness is likely to possess is cumulative of other information already gathered. The Office of Student Conduct (or other designated investigator) may re-interview the Complainant(s), Respondent(s), witnesses, and/or any other person at any time during the investigation in order to obtain additional and/or clarifying information.
- (e) Notwithstanding any provisions in this Section .06(4) to the contrary, in an investigation of a Formal Complaint alleging violations of Standard of Conduct 7 under Section .04(7) of this Chapter, the Office of Student Conduct will (i) ensure that the burden of proof and the burden of gathering evidence rests on the University and not on the parties; (ii)

provide an equal opportunity for the parties to identify and present witnesses for interview, including fact witnesses and expert witnesses, and other inculpatory and exculpatory evidence; and (iii) provide written notice of the date, time, location, participants, and purpose of all investigative interviews and other meetings, with sufficient time to prepare to participate.

~~(d) — Notwithstanding any provisions in this Section .06(4) to the contrary, in an investigation of a Formal Complaint alleging violations of Standard of Conduct 7 under Section .04(7) of this Chapter, the Office of Student Conduct will provide both parties with an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint. Prior to completion of the investigative report, the Office of Student Conduct will send to each party and the party's advisor, if any, the evidence subject to inspection and review. The parties shall have at least ten (10) business days to submit a written response, which the Office of Student Conduct will consider prior to completion of the investigative report. After the investigative report is completed, the parties shall have at least ten (10) business days to submit a written response to the report, and no hearing shall occur until that 10-day response period has lapsed even if the parties have submitted responses prior to the expiration of the 10-day period.~~

~~(e)(f) — Notwithstanding any provisions of the Code to the contrary, including, without limitation, any provisions in this Section .06, the University will investigate and resolve reports of alleged conduct that violates the University's Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation in accordance with the University's Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation, Title IX of the Education Amendments of 1972, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, and other applicable laws.~~

~~(f) — Any University employee who investigates reports of alleged violations of the University's Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation shall complete the following at least one (1) time each year:~~

~~0. — Training that satisfies the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (compiled in 20 U.S.C. § 1092(f)), and the federal regulations implementing the statutes, as amended, all of which may be satisfied by the training in Section .06(4)(f)2. of this Chapter.~~

~~0. — Training developed or conducted by the Tennessee Law Enforcement Innovation Center for Investigators who perform investigations of sexual misconduct.~~

(5) Notice of Charges.

(a) If it is determined that a Respondent should be charged with violation of the Code, the Office of Student Conduct will provide the Respondent with a Notice of Charges, unless otherwise provided in this Chapter.

(b) The Notice of Charges will include, without limitation, the following information:

1. A description of the conduct the Respondent is charged with committing, the specific Code violation(s) charged with violating, and the recommended disciplinary sanctions;
2. The types of Formal Hearings available for resolution of the charge(s);
3. That, if the Respondent wishes to contest the charge(s) and/or proposed disciplinary sanction(s), the Respondent must request one (1) of the available

Formal Hearing options in writing within five (5) business days of the effective date of the Notice of Charges or otherwise waives the right to contest the charge(s) in a Formal Hearing; and

4. The Respondent's right to be assisted and/or supported by an advisor at all stages of the student conduct process. In cases in which the UAPA requires the University to offer the Respondent a UAPA Hearing, the notice shall notify the Respondent of his or her right to be assisted or represented by legal counsel if the Respondent decides to contest the charge(s) through a UAPA Hearing.

- (c) The preceding provisions of this Section .06(5) do not apply to cases in which a Formal Complaint is filed alleging Title IX Allegations. All such Formal Complaints will proceed to a Title IX Hearing unless resolved through Informal Resolution, in accordance with Section .07(4) of this Chapter.

Authority: T.C.A. §§ 4-5-101 et seq., 49-7-122, 49-7-1704, and 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. **Administrative History:** Original rule filed September 15, 1976; effective October 15, 1976. Repeal filed August 22, 1980; effective November 5, 1980. Repealed by Public Chapter 575; effective July 1, 1986. New rule filed May 27, 1986; effective August 12, 1986. Amendment filed June 22, 2006; effective October 27, 2006. Repeal and new rule filed April 17, 2012; effective September 28, 2012. Emergency rule filed August 27, 2015; effective through February 23, 2016. Amendment filed September 14, 2015; effective December 13, 2015. Emergency rules filed June 29, 2018; effective through December 26, 2018. Amendment filed June 29, 2018; effective September 27, 2018. Repeal and new rule filed September 30, 2019; effective December 29, 2019.

1720-02-05-.07 STUDENT CONDUCT PROCESS – METHODS OF RESOLUTION.

Charges or allegations of violations of the Code may be resolved in one (1) of the following ways:

- (1) Resolution by Formal Hearing. A Formal Hearing is a process for resolving charges of Code violations in which the Respondent is provided the opportunity to contest the charges through the presentation of evidence at a hearing (or, in a Title IX Hearing, for the parties to have a determination of responsibility made) before a fair and impartial decision-maker.
- (a) Types of Formal Hearings. Charges may be resolved through one (1) of ~~three-four (43)~~ types of Formal Hearings, depending on the nature of the allegations and/or the gravity of the disciplinary sanctions proposed for the charge:
1. Hearing Officer Hearing. A hearing held before a Hearing Officer in accordance with Section .08 of this Chapter. A Hearing Officer Hearing will be offered in every case, except as provided in this Section .07(1)(a)1. Hearing Officer Hearings will not be held for resolution of charge(s)allegations of violations of the University's Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation Standard of Conduct 7 under Section .04(7) of this Chapter.
 2. Student Conduct Board Hearing. A hearing held before a Student Conduct Board in accordance with Section .09 of this Chapter. A Student Conduct Board Hearing will be offered in every case.
 - 2.3. Title IX Hearing. A hearing before a Title IX Hearing Officer, in accordance with Section .10 if this Chapter. A Title IX Hearing is the only Formal Hearing provided under the Code for determining responsibility for Title IX Allegations.
 - 3.4. UAPA Hearing. A "contested case" hearing under the UAPA held before a UAPA Administrative Judge in accordance with Chapter 1720-01-05. A Respondent has the right to a UAPA Hearing only when the UAPA requires the University to offer

a UAPA Hearing as determined by the gravity of the disciplinary sanction(s) proposed for the charge.

- (b) Request for Formal Hearing. In order to contest the charge(s) set forth in the Notice of Charges, the Respondent must request in writing a Formal Hearing and the selected type of Formal Hearing using the form(s) provided by the University within five (5) business days of the effective date of the Notice of Charges. A verbal request by the Respondent for a Formal Hearing or of the selected type of Formal Hearing will not constitute a valid request. By selecting a type of Formal Hearing, the Respondent waives the right to contest the charged Code violation(s) through another type of Formal Hearing. [The preceding provisions of this Section .07\(1\)\(b\) do not apply to cases in which a Formal Complaint is filed alleging Title IX Allegations.](#)
- (c) Failure to Contest. If the Respondent fails to request a Formal Hearing in writing within five (5) business days of the effective date of the Notice of Charges, the Respondent waives the right to contest the charge(s), and the Office of Student Conduct may issue a Notice of Decision to the Respondent as provided under Section .132(3) of this Chapter. Notwithstanding the foregoing provisions in this Section .07(1)(c), the Office of Student Conduct may decline to issue a Notice of Decision and permit the Respondent to contest the charge(s) through a Formal Hearing upon a showing of good cause by the Respondent for his or her failure to timely request a Formal Hearing. [The preceding provisions of this Section .07\(1\)\(c\) do not apply to cases in which a Formal Complaint is filed alleging Title IX Allegations.](#)
- (d) Failure to Request Type of Formal Hearing. If, within five (5) business days of the effective date of the Notice of Charges, the Respondent requests a Formal Hearing in writing but fails to request in writing the type of Formal Hearing, the Respondent waives the right to select the type of Formal Hearing for resolution of the charge(s), unless the Respondent's failure to select the type of Formal Hearing is excused by the Office of Student Conduct upon a showing of good cause. If the Respondent waives his or her right to select the type of Formal Hearing as provided under this Section .07(1)(d), the Office of Student Conduct will select the type of Formal Hearing and will provide notice to the Respondent of the type of Formal Hearing selected and the date, time, and place of the hearing. [The preceding provisions of this Section .07\(1\)\(d\) do not apply to cases in which a Formal Complaint is filed alleging Title IX Allegations.](#)
- (e) Waiver of UAPA Hearing. Notwithstanding any provisions in this Chapter to the contrary, in a case in which the UAPA requires that the University offer the Respondent a UAPA Hearing, the Respondent waives his or her right to a UAPA Hearing only if the Respondent: (i) fails to request a Formal Hearing in writing within five (5) business days of the effective date of the Notice of Charges; or (ii) executes a voluntary written waiver of his or her right to a UAPA Hearing. If the Respondent timely requests a Formal Hearing in writing, the University will conduct a UAPA Hearing to resolve the charge(s) unless the Respondent executes a voluntary written waiver of the Respondent's right to a UAPA Hearing.
- (f) Emergency Ad Hoc Committee Hearing. When, in the judgment of the Chancellor, conditions are such that the functioning of a Hearing Officer Hearing or Student Conduct Board Hearing to resolve Code violation charges is impractical, the Vice Chancellor for Student Affairs may suspend the procedural rules for Hearing Officer Hearings and Student Conduct Board Hearings under this Chapter and appoint an ad hoc committee to hear a student conduct matter. Any such ad hoc committee will follow procedures that will insure the Respondent is provided due process. The decision of the ad hoc committee may be appealed in accordance with Section .124 of this Chapter as if the decision were issued by a Hearing Officer or Student Conduct Board. [The preceding provisions of this Section .07\(1\)\(f\) do not apply to cases in which a Formal Complaint is filed alleging Title IX Allegations.](#)

(f)(g) All cases in which a Formal Complaint is filed alleging Title IX Allegations will proceed to a Title IX Hearing without either party having to elect the hearing.

(2) Resolution by Resolution Agreement. At any time during the student conduct process, the Respondent may resolve charges of violations of the Code (other than Title IX Allegations) by entering into a Resolution Agreement with the University.

(a) By signing a Resolution Agreement, the Respondent: (i) accepts responsibility for the Code violations indicated in the agreement; (ii) agrees to the imposition of the disciplinary sanctions indicated in the agreement; and (iii) waives all rights the Respondent may have to resolve the charges through a Formal Hearing.

(b) Subject to Section .07(2)(c) of this Chapter, a Resolution Agreement will not become binding and effective until it is signed by the Respondent and an authorized University official. A Respondent may not revoke or appeal a Resolution Agreement at any time after the Respondent signs the agreement.

(c) The Complainant will have the right in certain cases (where provided by law or University rules or policy) to appeal the terms of a Resolution Agreement. In such cases, the procedures under this Section .07(2)(c) will apply. In a case in which the Complainant has the right to appeal the terms of a Resolution Agreement and properly exercises such right, the agreement will not become binding and effective unless and until the issuance of a final decision on appeal upholding the agreement.

1. For a Resolution Agreement entered into between the Respondent and the University in any case in which the UAPA Hearing procedure has not been selected and initiated for resolution of the charge(s), the Office of Student Conduct will provide written notice to the Complainant of the agreement, and the Complainant may appeal the agreement in writing to the Vice Chancellor for Student Affairs within five (5) business days of the effective date of the notice of the agreement. The Vice Chancellor for Student Affairs must either uphold or reject the agreement in its entirety and provide notice of his or her decision to the Complainant and Respondent within ten (10) business days of receipt of the Complainant's appeal. If the Vice Chancellor for Student Affairs upholds the Resolution Agreement, the decision is final and the agreement will become effective and binding. If the Vice Chancellor for Student Affairs rejects the Resolution Agreement, the Office of Student Conduct will continue the student conduct process and resolve the charge(s) against the Respondent in accordance with the Code.

2. For a Resolution Agreement entered into between the Respondent and the University in which the UAPA Hearing procedure has been selected and initiated for resolution of the charge(s), the availability of any appeal of the Resolution Agreement will be determined by the UAPA Administrative Judge under Chapter 1720-01-05.

(d) Formal Complaints alleging Title IX Allegations may not be resolved through a Resolution Agreement but may be resolved through an Informal Resolution in accordance with Section .07(4).

(3) Resolution by Alternative Resolution Agreement.

(a) Proposal of Alternative Resolution. At any time during the student conduct process, allegations or charges of violations of the Code against the Respondent (other than Title IX Allegations) may be resolved through an Alternative Resolution Agreement. An alternative resolution is a resolution that is reached through a process and/or by a

sanction or restriction not described in the Code. Before proposing an alternative resolution, the Office of Student Conduct shall determine whether an alternative resolution would be appropriate based on the facts and circumstances of the case, and if so, what type of alternative resolution process should be used. Subject to Section .07(3)(c), in cases involving in which a Formal Complaint is filed alleging charges of violations of the University's Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation Standard of Conduct 7 under Section .04(7) of this Chapter, the Title IX Coordinator will make that determination in consultation with the Office of Student Conduct. The process of trying to reach an alternative resolution is voluntary (i.e., neither the Respondent nor a Complainant is required to participate). If an Alternative Resolution Agreement as defined under Section .07(3)(b) is not reached, then the Office of Student Conduct will continue the student conduct process and resolve the allegations or charges against the Respondent in accordance with the Code.

(b) Alternative Resolution Agreement. An Alternative Resolution Agreement is a written agreement that confirms an agreement to resolve the allegations or charges against the Respondent through an alternative resolution. To be valid, an Alternative Resolution Agreement shall in all cases be signed by the Office of Student Conduct and the Respondent, and shall include a waiver of the Respondent's right, if any, to have a Formal Hearing on the allegations or charges. Prior to the execution of an Alternative Resolution Agreement, if a Complainant has not participated with the Office of Student Conduct in the discussion of an alternative resolution, then the Office of Student Conduct will provide the Complainant with an opportunity to provide a timely objection to the proposed alternative resolution. In appropriate cases, the Office of Student Conduct may request the Complainant to sign the Alternative Resolution Agreement and determine that the Alternative Resolution Agreement is not effective without the Complainant's signature. Neither the Respondent nor the Complainant may revoke or appeal an Alternative Resolution Agreement.

~~(b)(c)~~ Formal Complaints alleging Title IX Allegations may not be resolved through an Alternative Resolution Agreement but may be resolved through an Informal Resolution in accordance with Section .07(4).

(4) Informal Resolution. In cases in which a Formal Complaint is filed alleging Title IX Allegations, at any time prior to reaching a determination regarding responsibility, the Office of Student Conduct may facilitate an informal resolution process that does not involve a full investigation and adjudication. To facilitate an informal resolution, the Office of Student Conduct will (i) provide to the parties a written notice disclosing the allegations and the requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations, and (ii) obtain the parties' voluntary, written consent to the informal resolution process. At any prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the student conduct process with respect to the Formal Complaint.

(4)(5) Behavioral Agreement. In cases involving allegations of the Respondent engaging in behavior in the classroom or other areas of campus in violation of the Code, the Office of Student Conduct may request that the Respondent enter into a Behavioral Agreement to remediate and/or prevent recurrence of the alleged behavior. Under a Behavioral Agreement, the Respondent is allowed to continue participating in University programs and services with limited restrictions and/or conditions as provided under the agreement. Any violation of a Behavioral Agreement will be considered a violation of the Code and may result in disciplinary sanctions against the Respondent.

~~Resolution of Title IX Related Cases. Notwithstanding any provisions of the Code to the contrary, including, without limitation, any provisions in this Section .07, cases involving charges of violations of the University's Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation will be resolved in accordance with the University's Policy on Sexual~~

~~Misconduct, Relationship Violence, Stalking, and Retaliation, subject to Title IX of the Education Amendments of 1972, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, and other applicable laws.~~

Authority: T.C.A. §§ 4-5-101, et seq., 49-7-1704, and 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. **Administrative History:** Original rule filed September 15, 1976; effective October 15, 1976. Repealed by Public Chapter 575; effective July 1, 1986. New rule filed May 27, 1986; effective August 12, 1986. Amendment filed June 22, 2006; effective October 27, 2006. Repeal and new rule filed April 17, 2012; effective September 28, 2012. Emergency rule filed August 27, 2015; effective February 23, 2016. Amendment filed September 14, 2015; effective December 13, 2015. Emergency rules filed June 29, 2018; effective through December 26, 2018. Amendment filed June 29, 2018; effective September 27, 2018. Repeal and new rule filed September 30, 2019; effective December 29, 2019.

1720-02-05-.08 HEARING OFFICER HEARINGS.

A Hearing Officer Hearing is held before and conducted by a Hearing Officer. The Hearing Officer serves as the decision-maker in determining whether the Respondent is responsible for the charged Code violation(s) and the disciplinary sanction(s), if any, to be imposed.

- (1) **Hearing Officer.** A Hearing Officer is a University employee selected by the Office of Student Conduct. Hearing Officers are trained by the Office of Student Conduct to conduct Hearing Officer Hearings in accordance with the Code.
- (2) **Fairness & Impartiality.** The Hearing Officer will be fair and impartial, and any party to a Hearing Officer Hearing has the right to challenge the fairness or impartiality of the Hearing Officer. Any Hearing Officer lacking fairness or impartiality will recuse himself or herself or may, for good cause and at the discretion of the Vice Chancellor for Student Affairs (or his or her designee), be removed from serving as Hearing Officer for the hearing.
- (3) **Notice.** If the Respondent timely requests a Hearing Officer Hearing in accordance with Section .07(1)(b) of this Chapter, the Hearing Officer will send the Respondent (and the Complainant, where provided by law or University rules or policy) notice of the time, place, and date of the hearing at least five (5) business days in advance of the date of the hearing. Notwithstanding any provisions in the Code to the contrary, including this Section .08(3), and except in cases involving a Complainant, if the Respondent requests at the Preliminary Meeting to hold a Hearing Officer Hearing immediately following the Preliminary Meeting, the Hearing Officer may agree to hold the hearing as requested. In such case, a Notice of Charges and a notice of hearing will not be provided to the Respondent.
- (4) **Hearing Procedure.** A Hearing Officer will conduct a Hearing Officer Hearing in accordance with the following general procedures and rules:
 - (a) The hearing will be closed to the public.
 - (b) The Hearing Officer will determine all procedural questions.
 - (c) The Respondent (and the Complainant in certain cases, as provided by law or University rules or policy) will be considered a party to the proceeding.
 - (d) Each party (and their respective advisors, if any) will be allowed to attend the portion of the hearing during which questioning is conducted and information is received by the Hearing Officer.
 - (e) Each party will be afforded a full and fair opportunity to present all evidence, including witness testimony, that reasonably relates to the charge or action at issue.

- (f) The Hearing Officer may limit the presentation of evidence which is irrelevant or unreasonably repetitious or voluminous.
 - (g) The Hearing Officer will consider all evidence presented and give due consideration to the credibility or weight of the information presented. Technical rules of evidence, such as evidentiary rules applicable to civil or criminal court proceedings, will not apply.
 - (h) The Hearing Officer will apply the preponderance of the evidence standard in determining whether or not the Respondent is responsible for the charged Code violation(s).
 - (i) An appropriate record of the hearing proceedings will be made. An audio or video record may be made of the hearing. Defects in the record will not invalidate the proceedings.
 - (j) Following the conclusion of the hearing, the Hearing Officer will provide each party with a Notice of Decision setting forth the Hearing Officer's decision on responsibility and, if applicable, the disciplinary sanctions to be issued against the Respondent and their effective date.
- (5) Multiple Respondents. In cases involving more than one (1) Respondent, the Hearing Officer has the discretion to hold one (1) hearing for all of the Respondents or separate hearings for each Respondent. Any Respondent may, prior to the hearing, request that his or her hearing be conducted separately from the other Respondent(s). Such a request must be made in writing to the Hearing Officer using the form(s) provided by the University. The Hearing Officer will decide whether or not to grant such a request, and the Hearing Officer's decision will be final.
- (6) Failure to Appear. If proper notice of the Hearing Officer Hearing is provided to the Respondent in accordance with Section .08(3) of this Chapter but the Respondent fails to appear at the hearing, the Respondent waives the right to contest the charge(s), and the Office of Student Conduct may issue a Notice of Decision to the Respondent in accordance with Section .132(3) of this Chapter. Notwithstanding the provisions of this Section .08(6), the Office of Student Conduct may decline to issue a Notice of Decision and permit the Respondent to contest the charge(s) through a Hearing Officer Hearing upon a showing of good cause by the Respondent for his or her failure to appear.
- (7) Prohibition of Complainant's Participation. Notwithstanding any provisions of the Code to the contrary, including, without limitation, in this Section .08, a Complainant or other student not designated as a Respondent will not have the right to attend or participate in a Hearing Officer Hearing or otherwise receive information concerning the hearing if such attendance, participation, or receipt of information would violate federal or state law.
- (8) Appeal. The decision of the Hearing Officer may be appealed to the Vice Chancellor for Student Affairs in accordance with Section .124 of this Chapter.

Authority: T.C.A. § 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. **Administrative History:** Original rule filed September 15, 1976; effective October 15, 1976. Repealed by Public Chapter 575; effective July 1, 1986. New rule filed May 27, 1986; effective August 12, 1986. Amendment filed June 22, 2006; effective October 27, 2006. Repeal and new rule filed April 17, 2012; effective September 28, 2012. Repeal and new rule filed September 30, 2019; effective December 29, 2019.

1720-02-05-.09 STUDENT CONDUCT BOARD HEARINGS.

A Student Conduct Board Hearing is held before a Student Conduct Board and chaired by a Student Conduct Board Chairperson. The Student Conduct Board serves as the decision-maker in determining whether the Respondent is responsible for the charged Code violation(s) and the disciplinary sanction(s),

if any, to be imposed.

- (1) Student Conduct Board Chairperson. The Student Conduct Chairperson is appointed by the Office of the Dean of Students (or designee) to preside over and facilitate a Student Conduct Board Hearing to ensure that the hearing is conducted in accordance with the Code. Except as provided under Section .09(7)(j) of this Chapter, the Student Conduct Board Chairperson will not vote on the issues to be decided by the Student Conduct Board. The Student Conduct Board Chairperson will be a University employee trained by the Office of Student Conduct on the procedures for conducting a Student Conduct Board Hearing in accordance with the Code.
- (2) Student Conduct Board. The Student Conduct Board is a panel of appointed students, faculty, and staff, that serves as the decision-maker for the hearing.
 - (a) For each Student Conduct Board Hearing, the Office of the Dean of Students (or designee) will appoint members to serve on the Student Conduct Board from an annually-selected pool of qualified students, faculty members, and staff employees. In order to be qualified for the pool, a student, faculty member, or staff employee must be in good standing with the University. All persons appointed to serve on the board will be trained by the Office of Student Conduct (or other University officials) on their duties and responsibilities as board members under the Code.
 - (b) The Student Conduct Board empaneled ad hoc for each hearing from the pool described under Section .09(2)(a) of this Chapter will consist of one (1) Student Conduct Board Chairperson and six (6) voting members, with at least one (1) voting student and one (1) voting faculty member or staff employee, unless otherwise provided under Section .09(2)(b)1. and Section .09(2)(b)2. of this Chapter.
 1. A hearing may be held before a Student Conduct Board consisting of less than six (6) voting members with the consent of the Respondent (and the Complainant in certain cases as provided by law or University rules or policy).
 2. In cases involving charges of violations of [Standard of Conduct 7 under Section .04\(7\) of this Chapter which do not involve Title IX Allegations, the University's Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation](#), the Office of the Dean of Students (or designee) will not appoint students to serve on the Student Conduct Board unless both the Complainant and Respondent consent to having students appointed to serve on the Student Conduct Board Hearing for their case.
- (3) Fairness & Impartiality. The Student Conduct Board members, including the Student Conduct Board Chairperson, will be fair and impartial. Any party to a Student Conduct Board Hearing will have the right to challenge the fairness or impartiality of the Student Conduct Board Chairperson or any voting member of the Student Conduct Board. Any voting member of the Student Conduct Board lacking fairness or impartiality will recuse himself or herself, or for good cause and at the Student Conduct Board Chairperson's discretion, be removed from the board. Any Student Conduct Board Chairperson lacking fairness or impartiality will recuse himself or herself, or for good cause and at the discretion of the Vice Chancellor of Student Affairs (or his or her designee), be removed from presiding over the hearing.
- (4) Notice. If the Respondent timely requests a Student Conduct Board Hearing in accordance with Section .07(1)(b) of this Chapter, the Office of Student Conduct will provide the Respondent (and the Complainant in certain cases, where provided by law or University rules or policy) with notice of the time, place, and date of the hearing at least five (5) business days in advance of the date of the hearing.
 - (a) In cases involving charges of violations of [Standard of Conduct 7 under Section .04\(7\) which do not involve Title IX Allegations, the University's Policy on Sexual Misconduct,](#)

~~Relationship Violence, Stalking, and Retaliation~~, at least five (5) business days in advance of the date of the hearing, the Office of Student Conduct will provide the Respondent with notice of the following additional information:

1. The name of each witness the University expects to present at the hearing or may present if the need arises;
 2. The Respondent's right to request a copy of the Office of Student Conduct's investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. § 1232g), and the federal regulations implementing that statute, as amended; and
 3. The Respondent's right to request copies of all documents, copies of all electronically-stored information, and access to tangible evidence that the University has in its possession, custody, or control and may use to support claims or defenses, unless the use would be solely for impeachment.
- (5) Pre-Hearing Submissions from Parties. At least five (5) business days in advance of the date of the hearing, the Respondent (and the Complainant, where provided by law or University rules or policy), must provide the following information to the Office of Student Conduct:
- (a) The names of all witnesses the party plans to present to the Student Conduct Board and a brief summary of the information that the party reasonably anticipates each witness to provide.
 - (b) A copy of all tangible or electronic information that the party plans to present to the Student Conduct Board (including, but not limited to, witness statements, video or audio recordings, photographs, e-mails, text messages, telephone records, medical bills, demonstrative exhibits, etc.). The party is not required to provide actual items of physical evidence (including, but not limited to, a weapon or article of clothing), but instead may provide photographs of such items.
 - (c) A copy of a written statement, if any, that the party wants the Student Conduct Board to consider. A 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 mitigate the alleged Code violation(s) or proposed disciplinary sanction(s).
- (6) Pre-Hearing Review of Information. After notice of the Student Conduct Board Hearing is provided to the Respondent (and the Complainant, where provided by law or University rules or policy) in accordance with Section .09(4) of this Chapter, the Office of Student Conduct will make available to each party the materials submitted by each party and the University upon the request of a party. Notwithstanding any provision to the contrary in this Section .09(6), no less than one (1) business day prior to the hearing, the Office of Student Conduct will make the materials submitted by each party and the University available for review by each party and their respective advisors, the Student Conduct Board Chairperson, and the voting members of the Student Conduct Board. The Office of Student Conduct will notify each party, the Student Conduct Board Chairperson, and the voting members of the Student Conduct Board when the materials are ready for review in the Office of Student Conduct or when the materials will be sent to them electronically. The Office of Student Conduct may redact irrelevant and/or protected information from any materials made available for review.
- (7) Hearing Procedure. The Student Conduct Board Chairperson will conduct a Student Conduct Board Hearing in accordance with the following general procedures and rules:
- (a) The hearing will be closed to the public.

- (b) The Student Conduct Board Chairperson will determine all procedural questions. The Student Conduct Board Chairperson may be assisted by a procedural advisor appointed by the Office of Student Conduct.
 - (c) The Respondent (and the Complainant in certain cases, where provided by law or University rules or policy) will be considered a party to the proceeding.
 - (d) Each party and their respective advisors will be allowed to attend the portion of the hearing during which questioning is conducted and information is received from the parties or the University. The parties (and their advisors) will not be allowed to attend the portion of the hearing during which deliberations by the Student Conduct Board occur.
 - (e) Each party will be afforded a full and fair opportunity to present an opening statement, any evidence, including witness testimony, that reasonably relates to the charge or action at issue, and a closing statement.
 - (f) The Student Conduct Board Chairperson may bar or limit the presentation of evidence which is not provided to the Office of Student Conduct in advance of the hearing in accordance with Section .09(5) of this Chapter, or which (i) is irrelevant, (ii) unreasonably repetitious or voluminous; or (iii) protected from disclosure under federal, state, or local law.
 - (g) The Student Conduct Board will consider all evidence presented and give due consideration to the credibility or weight of the information presented. Technical rules of evidence, such as evidentiary rules applicable to civil or criminal court proceedings, will not apply.
 - (h) The Student Conduct Board will apply the preponderance of the evidence standard in determining whether or not the Respondent is responsible for the charged Code violation(s).
 - (i) An appropriate record of the hearing proceedings will be made. An audio or video record will be made of the hearing, except for the portion of the hearing in which the Student Conduct Board deliberates and votes on its decision. Defects in the record will not invalidate the proceedings.
 - (j) After all information for consideration has been presented to the Student Conduct Board, the parties (and their advisors, if any) will be excused, and the members of the Student Conduct Board will deliberate and vote on the following issues: (i) whether the Respondent is responsible for the charged Code violation(s) and (ii) the disciplinary sanctions, if any, to be issued. The decision of the board on each issue will be made by simple majority of the voting members' votes. In the event of a tie-vote among the voting members, the Student Conduct Board Chairperson will cast the tie-breaking vote.
 - (k) At the conclusion of the hearing, the Student Conduct Board Chairperson will provide each party with a Notice of Decision setting forth the Student Conduct Board's decision on responsibility and, if applicable, the disciplinary sanctions to be issued against the Respondent and their effective date.
- (8) Multiple Respondents. In cases involving more than one (1) Respondent, the Student Conduct Board Chairperson has the discretion to hold one (1) hearing for all of the Respondents or separate hearings for each Respondent. Any Respondent may, prior to the hearing, request that his or her hearing be conducted separately from the other Respondents' hearings. Such a request must be made in writing to the Student Conduct Board Chairperson using the form(s) provided by the University. The Student Conduct Board Chairperson will decide whether or not to grant such a request, and the Student Conduct Board Chairperson's decision will be final.

- (9) Failure to Appear. If proper notice of the Student Conduct Board Hearing is provided to the Respondent in accordance with Section .09(4) of this Chapter but the Respondent fails to appear at the hearing, the Respondent waives the right to contest the charge(s), and the Office of Student Conduct may issue a Notice of Decision to the Respondent in accordance with Section .132(3) of this Chapter. Notwithstanding the foregoing provisions of this Section .09(9), the Office of Student Conduct may decline to issue a Notice of Decision and permit the Respondent to contest the charge(s) through a Student Conduct Board Hearing upon a showing of good cause by the Respondent for his or her failure to appear.
- (10) Prohibition of Complainant's Participation. Notwithstanding any provisions of the Code to the contrary, including, without limitation, any provisions in this Section .09, a Complainant or other student not designated as a Respondent will not have the right to attend or participate in a Student Conduct Board Hearing or otherwise receive information concerning the hearing if such attendance, participation, or receipt of information would violate federal or state law.
- (11) Appeal. The decision of the Student Conduct Board may be appealed to the Vice Chancellor for Student Affairs in accordance with Section .124 of this Chapter.

Authority: T.C.A. §§ 49-7-1703, 49-7-1704, and 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed May 27, 1986; effective August 12, 1986. Amendment filed June 22, 2006; effective October 27, 2006. Repeal and new rule filed April 17, 2012; effective September 28, 2012. Repeal and new rule filed September 30, 2019; effective December 29, 2019.

1720-02-05-.10 TITLE IX HEARINGS.

- (1) The Title IX Hearing. Any case involving Title IX Allegations will be resolved through a Title IX Hearing. The Title IX Hearing must be conducted in accordance with 34 C.F.R. 106.45.
- (2) The Title IX Hearing Officer. The Vice Chancellor for Student Affairs will appoint a qualified Title IX Hearing Officer to conduct the Title IX Hearing and will notify the parties and their advisors, if any, of the appointment. The Title IX Hearing Officer may be a University employee, a team of University employees, an external person engaged to conduct the Title IX Hearing, or a team of external people engaged to conduct the Title IX Hearing. A party may object to the appointment of any Title IX Hearing Officer, in writing to the Office of Student Conduct. Any objection must be received within three (3) days of the notice of appointment, and it must state the party's grounds for objecting. The Vice Chancellor for Student Affairs will decide whether an objection is justified, and that decision is final. If a Title IX Hearing Officer is removed based on an objection, the Vice Chancellor for Student Affairs will appoint a qualified Title IX Hearing Officer to conduct the Title IX Hearing.
- (3) Notice of Title IX Hearing.
 - (a) When a Notice of Title IX Hearing is Sent. The Office of Student Conduct will send the Respondent and the Complainant a Notice of Title IX Hearing at least ten (10) business days in advance of the date of the hearing.
 - (b) Information in the Notice of Title IX Hearing. The Notice of Title IX Hearing will contain, or be accompanied by, the following information: (i) the date, time, and place of the Title IX Hearing; (ii) notice of the right to have an advisor of the party's choice, who may be, but is not required to be, an attorney, and that, if the party does not have an advisor present at the hearing, the University must provide an advisor of the University's choice, without fee or charge, to ask the other party and any witnesses all relevant questions and follow-up questions on behalf of that party; (iii) notice that any cross-examination of any other party or witness must be conducted by the advisor, and never by a party personally; and (iv) notice that all of the evidence obtained as part of the investigation that is directly related to the allegations raised

in the Formal Complaint will be available to the parties at the hearing. Other pre-hearing information may also be included in the Notice of Title IX Hearing. Any Title IX Hearing may be rescheduled by the Title IX Hearing Officer or upon request of any party and for good cause shown.

(c) More than One Respondent. In cases involving more than one (1) Respondent, Title IX Hearings concerning each Respondent's conduct may be conducted separately upon written request of a party submitted at least seven (7) business days in advance of the hearing. The Office of Student Conduct has the discretion to make the final determination of whether to grant such a request and will notify the parties of the decision.

(d) Consequences of Failing to Attend a Title IX Hearing. If a party fails to attend a Title IX Hearing, the Title IX Hearing Officer may proceed with the Title IX Hearing without that party's participation.

(4) General Rules Governing Title IX Hearings.

(a) The Title IX Hearing will take place no sooner than ten (10) business days after the parties' receipt of the written investigative report.

(b) The Title IX Hearing Officer may conduct pre-hearing meetings or conferences with the parties and their advisors, if any, to discuss any pre-hearing issues, including but not limited to, the date of the hearing; the location of the hearing; any technology to be used at the hearing; the general rules governing the hearing, including any rules of decorum; the identification of witnesses; and the availability of evidence at the hearing.

(c) Each party must notify the Title IX Hearing Officer at least five (5) business days before the hearing of the identity of the party's advisor, if any, or that the party does not have an advisor so that the University can provide an advisor.

(d) At the request of either party, the Office of Student Conduct will provide for the hearing to occur with the parties located in separate rooms with technology enabling the Title IX Hearing Officer and parties to simultaneously see and hear the party or the witness(es) answering questions.

(e) Upon request of a party and for good cause shown, the Title IX Hearing Officer may permit the participation of witnesses at the Title IX Hearing who were not identified by the party to the investigator, or the inclusion of evidence at the Title IX Hearing that was not provided by the party to the investigator.

(5) Procedural Rules for Title IX Hearings.

(a) Authority of the Title IX Hearing Officer. The Title IX Hearing Officer has the authority to maintain order and make all decisions necessary for the fair, orderly, and expeditious conduct of the Title IX Hearing. The Title IX Hearing Officer shall be the final decision-maker concerning what, how, and in what order witnesses are questioned and evidence is examined.

(b) Exclusion of Information.

1. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions

- and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
2. The University cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so.
 3. The University cannot not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
- (c) Preliminary Matters. The Title IX Hearing Officer shall begin the hearing by explaining the substance of the allegations and the specific University policy or policies allegedly violated.
- (d) Attendance and Participation. Attendance during a Title IX Hearing generally is limited to the Title IX Hearing Officer, a representative from the Office of Student Conduct, the Complainant and the Complainant's advisor, the Respondent and the Respondent's advisor, and witnesses. Witnesses may attend the Title IX Hearing only while they are presenting information to the Title IX Hearing Officer, unless the witness is the Complainant or the Respondent. The Title IX Hearing Officer and the Office of Student Conduct have the discretion to allow other persons to attend the Title IX Hearing, in accordance with state and federal law.
- (e) Opening Statements. The Complainant and then the Respondent may make a brief opening statement of no longer than ten (10) minutes to the Title IX Hearing Officer, and they may provide a written copy of their opening statements to the Title IX Hearing Officer at the hearing. The Title IX Hearing Officer will provide a copy of any written opening statement received to the other party.
- (f) Questioning the Witnesses. Following any opening statements, the Title IX Hearing Officer will question the Complainant, the Respondent, and any witnesses requested by the parties. The Title IX Hearing Officer will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. Only relevant cross-examination and other questions may be asked of a party or witness. Before the Complainant, the Respondent, or any witness answers a cross-examination or other question, the Title IX Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. If a party or witness does not submit to cross-examination at the hearing, the Title IX Hearing Officer must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Title IX Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions. Notwithstanding any provisions in this Section .10(5)(f) to the contrary, alleged verbal conduct by a Respondent that constitutes any part of the alleged Sexual Harassment at issue in the case may be considered by the Title IX Officer in reaching a determination regarding responsibility even if Respondent does not submit to cross-

examination during the Title IX Hearing.

(g) Closing Statements. At the close of the Title IX Hearing, the Title IX Hearing Officer may allow the Complainant and the Respondent equal opportunities to make closing statements summarizing the information presented to the Title IX Hearing Officer and/or advocating the decision that the Title IX Hearing Officer should reach.

(6) Recording of the Title IX Hearing. The University will create an audio or audiovisual recording or transcript, of the hearing and make it available to the parties for inspection and review.

(7) Notice of Decision. Within fifteen (15) business days of the hearing, the Title IX Hearing Officer must issue a written determination regarding responsibility ("Notice of Decision"). The Notice of Decision must include (i) identification of the allegations potentially constituting Sexual Harassment; (ii) a description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; (iii) findings of fact supporting the determination; (iv) conclusions regarding the application of the Code to the facts; (v) a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant; and (vi) the procedures and permissible bases for the Complainant and Respondent to appeal.

If the Respondent is determined responsible, the Title IX Hearing Officer may consider relevant information provided at the hearing by the Complainant, the Respondent, or any other witness, in deciding the appropriate sanctions for the Respondent's misconduct.

The Title IX Hearing Officer shall transmit a copy of the Notice of Decision to the Office of Student Conduct. The Office of Student Conduct shall notify the Respondent, the Complainant, and their advisors about the written determination and provide a copy of it simultaneously to the parties and their advisors.

(8) Appeal. The decision of the Title IX Hearing Officer may be appealed to the Vice Chancellor for Student Affairs in accordance with Section .13 of this Chapter.

1720-02-05-.110 DISCIPLINARY SANCTIONS.

- (1) Disciplinary sanctions are primarily intended to: (i) educate Respondents about appropriate behavior; (ii) encourage Respondents to take responsibility for Code violation(s); (iii) encourage and promote the personal and professional development of Respondents; (iv) discourage other students from violating the Code; and/or (v) protect members of the University community.
- (2) The disciplinary sanctions imposed on a Respondent should be appropriate for the particular case based on the gravity of the Code violation, including, without limitation, how the violation affected or reasonably could have affected other members of the University community. Consideration also may be given to other aggravating or mitigating factors, including, without limitation: (i) the Respondent's student conduct record; (ii) whether the Respondent committed the violation while acting in self-defense; (iii) the Respondent's responsiveness to the student conduct process; and (iv) the Respondent's academic classification.
- (3) The following disciplinary sanctions may be imposed on a student (excluding student organizations) found to have violated the Code:
 - (a) Disciplinary Reprimand. A disciplinary reprimand is a written warning that informs a Respondent that the Respondent is violating or has violated the Code and must cease

and desist from engaging in the misconduct and/or prevent the misconduct from occurring again. A disciplinary reprimand will also inform the Respondent that any further violations of the Code may result in the imposition of more severe sanctions.

- (b) **Loss or Restriction of Privileges.** The University may impose a loss and/or restriction of privileges on a Respondent. Privileges that may be lost and/or restricted include, without limitation, the following: (i) scholarships; (ii) stipends; (iii) participation in co- curricular and/or extracurricular activities; and (iv) use and/or access to certain University-controlled property. A loss and/or restriction of privileges may be imposed for a definite or indefinite period of time.
- (c) **Community Service.** A Respondent may be required to perform unpaid service for a designated University department, program, or service and/or a University-affiliated or unaffiliated not-for-profit or volunteer organization.
- (d) **Educational Sanction.** A Respondent may be required to complete an educational assignment or program. Educational assignments and programs are designed to educate the Respondent about why certain conduct is inappropriate. Examples of educational assignments include, without limitation: (i) writing a reflection and/or research paper on a designated topic; (ii) completing a research project on a designated topic; (iii) giving a presentation on a designated topic; and (iv) issuing a formal apology in writing and/or in person. An educational program may include, without limitation, attending and satisfactorily completing an in-person or distance learning course, training, or workshop on alcohol or drug use, civility, ethics, or other topics deemed appropriate by the Office of Student Conduct. The Respondent will be responsible for all costs associated with the educational assignment or program.
- (e) **Fee or Fine.** The University may impose a monetary fee or fine for any cost incurred by the University as a result of the Respondent's conduct and may require that the Respondent pay the fee or fine by a designated due date.
- (f) **Restitution.** The University may require a Respondent to make restitution to another person or organization or the University for destruction, damage, or loss of property caused by the Respondent, or for unreimbursed medical expenses resulting from physical injury of another person caused by the Respondent. Restitution may take the form of a monetary payment or appropriate service to repair or otherwise compensate for the destruction, damage, or loss caused by the Respondent.
- (g) **Reassignment or Removal from University Housing.** The University may reassign a Respondent to a different University housing facility or remove and prohibit a Respondent from residing in any University housing facility for a definite or indefinite period of time.
- (h) **Disciplinary Probation.** A Respondent may be placed on disciplinary probation for serious or moderate Code violations or in the case of multiple or repeated minor Code violations. A Respondent may be placed on disciplinary probation for a definite or indefinite period of time, during which time the Respondent may continue to be enrolled at the University. While the Respondent is on disciplinary probation, conditions may be placed on the Respondent's continued enrollment at the University, and University departments, programs, and/or services may limit or prohibit participation in certain activities. If a Respondent commits any further Code violations while on disciplinary probation, the Respondent may be subject to more severe sanctions up to and including permanent dismissal.
- (i) **Suspension.** Suspension is an official separation from the University for a specific period of time and/or until certain conditions are met. A Respondent may be suspended from the University for serious Code violations, in the case of multiple or repeated moderate

or minor Code violations, and/or for any Code violations while on disciplinary probation. While on suspension, a Respondent (i) loses all rights and privileges at the University; (ii) may not represent the University in any manner; and (iii) is ineligible to apply for readmission to the University during the suspension period and/or until certain conditions are met. If a Respondent is suspended, the Respondent is prohibited, without the prior approval of the Vice Chancellor for Student Affairs (or his or her designee), from entering upon all University-controlled property, including University residence halls, from the date that the suspension period begins until such date that the Respondent is readmitted to the University (even if the suspension period ends prior to the date of the Respondent's readmission). Entering upon University-controlled property without prior approval from the Vice Chancellor for Student Affairs (or his or her designee) may result in criminal trespass charges against the Respondent under the criminal laws of the State of Tennessee. Respondents permitted to return to the University following a period of suspension will be automatically placed on disciplinary probation for a designated period of time following their return. A Respondent who commits any Code violations while on suspension may be subject to suspension for an additional period of time or barred from readmission and/or re-enrollment at the University.

- (j) **Permanent Dismissal.** Permanent dismissal is an official and permanent separation from the University. A Respondent may be permanently dismissed from the University when the Respondent's commission of one (1) or more Code violations is deemed so serious as to warrant total and permanent disassociation from the University or when, through repeated violations of the Code and/or violations of the Code while on disciplinary probation or suspension, the Respondent exhibits blatant disregard for (i) the health, safety, and welfare of himself or herself or other members of the University community or (ii) the University's right to establish rules of conduct. A Respondent who is permanently dismissed from the University: (i) loses all rights and privileges at the University; (ii) may not represent the University in any manner; (iii) is indefinitely prohibited, without prior approval of the Vice Chancellor for Student Affairs (or his or her designee) from entering upon all University-controlled property, including University residence halls; and (iv) is permanently barred from re-enrolling at the University. Entering upon University-controlled property without prior approval from the Vice Chancellor for Student Affairs (or his or her designee) may result in criminal trespass charges against the Respondent under the criminal laws of the State of Tennessee.
- (k) **Revocation of Admission.** The University may revoke a Respondent's admission to the University after the Respondent's admission to the University but prior to Respondent's enrollment at the University, if the Respondent (i) provides false or incomplete information on Respondent's application for admission; or (ii) violates federal, state, or local law or the Code prior to enrollment. A Respondent whose admission has been revoked: (i) loses all rights and privileges at the University; (ii) may not represent the University in any manner; and (iii) is indefinitely prohibited from entering upon all University-controlled property, including residence halls, without prior approval of the Vice Chancellor for Student Affairs (or his or her designee). Entering upon University-controlled property without prior approval from the Vice Chancellor for Student Affairs may result in criminal trespass charges against the Respondent under the criminal laws of the State of Tennessee.
- (l) **Withholding of Degree.** The University may withhold awarding a degree to a Respondent who has violated any University rule or policy. The University may withhold a degree for a definite period of time and/or until the Respondent has completed or served all sanctions or other requirements imposed by the University for releasing its award of the degree.
- (m) **Revocation of Degree.** The University make revoke a degree awarded to a Respondent if the Respondent obtained the degree, in part, through cheating, plagiarism, academic dishonesty, research misconduct, or other serious violation of the Code. The University

may also revoke a Respondent's degree if, after the degree was awarded, the University determines that the Respondent committed a serious violation of the Code while a student, but prior to being awarded the degree, that would have warranted permanent dismissal of the Respondent. Before a Respondent's degree may be revoked, the Chancellor must approve the revocation of the degree.

- (4) The following disciplinary sanctions may be imposed on a student organization found to have violated the Code:
- (a) **Disciplinary Reprimand.** A disciplinary reprimand is a written warning that informs a Respondent that the Respondent is violating or has violated the Code and must cease and desist from engaging in the misconduct and/or prevent the misconduct from occurring again. A disciplinary reprimand will also inform the Respondent that any further violations of the Code may result in the imposition of more severe sanctions.
 - (b) **Loss or Restriction of Privileges.** The University may impose a loss or restriction of privileges on a Respondent. Privileges that may be lost or restricted include, without limitation, the following: (i) participation in extracurricular activities (e.g., intramurals); (ii) housing privileges; (iii) participation in or sponsorship of social activities; and (iv) use and/or access to certain University-controlled property. A loss or restriction of privileges may be imposed for a definite or indefinite period of time.
 - (c) **Fee or Fine.** The University may impose a monetary fee or fine for any cost incurred by the University as a result of the Respondent's conduct and may require that the Respondent pay the fee or fine by a designated due date.
 - (d) **Restitution.** The University may require a Respondent to make restitution to another person or organization or the University for destruction, damage, or loss of property caused by the Respondent, or for unreimbursed medical expenses resulting from physical injury of another person caused by the Respondent. Restitution may take the form of a monetary payment or appropriate service to repair or otherwise compensate for the destruction, damage, or loss caused by the Respondent.
 - (e) **Community Service.** Members of the Respondent may be required to perform unpaid service for a designated University department, program, or service and/or a University-affiliated or unaffiliated not-for-profit or volunteer organization.
 - (f) **Educational Sanction.** Members of the Respondent may be required to complete an educational program. Educational programs are designed to educate the Respondent's members about why certain conduct is inappropriate. An educational program may include, without limitation, attending and satisfactorily completing an in-person or distance learning course, training, or workshop on alcohol or drug use, civility, ethics, or other topics as deemed appropriate by the Office of Student Conduct. The Respondent will be responsible for all costs associated with the educational program.
 - (g) **Disciplinary Probation.** A Respondent may be placed on disciplinary probation for serious or moderate Code violations or in the case of multiple or repeated minor Code violations. A Respondent may be placed on disciplinary probation for a definite or indefinite period of time, during which time the Respondent may continue to operate at the University. While the Respondent is on disciplinary probation, conditions may be placed on the Respondent's continued operation, and University departments, programs, and/or services may limit or prohibit Respondent's participation in certain activities. If a Respondent commits any further Code violations while on disciplinary probation, the Respondent may be subject to more severe sanctions up to and including suspension or revocation of University registration.
 - (h) **Suspension.** Suspension is an official separation from the University for a definite period of time and/or until certain conditions are met. A Respondent may be suspended from

the University for serious Code violations, in the case of multiple or repeated moderate or minor Code violations, and/or for any Code violations while on disciplinary probation. While on suspension, a Respondent (i) may not operate at the University; (ii) may not represent the University in any manner; (iii) and is ineligible to resume operations at the University during the suspension period and/or until certain conditions are met. The Vice Chancellor for Student Affairs will determine whether the Respondent has fulfilled the required conditions for resuming operations at the University. Respondents permitted to resume operating at the University following a period of suspension will be automatically placed on disciplinary probation for a designated period of time following the suspension term. A Respondent who commits any Code violations while on suspension may be subject to suspension for an additional period of time or revocation of its registration with the University.

- (i) Revocation of University Registration. In cases of a serious Code violation by a Respondent or a Respondent's violation of the Code while on disciplinary probation or suspension, the University may revoke the Respondent's registration with the University and cease to recognize the Respondent as a University-sanctioned student organization for a definite or indefinite period of time. If a Respondent's registration is revoked, the Respondent is barred from operating at the University.
- (5) More than one (1) of the disciplinary sanctions provided in this Section .119 may be imposed on a Respondent for any single violation of the Code.
- (6) Disciplinary sanctions may be applied retroactively to the date of the Code violation(s) committed by the Respondent.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed May 27, 1986; effective August 12, 1986. Amendment filed June 22, 2006; effective October 27, 2006. Repeal and new rule filed April 17, 2012; effective September 28, 2012. Repeal and new rule filed September 30, 2019; effective December 29, 2019.

1720-02-05-.142 APPEALS.

- (1) Appeal ~~of Decisions of Hearing Officers and Student Conduct Boardsto the Vice Chancellor for Student Affairs.~~
 - (a) Appeal Period. Except as provided in Section .132(3) of this Chapter, the decision of a Hearing Officer or Student Conduct Board may be appealed to the Vice Chancellor for Student Affairs by submitting a Notice of Appeal to the Office of Student Conduct in accordance with Section .4412(1)(b) of this Chapter within five (5) business days of the effective date of the Notice of Decision to the appealing party. A Notice of Appeal not submitted within five (5) business days of the effective date of the Notice of Decision to the appealing party will not be considered.
 - (b) Notice of Appeal. A Notice of Appeal must state: (i) the name of the party appealing the decision; and (ii) the specific grounds for the appeal. Appeals not based on one (1) or more of the grounds provided under Section .124(1)(c) ~~of this Chapter~~ will not be considered.
 - (c) Grounds for Appeal. Appeals are limited to the following grounds:
 - 1. The party's rights were violated in the hearing process;
 - 2. New relevant and material information has become available that could not have been discovered at the time of the hearing;

3. The information presented did not support the decision by a preponderance of the evidence standard; or
 4. The sanction(s) imposed were not appropriate for the violation.
- (d) Response to Appeal by Non-Appealing Party. Upon receipt of a timely-submitted Notice of Appeal, the Office of Student Conduct will provide a copy of the Notice of Appeal to the non-appealing party, if applicable. The non-appealing party may respond to the appeal by submitting a written response to the Office of Student Conduct within three (3) business days of the effective date of the Notice of Appeal to the non-appealing party.
- (e) Decision on Appeal.
1. Within ten (10) business days of the Office of Student Conduct's receipt of the Notice of Appeal or the non-appealing party's response to the appeal, whichever occurs later, the Vice Chancellor of Student Affairs (or his or her designee) will provide notice to the parties of his or her decision.
 2. The Vice Chancellor for Student Affairs (or his or her designee) may (i) uphold, amend, or overturn the decision of the Hearing Officer or Student Conduct Board; or (ii) return the case to the Hearing Officer or Student Conduct Board for reconsideration.
 3. If the Vice Chancellor for Student Affairs decides to uphold, amend, or overturn the decision of the Hearing Officer or Student Conduct Board, the decision of the Vice Chancellor for Student Affairs is final.
 4. A decision by the Vice Chancellor for Student Affairs to return the case to the Hearing Officer or Student Conduct Board for reconsideration may not be appealed. Any decision by the Hearing Officer or Student Conduct Board on reconsideration may be appealed in accordance with this Section .124.

(2) Any disciplinary sanction(s) issued by the Hearing Officer or the Student Conduct Board will remain in force throughout the pendency of an appeal, unless the Respondent requests that the disciplinary sanction(s) be stayed pending the Respondent's appeal and such a request is granted by the Hearing Officer or Student Conduct Board, as applicable.

(3) Appeal of Decisions of Title IX Hearing Officers.

- (a) Appeal Period. The Complainant and the Respondent may appeal the decisions of the Title IX Hearing Officer to the Vice Chancellor for Student Affairs by submitting a Notice of Appeal to the Office of Student Conduct in accordance with Section .12(3)(b) within five (5) business days of the effective date of the Notice of Decision. The Office of Student Conduct will notify a party in writing when an appeal is received from the other party. A Notice of Appeal not submitted within five (5) business days of the effective date of the Notice of Decision will not be considered.
- (b) Notice of Appeal. A Notice of Appeal must state: (i) the name of the party appealing the decision; and (ii) the specific grounds for the appeal. Appeals not based on one (1) or more of the grounds provided under Section .12(3)(c) will not be considered.
- (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. A procedural irregularity affected the outcome of the matter.
 2. New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could affect the outcome of the matter.

3. The Title IX Coordinator, the investigator(s), or the Title IX Hearing Officer had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.
 4. The party's rights were violated in the hearing process;
 5. The sanction(s) imposed were not appropriate for the violation.
 6. The information presented did not support the decision by a preponderance of the evidence standard.
- (d) Effective Date of Sanction. The sanction(s) imposed by the Title IX Hearing Officer shall not be effective during the pendency of an appeal.
- (e) Appeal Statements. Each party may submit a written statement in support of or challenging the outcome of the Title IX Hearing. The written statement must be received by the Office of Student Conduct within five (5) business days of the date on which the Notice of Appeal was filed, or within five (5) business days of the date on which the non-appealing party received notice that the other party filed a Notice of Appeal.
- (f) Decision on Appeal. Within ten (10) business days of the receipt of the last timely submitted appeal statement from a party, the Vice Chancellor for Student Affairs will provide notice to the parties of his or her decision. The written notice will describe the result of the appeal and the rationale for the result, which will be provided simultaneously to both parties. The decision of the Vice Chancellor or Student Affairs is final and not subject to further appeal.

Authority: T.C.A. § 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. **Administrative History:** Original rule filed May 27, 1986; effective August 12, 1986. Amendment filed March 12, 1987; effective June 29, 1987. Amendment filed June 22, 2006; effective October 27, 2006. Repeal and new rule filed April 17, 2012; effective September 28, 2012. Repeal and new rule filed September 30, 2019; effective December 29, 2019.

1720-02-05-.132 CONCLUSION OF THE STUDENT CONDUCT PROCESS.

A case involving alleged violations of the Code by a Respondent may be concluded in one (1) of the following ways:

- (1) No-Action Determination. If the Office of Student Conduct determines at any point in the student conduct process that no action will be taken against the Respondent regarding alleged violations of the Code, it will issue a Notice of Decision to the Respondent setting forth the decision.
 - (a) The Office of Student Conduct, in its discretion, may determine that no action be taken against a Respondent based on, without limitation, the following reasons:
 1. A determination that, based on a preponderance of the evidence, Respondent did not engage in the alleged Code violation(s);
 2. A determination that it does not have sufficient information or witnesses to move forward in the student conduct process; and/or
 3. The Complainant declines to participate in the student conduct process.
 - (b) After making a no-action determination, the Office of Student Conduct may reinstate the student conduct process with respect to the alleged Code violations against the Respondent at any time for good cause, including, without limitation, the discovery of

new relevant and material information or a decision by the Complainant to participate in the student conduct process.

- (2) Behavioral Agreement. A case involving alleged violations of the Code will be concluded when the Respondent signs a behavioral agreement as provided under Section .07(54) of this Chapter.
- (3) Failure to Contest. If the Respondent: (i) fails to request in writing a Formal Hearing to contest the charge(s) as provided under Section .07(1)(c) of this Chapter; (ii) fails to appear at a Hearing Officer Hearing or Student Conduct Board Hearing for which the proper notice was provided to the Respondent in accordance with the Code; or (iii) signs a written waiver of his or her right to contest the Code violation charge(s) through a Formal Hearing, the Office of Student Conduct may issue a Notice of Decision to the Respondent finding the Respondent responsible for the charge(s) and imposing the disciplinary sanctions proposed in the Notice of Charges. A decision issued pursuant to this Section .132(3) is not subject to appeal. The Office of Student Conduct may decline to issue a Notice of Decision upon a showing of good cause by the Respondent for his or her failure to timely request a Formal Hearing or to appear at a properly noticed Hearing Officer Hearing or Student Conduct Board Hearing.
- (4) Resolution Agreement. A case will be concluded when a Resolution Agreement resolving the Code violation charge(s) is signed by the Respondent and becomes final and binding in accordance with Section .07(2) of this Chapter.
- (5) Alternative Resolution Agreement. A case will be concluded when the allegations or charges of violations of the Code against the Respondent are resolved through an Alternative Resolution Agreement as provided under Section .07(3) of this Chapter.
- ~~(5)~~(6) Informal Resolution. The student conduct process concludes when an Informal Resolution is agreed upon in accordance with Section .07(4) of this Chapter.
- ~~(6)~~(7) Final Decision – Formal Hearing. In a case in which a Formal Hearing is held and the Respondent does not enter into a Resolution Agreement, the case will be concluded when a decision resolving the Code violation charge(s) is issued and is final. A decision is considered final when it is not appealed, is not subject to an appeal, or all appeals have been exhausted.

Authority: T.C.A. § 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. **Administrative History:** Original rule filed April 17, 2012; effective September 28, 2012. Repeal and new rule filed September 30, 2019; effective December 29, 2019.

1720-02-05-.143 INTERIM ACTIONS.

In certain situations, the University may impose interim actions prior to the conclusion of the student conduct process. The University will determine the appropriate interim actions based on the totality of the circumstances. Interim actions are not disciplinary sanctions and are taken to protect the safety, security, and welfare of the Complainant, Respondent, the University community, and/or University property.

- (1) No-Contact Directive. In cases involving allegations of harassment, assault, physical injury, sexual harassment, sexual assault, dating violence, domestic misconduct, relationship violence, stalking, harassmentsexual exploitation, and/or retaliation, or where there is reason to believe continued contact between a student and a specific person may interfere with that specific person's security, safety, or ability to participate in work or studies, the University may issue a No-Contact Directive to the student that prohibits the student from having verbal, physical, written, and/or electronic contact, either directly or indirectly through a third party or other means, with the specific person for a definite or indefinite period of time. The student will receive written notice of the No-Contact Directive. Any student, faculty or staff member or other person with a reasonable justification may request a No-Contact Directive. Any violation of a No-Contact Directive will be considered a violation of the Code and a risk to the health, safety

or welfare of the person whom the student is prohibited from contacting under the directive, and may result in disciplinary sanctions or additional interim actions against the student. A No-Contact Directive may be issued to a student organization under the same circumstances and conditions as provided under this Section .143(1).

- (2) **Disciplinary Hold.** A Disciplinary Hold is an encumbrance on a student's University record that prevents the student from registering for classes, receiving grades, transcripts, and/or academic credit, and being awarded a degree, until the reason for the hold is resolved. The Office of Student Conduct may place a Disciplinary Hold on a student's University record while allegations of Code violation(s) against the student are under investigation, disciplinary proceedings and/or sanctions against the student are pending or incomplete, or in accordance with other University rules or policies.
- (3) **Interim Restriction.** When the Office of Student Conduct has reasonable cause to believe that the continued presence of a Respondent (student or student organization) on certain University-controlled property or at certain University-affiliated activities (i) poses a risk to the health, safety, or welfare of others or to property; or (ii) poses a risk of disruption of or interference with the normal operations of the University, the Office of Student Conduct may impose an interim restriction and/or condition ("Interim Restriction") on the Respondent prior to the resolution of the allegations of Code violation(s) against the Respondent in the student conduct process. Examples of Interim Restrictions include, without limitation, restrictions on the Respondent's privileges to participate in University-affiliated activities, restrictions on the Respondent's privileges to access certain University-controlled property, and the Respondent's interim removal and/or reassignment from University-controlled housing. Restrictions imposed on a Respondent under a No-Contact Directive are not Interim Restrictions.
 - (a) The Respondent will be provided written notice of the Interim Restriction and the basis for the Interim Restriction. Unless otherwise determined by the Office of Student Conduct, the Interim Restriction will remain in effect until the conclusion of the student conduct process, which should be completed without undue delay.
 - (b) If the Respondent wishes to contest the Interim Restriction, the Respondent must request in writing to meet with the Vice Chancellor for Student Affairs within three (3) business days of the effective date of the notice of the Interim Restriction. Upon receipt of a timely request for a meeting, the Vice Chancellor for Student Affairs (or his or her designee) will schedule a meeting with the Respondent at which the Respondent will be offered the opportunity to discuss the following issues only: (i) the reliability of the information concerning the Respondent's conduct on which the Interim Restriction was issued; and (ii) whether the conduct and surrounding circumstances reasonably indicate that the Respondent's continued presence on certain University-controlled property or at certain University-affiliated activities poses a risk to the health, safety, or welfare of others or to property, or a risk to the disruption of or interference with the normal operations of the University. At the conclusion of the meeting, the Vice Chancellor for Student Affairs (or his or her designee) may remove, modify, or maintain the Interim Restriction and will notify the Respondent of his or her decision in writing.
 - (c) Violations of the terms of an Interim Restriction may result in disciplinary sanctions and/or additional interim actions against the Respondent, and the Respondent may be treated as a trespasser.
- (4) **Interim Suspension.** When the Vice Chancellor for Student Affairs has reasonable cause to believe that the continued presence of a Respondent (student or student organization) on University-controlled property or at University-affiliated activities (i) poses a significant risk of substantial harm to the health or safety of others or to property; or (ii) poses an ongoing or imminent threat of disruption to or interference with the normal operations of the University, the Vice Chancellor for Student Affairs may impose an Interim Suspension on the Respondent prior to the resolution of the allegations of Code violation(s) against the Respondent in the

student conduct process. During an Interim Suspension, the Respondent shall be denied access to University-controlled property, including residence halls, and all other University-affiliated activities or privileges for which the Respondent might otherwise be eligible, as the Vice Chancellor for Student Affairs determines in his or her sole discretion to be appropriate.

- (a) The Respondent will be provided written notice of the Interim Suspension and the basis for the Interim Suspension. Unless otherwise determined by the Vice Chancellor for Student Affairs, the Interim Suspension will remain in effect until the conclusion of the student conduct process, which should be completed without undue delay.
- (b) If the Respondent wishes to contest the Interim Suspension, the Respondent must request in writing to meet with the Vice Chancellor for Student Affairs within three (3) business days of the effective date of the written notice of the Interim Suspension. Upon receipt of a timely request for a meeting, the Vice Chancellor for Student Affairs (or his or her designee) will schedule a meeting with the Respondent at which the Respondent will be offered the opportunity to discuss the following issues only: (i) the reliability of the information concerning the Respondent's conduct on which the Interim Suspension was issued; and (ii) whether the conduct and surrounding circumstances reasonably indicate that the Respondent's continued presence on certain University-controlled property or at certain University-affiliated activities poses a significant risk of substantial harm to the health, safety, or welfare of others or to property, or an ongoing or imminent threat of disruption to or interference with the normal operations of the University. At the conclusion of the meeting, the Vice Chancellor for Student Affairs (or his or her designee) may remove, modify, or maintain the Interim Suspension and will notify the Respondent of his or her decision in writing.
- (c) Violations of the terms of an Interim Suspension may result in disciplinary sanctions and/or additional interim actions against the Respondent, and the Respondent may be treated as a trespasser. During an Interim Suspension, permission to be on University-controlled property or participate in University-affiliated activities may be granted by the Vice Chancellor for Student Affairs.
- ~~(e)~~(d) Notwithstanding any provisions in this Section .14 to the contrary, in any case in which a Formal Complaint is filed alleging Title IX Allegations, the Vice Chancellor for Student Affairs may impose an interim suspension on a Respondent only after undertaking an individualized safety and risk analysis, and determining that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal of the Respondent. The Vice Chancellor for Student Affairs will provide the Respondent notice and an opportunity for the Respondent to challenge an interim suspension within three (3) business days.

Authority: T.C.A. § 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. **Administrative History:** Original rule filed April 17, 2012; effective September 28, 2012. Repeal and new rule filed September 30, 2019; effective December 29, 2019.

1720-02-05-.145 STUDENT PARKING APPEALS BOARD.

- (1) All students who park vehicles or own vehicles parked on University-controlled property are subject to the University's Parking Rules under Chapter 1720-02-03.
- (2) The Student Parking Appeals Board will review all appeals of parking citations issued to students in accordance with Chapter 1720-02-03. Decisions concerning appeals will be made by a majority vote of the Student Parking Appeals Board.
- (3) The Student Parking Appeals Board membership will consist of the student members of the Student Conduct Board.

- (4) A chairperson and a quorum of three (3) members of the Student Parking Appeals Board is required for each hearing on an appeal. A University official from either the Office of Parking Services or the Office of Student Conduct will serve as the chairperson for an appeal hearing. The chairperson will vote on an appeal only in the event of a tie-vote among the board members.
- (5) The chairperson and the board members will be fair and impartial. Any student appealing a parking citation has the right to challenge the fairness or impartiality of the chairperson or any board member hearing the student's appeal. Any chairperson or board member lacking fairness or impartiality will recuse himself or herself or may, for good cause and at the discretion of the Vice Chancellor for Student Affairs (or his or her designee), be removed from hearing an appeal.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed April 17, 2012; effective September 28, 2012. Repeal and new rule filed September 30, 2019; effective December 29, 2019.

1720-02-05-.165 STUDENT CONDUCT RECORDS.

- (1) Maintenance. The University maintains student conduct records separately from student academic records. The Office of Student Conduct serves as the record custodian for student conduct records.
- (2) Disclosure. A student may inspect and review his or her own student conduct records upon request to the Office of Student Conduct. The Office of Student Conduct may disclose a student's student conduct records to other persons upon written consent of the student. The Office of Student Conduct may disclose a student's student conduct records to other persons, including other University officials, without written consent from the student only in accordance with federal or state law.
- (3) Retention and Disposal of Student Conduct Records. The University will retain a student's student conduct records for a period of seven (7) years after the student's last date of enrollment with the University, unless required to retain the records for a longer period of time by law or as otherwise provided in this Section .165(3). The Office of Student Conduct will permanently retain student conduct records for students who receive one (1) or more of the following disciplinary sanctions (or equivalent sanctions under previous versions of the Code) from the University: Suspension, Permanent Dismissal, Withholding of Degree, and Revocation of Degree.
- (4) Retention and Disposal of Student Organization Conduct Records. The University will retain a student organization's conduct records for a period of seven (7) years following the conclusion of the matter to which the conduct records relate, unless required to retain the records for a longer period of time by law or as otherwise provided in this Section .165(4). The Office of Student Conduct will permanently retain student organization conduct records relating to matters in which a student organization receives one (1) or more of the following disciplinary sanctions (or equivalent sanctions under previous versions of the Code) from the University: Suspension or Revocation of Registration.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed April 17, 2012; effective September 28, 2012. Repeal and new rule filed September 30, 2019; effective December 29, 2019.

1720-02-05-.176 AMNESTY FOR GOOD SAMARITANS AND IMPAIRED STUDENTS.

- (1) The University holds paramount the health, safety, and welfare of students. Accordingly, all students are expected to alert appropriate officials in the event of a health, safety, or welfare emergency, including, without limitation, a situation involving the abuse of alcohol or 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: (i) contact appropriate persons (including, but not limited to, University faculty or staff members, law enforcement officials, etc.) to report the incident and request assistance, including providing his or her name and contact information and the name and contact information of the impaired student; and (ii) demonstrate cooperation and care by remaining with the impaired student and providing reasonable assistance during and after the incident. A student who complies with the expectations described in this Section .176 is referred to as a "Good Samaritan." A student in need of emergency medical attention is referred to as an "impaired student" under this Section .176.
- (3) Amnesty for Good Samaritans. Unless a Good Samaritan has engaged in repeated or serious violations of the Code (including, but not limited to, physical or sexual assault, property destruction, disorderly behavior, theft, multiple alcohol or drug violations), a Good Samaritan will not be subject to formal University disciplinary action for any Code violation(s) discovered by the University as a result of the Good Samaritan's report. While no formal University disciplinary action may be taken, a Good Samaritan may be required to meet with the Office of Student Conduct to discuss the Good Samaritan's Code violation(s) and adhere to appropriate remedial and/or educational recommendations.
- (4) Amnesty for Impaired Student. Unless an impaired student has engaged in repeated or serious violations of the Code (including, but not limited to, physical or sexual assault, property destruction, disorderly behavior, theft, multiple alcohol or drug violations), an impaired student will not be subject to formal University disciplinary action for any Code violation(s) 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 the Office of Student Conduct to discuss the impaired student's Code violation(s), participate in educational activities, and/or establish that he or she has addressed the issues that contributed to the Code violation(s).
- (5) Application to Student Organizations. Student organizations, through their officers and members, are also expected to take responsible action in emergency situations in accordance with the expectations under Section .176(2) of this Chapter. A student organization may receive amnesty for any Code violation(s) discovered by the University as a result of the Good Samaritan reports of its officers and/or members, but if not granted amnesty, the responsible actions of its officers and/or members will be considered a mitigating factor when determining disciplinary sanctions, if any, for any Code violation(s) for which the student organization is found responsible. Conversely, the failure of a student organization's officers and/or members to take responsible action in emergency situations in accordance with the expectations under Section .176(2) of this Chapter may be considered an aggravating factor when determining disciplinary sanctions, if any, for any Code violation(s) for which the student organization is found responsible.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64.* **Administrative History:** Original rule filed September 30, 2019; effective December 29, 2019.



The University of Tennessee
Board of Trustees

Resolution ___-2020
Emergency Student Code of Conduct Rules
(University of Tennessee at Chattanooga)

Resolved:

1. The emergency student code of conduct rules, titled "Rules of The University of Tennessee (Chattanooga), Chapter 1720-02-05: Student Code of Conduct," are hereby approved as set forth in the meeting materials, which shall be attached to this Resolution after adoption and shall become effective after completion of the rulemaking procedures under the Uniform Administrative Procedures Act.
2. The proper officers of the University be and hereby are authorized to take any and all such actions as may be required or which they may deem necessary or appropriate in order to implement the emergency rules upon them becoming effective.

**RULES
OF
THE UNIVERSITY OF TENNESSEE (HEALTH SCIENCE CENTER)**

**CHAPTER 1720-03-03
STUDENT RIGHTS AND RESPONSIBILITIES**

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1720-03-03-.01 INTRODUCTION.

- (1) Students at the University of Tennessee Health Science Center 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 and in compliance with University rules and policies. The University has established the following rules in order to advance the mission of the University by maintaining a safe and secure learning environment, 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 institutional integrity 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.
- (2) The University of Tennessee is committed to respecting students' constitutional rights. Nothing in this chapter is intended or shall be interpreted to restrict students' constitutional rights, including, but not limited to, rights of freedom of speech and assembly.
- (3) Students are responsible for being fully acquainted and for complying with the University catalog, student handbook, and other rules and policies relating to students. Failure or refusal to comply with the rules and policies established by the University may subject a student to disciplinary action up to and including permanent dismissal from the University.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed May 27, 1986; effective August 12, 1986. (For history prior to August 12, 1986, see pages (iii) - (v)). Amendment filed November 17, 2000; effective March 30, 2001. Repeal and new rule filed April 17, 2012; effective September 28, 2012.

1720-03-03-.02 DEFINITIONS. The following words, terms, or phrases, when used in this Chapter, shall have the following meanings:

- (1) **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 this Chapter, the business day of the event that triggers a time period is excluded.
- (2) **Disciplinary Hold:** The University hold described in Section .05(3).
- (3) **Faculty Member:** A person hired by the University to conduct teaching, research, or supervised clinical placements.

(4) Formal Complaint: A document filed by a Complainant (or signed by the Title IX Coordinator) alleging that a Respondent engaged in sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation, and requesting that the University investigate the allegation. There are two types of Formal Complaints: (i) Formal Complaints that include Title IX Allegations (as defined under Section .02(15)); and (ii) Formal Complaints that do not include Title IX Allegations, but do otherwise include allegations of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation.

(4)(5) 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.

(5)(6) 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.

(6)(7) Notice: 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 the University.

(7)(8) Possession: Direct control of a substance or property, 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.

(8)(9) Protected Activity: 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.

(10) Sexual Harassment. Conduct on the basis of sex that satisfies one or more of the following: (i) an employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct; (ii) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or (iii) sexual assault, dating violence, domestic violence, or stalking.

(9)(11) Staff Member: A person employed by the University on a part- or full-time basis, primarily involved in planning, organizing, staffing, directing and/or controlling efforts to achieve the goals and objectives of the University.

(10)(12) Standards of Conduct: Chapter 1720-03-03-.04.

(13) Student: For purposes of this Chapter:

(a) ~~¶~~The term "student" means:

1. 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;

2. A student organization;
3. A person who has completed the immediately preceding academic term and is eligible for re-enrollment;
4. 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);
5. A person who attended the University during a previous academic term and who engaged in misconduct during the time of enrollment; and/or
6. A person who has been admitted to the University and later matriculates at the University, with respect to misconduct:
 - i. That occurs as part of the application process; or
 - ii. That occurs post-admission and pre-matriculation and falls within the jurisdiction of this rule (e.g., occurs on University-controlled property).

- (b) Residents, including interns and fellows, employed in Graduate Medical Education and similar training programs, are not "students" for purposes of this Chapter.

~~(11)~~(14) 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.

~~(15)~~ Title IX Allegations: Allegations within a Formal Complaint that a Respondent's conduct constitutes Sexual Harassment (as defined under Section .02(10)) in the University's education program or activity and occurred within the United States as defined in 34 C.F.R. 106.30(a).

~~(12)~~(16) UAPA: The Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-101 et seq.

~~(13)~~(17) University: The University of Tennessee Health Science Center, including without limitation its campuses, centers, institutes, and constituent parts.

~~(14)~~(18) University-Affiliated Activity: means an activity on or off University-controlled property that is initiated, aided, authorized, sponsored, or supervised by the University.

~~(15)~~(19) 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.

~~(16)~~(20) University Official: An employee of the University, including, without limitation, faculty members and staff members, or, for purposes of this Chapter, 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 University duties.

~~(17)~~(21) 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, without limitation, 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 (including but not limited to tasers and stun guns), devices designed to discharge an object (including but not limited to bb guns, air guns, pellet guns, potato guns, and slingshots, but not water guns), explosives, dangerous chemicals (including but not limited to 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.

~~(18)~~(22) Written: To communicate words either on paper and/or electronically. For example, a notice delivered via e-mail constitutes a written notice under this rule.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed May 27, 1986; effective August 12, 1986. (For history prior to August 12, 1986 see pages (iii) - (v)). Amendment filed October 31, 1990; effective January 29, 1991. Amendment filed November 20, 1990; effective February 27, 1991. Amendment filed September 3, 1992; effective December 29, 1992. Amendment filed June 18, 1996; effective October 28, 1996. Amendment filed November 17, 2000; effective March 30, 2001. Repeal and new rule filed April 17, 2012; effective September 28, 2012. Emergency rule filed August 27, 2015; effective through February 23, 2016. Amendment filed September 14, 2015; effective December 13, 2015. Emergency rules filed June 29, 2018; effective through December 26, 2018. Amendments filed June 29, 2018; effective September 27, 2018. Amendments filed September 30, 2019; effective December 29, 2019.

1720-03-03-.03 JURISDICTION.

- (1) The Standards of Conduct, Chapter 1720-03-03-.04, apply to conduct that occurs on University-controlled property.
- (2) The University also has the discretion to discipline a student for an act in violation of the Standards of Conduct that occurs off University-controlled property if the conduct adversely affects the interests of the University, including, but not limited to, conduct which:
 - (a) Occurs in connection with a University-affiliated activity, including, but not limited to, an overseas study program or a clinical, field, internship, or in-service experience;
 - (b) Involves another member of the University community; or
 - (c) Threatens, or indicates that the student may pose a threat to, the health or safety of him/herself or others or the security of any person’s property, including, but not limited to, alcohol-related offenses, drug-related offenses, arson, battery, fraud, hazing, participation in group violence, rape, sexual assault or misconduct, stalking, and theft.
- (3) The Standards of Conduct have been adopted in furtherance of the University’s interests and serve to supplement, rather than substitute for, the enforcement of the civil and criminal law. Accordingly, University disciplinary action may be instituted against a student charged with conduct that potentially violates both the criminal law and the Standards of Conduct without regard to the pendency of criminal charges or civil litigation. At the discretion of the Chief Student Affairs Officer, or his/her designee, disciplinary action relating to a violation of the Standards of Conduct may be carried out prior to, simultaneously with, or following criminal proceedings. Students accused of violating the Standards of Conduct may not challenge the University disciplinary proceedings 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 not yet adjudicated.
- (4) Each student shall be responsible for his/her conduct from the time of application for admission through the actual awarding of a degree, even though conduct may occur before

classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment (and even if conduct is not discovered by the University until after a degree is awarded). Should a student withdraw from the University with disciplinary charges pending, the student's academic record and/or ability to register for classes may be encumbered by the appropriate University office.

- (5) Graduate or professional programs within the University may initiate charges against students for alleged violations of professional standards or ethics as a separate issue or as an extension of alleged acts of academic dishonesty or other violations of the Standards of Conduct.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History Original rule filed May 27, 1986; effective August 12, 1986. (For history prior to August 12, 1986 see pages (iii) - (v)). Amendment filed November 17, 2000; effective March 30, 2001. Repeal and new rule filed April 17, 2012; effective September 28, 2012.*

1720-03-03-.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, without limitation, an act in violation of the Honor Code.
- (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.
- (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, safety, or welfare of any person; 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, 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 ~~Harassment, Sexual Assault, Dating Violence, Domestic Misconduct, Relationship Violence, Stalking, and/or Retaliation.~~ Violating the University's Policy on Sexual ~~Harassment, Sexual Assault, Dating and Domestic Misconduct, Relationship~~ Violence, and Stalking, and/or which includes sexual exploitation and Retaliation.
- (8) Invasion of Privacy. Invasion of another person's privacy when that person has a reasonable expectation of privacy, including, without limitation, 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, without limitation, 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, safety, or welfare of that student, or which induces or coerces a student to endanger his or her mental or physical health, safety, or welfare. "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, without limitation: 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, carrying, 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 or unless federal or state law affirmatively gives a student a right, irrespective of this Chapter, to possess or carry a weapon on University-controlled property or in connection with a University-affiliated activity.
- (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 unless expressly permitted by University policy.
- (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, without limitation, a hearing of a University conduct board, following a request to appear either as a party or as a witness, unless the student has a right to not appear under state or federal law.
- (25) Violation of Interim Administrative Actions, Disciplinary Sanctions, or Conditions of Re-Enrollment. Violating the terms of a no-contact directive, an interim restriction (e.g., interim suspension), a disciplinary sanction, or a condition of re-enrollment 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, without limitation, University policies or rules relating to facilities' use, smoking, the acceptable use of information technology resources, research 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. Retaliation is an act or omission committed by a student because of another person's participation in a protected activity that would discourage a reasonable person from engaging in protected activity, including, without limitation, any act or omission constituting "retaliation" under the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking and University rules. 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, without limitation: (1) an act or omission committed against a person's family, friends, advisors, and/or other persons reasonably expected to provide information in connection with

a University investigation or hearing; and (2) an act or omission committed by a student through a third party.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed May 27, 1986; effective August 12, 1986. (For history prior to August 12, 1986 see pages (iii) - (v)). Amendment filed October 31, 1990; effective January 29, 1991. Amendment filed November 17, 2000; effective March 30, 2001. Repeal and new rule filed April 17, 2012; effective September 28, 2012. Emergency rule filed August 27, 2015; effective through February 23, 2016. Amendment filed September 14, 2015; effective December 13, 2015. Amendments filed September 30, 2019; effective December 29, 2019.

1720-03-03-.05 SANCTIONS.

- (1) Disciplinary sanctions are primarily intended to educate students and student organizations about appropriate behavior, encourage students and student organizations to take responsibility for misconduct, promote the personal and professional development of students, discourage other students and student organizations from violating the Standards of Conduct, and protect members of the University community. The sanctions imposed should be 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). Efforts are made to keep sanctions consistent with those applied to similar cases. In recognition of the fact that the University is an educational institution with a rehabilitative point of view, sanctions are assessed in accordance with conditions accompanying each offense. Consideration may also be given to the student's or student organization's conduct record; the student's or student organization's responsiveness to the conduct process; whether the student acted in self-defense, and, if so, whether the amount of force used was reasonable under the circumstances; student academic classification; and other aggravating or mitigating factors. Sanctions may be applied retroactively to the date of the offense. Intoxication or impairment because of alcohol, drugs, chemicals, or other substances does not diminish or excuse a student violation of the Standards of Conduct. Additionally, official violation notifications are given by the appropriate office, and official records are maintained in that office.
- (2) The following sanctions may be imposed on any student found to have violated the Standards of Conduct:
 - (a) **Disciplinary Warning.** A disciplinary warning is a notice that the student is violating or has violated the Standards of Conduct. It is used for minor violations and consists of a restatement of the regulation violated with an official warning concerning future action.
 - (b) **Disciplinary Reprimand.** A disciplinary reprimand is used for minor violations of the Standards of Conduct when it is evident the misconduct occurred with knowledge and awareness of applicable Standards of Conduct. A reprimand indicates that further violations will result in more severe disciplinary actions. Reprimands may be given to students in either verbal or written form.
 - (c) **Loss of Privilege.** Loss of privilege is a sanction imposed most commonly cases involving violation of University rules governing hours, social standards, intramural sports, or misuse of University facilities. The loss of privilege is ordinarily established for a specific period of time, and actions are recorded in appropriate records. Privileges that maybe lost include, but are not limited to, scholarships, stipends, participation in extracurricular activities (e.g. intramurals), participation in social activities, and use of certain University-controlled property (e.g., information technology resources).
 - (d) **Education.** Students may be required to attend classes, at their own expense, dealing with issues such as the consequences of alcohol or drug use, civility, ethics, or other topics as deemed appropriate by the Chief Student Affairs Officer or his/her designee.
 - (e) **Restitution.** Restitution may be required in situations that involve destruction, damage,

or loss of property, or unreimbursed medical expenses resulting from physical injury. Restitution may take the form of a monetary payment or appropriate service to repair or otherwise compensate for the destruction, damage, or loss.

- (f) **Disciplinary Probation.** Disciplinary probation means that a student is permitted to remain in the University on a probationary status. Should a violation occur during probation, the student is normally suspended. Disciplinary probation is recorded on the student's personnel file in the Office of Student Affairs. Conditions of probation are specific to the individual case and may include loss of eligibility to serve as a student organization officer or participation in major student activities. Any specific probation conditions are described in a personal letter to the student. Other conditions of probation are specific to each individual case and may include a requirement of community service or other requirement or restriction.
 - (g) **Suspension.** The sanction of suspension is imposed in cases of serious or repeated misconduct or a violation of probation. A student who is suspended shall have his/her registration cancelled and is not eligible to apply for readmission for a designated period of time. Suspensions are always recorded on the student's permanent record. (Persons suspended from the University may not return to the campus for the duration of their suspension, except to conduct official business with an administrative officer or faculty member).
 - (h) **Permanent Dismissal.** Permanent dismissal means that a student is permanently barred from matriculating as a student at the University of Tennessee Health Science Center. This sanction is used when the violation of one (1) or more of the Standards of Conduct is deemed so serious as to warrant total and permanent disassociation from the University community without the possibility of re-enrollment; or when, by his/her repeated violation of the Standards of Conduct, a student exhibits blatant disregard for the health and safety of other members of the University community or the University's right to establish rules of conduct.
 - (i) **Revocation of Degree.** Revocation of a degree means revoking a student's a degree already awarded by the University. Revocation of a degree shall be approved by the University of Tennessee Board of Trustees.
- (3) A disciplinary hold may be placed on a student's account until the completion of the student disciplinary process and/or until the student satisfies the terms and conditions of any sanctions imposed. A student who, at the time of commencement, is subject to a continuing disciplinary sanction or an unresolved disciplinary charge shall not be awarded a degree before the conclusion of all sanctions and/or resolution of all disciplinary charges.
- (4) The following sanctions may be imposed on a student organization found to have violated the Standards of Conduct:
- (a) **Disciplinary Warning.** A disciplinary warning is used for minor violations of the Standards of Conduct and consists of a restatement of the Standard of Conduct violated with an official warning concerning future action.
 - (b) **Loss of Privilege.** This sanction is intended to serve as a reminder of the Standards of Conduct and is for a specific period of time. Examples of privileges that may be lost include participating in extracurricular activities (e.g., intramurals), housing privileges, participating in social activities, and using certain University-controlled property.
 - (c) **Education.** Student organizations or their representatives may be required to attend classes, at their own expense, dealing with issues such as the consequences of alcohol or drug use, civility, ethics, or other topics as deemed appropriate by the Chief Student Affairs Officer, Student Conduct Officer, and/or his/her designee.
 - (d) **Restitution.** Restitution may be required in situations that involve destruction, damage,

or loss of property, or unreimbursed medical expenses resulting from physical injury. Restitution may take the form of a monetary payment or appropriate service to repair or otherwise compensate for the destruction, damage, or loss.

- (e) Social Probation. This sanction prohibits a student organization from sponsoring or participating in specified social activities. While on social probation, a student organization may not host social events or participate in University-affiliated activities. Any exceptions to social probation must be approved, in advance, by the Chief Student Affairs Officer or his/her designee.
 - (f) Disciplinary Probation. Disciplinary probation means that a student organization is permitted to retain University registration on a probationary status. Violation of the Standards of Conduct during the period of disciplinary probation may result in more serious sanctions, including revocation of University registration.
 - (g) Revocation of University Registration. In cases of serious misconduct, a student organization's University registration may be revoked.
- (5) More than one (1) of the sanctions listed above may be imposed for any single violation of the Standards of Conduct.
 - (6) Except for an interim suspension, disciplinary sanctions shall not become effective until after opportunities for appeal have been exhausted. Sanctions may be applied retroactively to the date of the offense. Coursework performed while disciplinary charges are pending or disciplinary proceedings are underway shall be considered conditional. Coursework may be affected or disregarded based on a final finding of misconduct or the sanctions imposed, which may result in loss of course credit, a loss of tuition and/or fees, a delay in the awarding of a degree, or revocation of a degree that was awarded prior to a final decision in the disciplinary proceeding.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed May 27, 1986; effective August 12, 1986. (For history prior to August 12, 1986 see pages (iii) - (v)). Amendment filed November 13, 1987; effective February 28, 1988. Amendment filed October 31, 1990; effective January 29, 1991. Amendment filed August 31, 1995; effective December 30, 1995. Amendment filed January 13, 1999; effective May 31, 1999. Amendment filed November 17, 2000; effective March 30, 2001. Repeal and new rule filed April 17, 2012; effective September 28, 2012. Amendments filed September 30, 2019; effective December 29, 2019.

1720-03-03-.06 NO CONTACT DIRECTIVE. In cases involving allegations of assault, injury, sexual abuse, harassment, or in cases where there is reason to believe continued contact between a student/student organization and specific persons, including complainants and witnesses, may interfere with those persons' security, safety or ability to participate effectively in work or studies, the Chief Student Affairs Officer, or his/her designee, may require that the student/student organization not have verbal, physical, or written contact with specific persons for a definite or indefinite period of time. The student/student organization will receive notice of the no contact directive. 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/student organization. In addition to an internal University no contact directive, complainants are advised that other similar options exist and can be obtained from law enforcement and civil and criminal courts.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed May 27, 1986; effective August 12, 1986. (For history prior to August 12, 1986 see pages (iii) - (v)). Repeal filed November 13, 1987; effective February 28, 1988. Repeal and new rule filed April 17, 2012; effective September 28, 2012.

1720-03-03-.07 INTERIM SUSPENSION.

- (1) When the Chief Student Affairs Officer or his/her designee has reasonable cause to believe that a student's or student organization'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 ongoing threat to the disruption of, or interference with, the normal operations of the University, the Chief Student Affairs Officer or his/her designee may impose an interim suspension prior to the conclusion of a full hearing on the alleged misconduct.
- (2) An interim suspension shall be confirmed by a notice that explains the basis for the interim suspension and shall remain in effect until the conclusion of a full hearing in accordance with the rules of the University of Tennessee, which shall be held without undue delay.
- (3) Within three (3) business days of the imposition of the suspension, the student or student organization shall be offered an opportunity to appear personally before the Chief Student Affairs Officer or his/her designee in order to discuss the following issues only: (i) the reliability of the information concerning the student's or student organization's conduct; and (ii) whether the conduct and surrounding circumstances reasonably indicate that the student's or student organization'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.
- (4) During an interim suspension, the student or student organization shall be denied access to University-controlled property, including residence halls, and all other University-affiliated activities or privileges for which the student might otherwise be eligible, as the Chief Student Affairs Officer or his/her designee determines in his/her sole discretion to be appropriate. A student or student organization who 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 Chief Student Affairs Officer or his/her designee.
- ~~(4)~~(5) Notwithstanding any other provision in this Section .07 to the contrary, in any case in which a Formal Complaint is filed that includes Title IX Allegations, the Chief Student Affairs Officer may impose an interim suspension on a student only after undertaking an individualized safety and risk analysis, and determining that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal of the student. The Chief Student Affairs Officer will provide the student notice and an opportunity for the student to challenge an interim suspension or removal within three (3) business days.

Authority: T.C.A. § 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. **Administrative History:** Original rule filed May 27, 1986; effective August 12, 1986. (For history prior to August 12, 1986 see pages (iii) - (v)). Amendment filed October 31, 1990; effective January 29, 1991. Amendment filed August 31, 1995; effective December 30, 1995. Repeal and new rule filed April 17, 2012; effective September 28, 2012.

1720-03-03-.08 HEARING PROCEDURES.

- (1) Conflicts of Interest.
 - (a) The student conduct process must be carried out in a manner that is free from conflicts of interest or bias and is consistent with due process of law.
 - (b) In all cases involving allegations of sexual assault, dating violence, domestic violence, or stalking and/or retaliation, the student conduct process must include protections for the accused student/respondent analogous to, and no less protective than, the conflict of interest provisions of Tennessee Code Annotated § 4-5-303. Notwithstanding the

preceding sentence: (1) an attorney for the University is allowed to provide legal advice to multiple University employees who serve in different roles in the process of disciplining a student; and (2) the University is allowed to provide the alleged victim/complainant with equivalent rights as the accused student/respondent during the student conduct process.

(2) Allegations of Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, or Sexual Exploitation.

(a) Case Initiation. In cases involving allegations of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation, the student conduct process is initiated upon the filing of a Formal Complaint by a Complainant or by the Title IX Coordinator. As soon as practicable after the filing of a Formal Complaint, the Student Conduct Officer will provide a Notice of Receipt of Formal Complaint to the parties who are known. The Notice of Receipt of Formal Complaint shall include the following information: (1) notice of the student conduct process that applies to the allegations; (2) the identities of the parties involved in the incident; (3) the conduct allegedly constituting the violation; (4) the date and location of the incident, if known; (5) a statement that the Respondent is presumed not responsible for the alleged conduct; (6) a statement that a determination regarding responsibility is made at the conclusion of the student conduct process; (7) the parties' right to have an advisor of their choice, who may be, but is not required to be, an attorney; (8) the parties' right to inspect and review evidence; and (9) notice of the provisions of the Standards of Conduct that prohibit providing false information to a University official.

(b) Right to an Advisor. The Complainant and the Respondent each may be assisted by one (1) advisor of their choice and at their own cost during all stages of the student conduct process. The advisor may be, but is not required to be, an attorney. If a Complainant or Respondent does not have an advisor present at a Title IX Hearing, the University must provide one (selected by the University) without fee or charge to that party. The role of an advisor is limited to assisting, advising, and/or supporting a Complainant or Respondent during the student conduct process, including at all meetings, investigative interviews, and hearings. 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, except that an advisor in a Title IX Hearing is permitted to speak on behalf of a Complainant or Respondent for the purposes of asking questions of the other party and witnesses,, in accordance with Section .08(5)(e)(6) of this Chapter.

(c) Investigations.

1. Investigations of allegations of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation will be conducted by the Student Conduct Officer or another person or organization designated to serve as the investigator in accordance with University rules or policy.

2. Investigations will be conducted in a prompt, fair, and impartial manner.

3. When conducting an investigation, the Student Conduct Officer (or other designated investigator) will act as a fair and impartial party rather than as a representative of either party.

4. During an investigation, the Complainant(s), the Respondent(s), witnesses, or any other persons may be interviewed, and other relevant information and documentation will be obtained as applicable. The Student Conduct Officer (or other designated investigator) may re-interview the Complainant(s), Respondent(s), witnesses, and/or any other person at any time during the

investigation in order to obtain additional and/or clarifying information.

5. During an investigation, the Student Conduct Officer will (1) ensure that the burden of proof and burden of gathering evidence rests on the University and not on the parties; (2) provide an equal opportunity for the parties to identify and present witnesses for interview, including fact witnesses and expert witnesses, and other inculpatory and exculpatory evidence; (3) and provide written notice of the date, time, location, participants, and purpose of all investigative interviews and other meetings, with sufficient time to prepare to participate.

6. The Student Conduct Officer will provide both parties with an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint. Prior to completion of the investigative report, the Student Conduct Officer will send to each party and the party's advisor, if any, the evidence subject to inspection and review. The parties must have at least ten (10) business days to submit a written response, which the Student Conduct Officer will consider prior to completion of the investigative report. After the investigative report is completed, the parties must have at least ten (10) business days to submit a written response to the report, and no hearing shall occur until that period has lapsed even if the parties have submitted responses prior to the expiration of the ten (10) day period.

(d) Other Rights. In addition to any other rights provided under this Code, the Complainant and the Respondent in a case involving allegations of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation shall have the rights outlined in the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking.

~~(2) Unless otherwise specified in the published rules of the University, a student charged with misconduct or who is entitled to an opportunity for a hearing will, upon request, be provided a hearing in accordance with the following procedures:~~

(3) Notice of Charges.—

- (a) A person charged with misconduct will receive written notification of the following:
1. The substance of the charge(s) against him/her.
 2. The disciplinary action taken or proposed.
 3. His/her right to a hearing should he/she wish to contest the charge(s) or action.
 4. To whom a request for a hearing should be addressed.
 5. That a request for a hearing must be made within five (5) days of the person's receipt of this notice.
 6. His/her right to be accompanied by no more than one (1) advisor during the hearing, including but not limited to a parent, spouse, friend, or attorney. The role of the advisor shall be limited to providing advice or support to the accused student. Even if accompanied by an advisor, the accused student is responsible for presenting his/her own case to the hearing panel. An advisor is not permitted to: introduce evidence; raise objections; present arguments; address directly the members of the hearing panel, the student conduct officer, or any witnesses participating in the hearing; or otherwise participate in the hearing. In consideration of the limited role of the advisor, and of the compelling interest of the University to expeditiously conclude the matter, a hearing shall not be delayed due to the unavailability of an advisor.

7. His/her rights to a hearing under the Uniform Administrative Procedures Act, T.C.A. § 4-5-101 et seq. ("UAPA"). In the absence of a voluntary written waiver of his/her rights to a hearing under the provisions of the UAPA, a requested hearing will be conducted in accordance with the University's rules for conducting contested case proceedings under the UAPA, Chapter 1720-01-05, and the hearing procedures in this Section .08 shall not apply.

(b) The preceding provisions of this Section .08(3)(a) do not apply to cases in which a Formal Complaint has been filed that includes Title IX allegations.

(4) Hearing Panel or Hearing Examiner.

~~(b)~~(a) Notice of Hearing Concerning Allegations of Sexual Assault, Dating Violence, Domestic Violence, or Stalking and/or retaliation. At least seventy-two (72) hours prior to a hearing under this Section .08(~~43~~) concerning allegations of sexual assault, dating violence, domestic violence, or stalking and/or retaliation, the University shall provide the accused student/respondent with notice of the following: (1) the time, place, and date of the hearing; (2) the name of each witness the University expects to present at the hearing and those the University may present if the need arises; (3) notice of the right to request a copy of the University's investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974, (20 U.S.C. § 1232g), and the federal regulations implementing that statute, as amended; and (4) notice of the right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that the University has in its possession, custody, or control and may use to support claims or defenses, unless the use would be solely for impeachment.

~~(e)~~(b) Hearing Panel or Hearing Examiner - A requested hearing will be provided by a panel of individuals or a hearing examiner, selected in accordance with policies of the University or, in the absence of applicable policies or procedures, by the Chancellor of the University or his/her designee. The hearing will be conducted by a panel chairman similarly selected. Panel members shall be impartial and anyone lacking such impartiality shall recuse himself or be removed by the Chancellor of the University or his/her designee upon the request of any party to a hearing. Neither the Student Conduct Officer nor a person who investigated the allegations of misconduct against the accused student shall be a member of the hearing panel or advise the hearing panel.

~~(d)~~(c) Hearing Process - The chairman of a hearing panel or hearing examiner will conduct the hearing, without regard to technical rules of procedure, in such manner as will best serve the cause of justice within the following general guidelines:

1. Each party to a hearing will be afforded a full and fair opportunity to present all evidence including witnesses, reasonably relating to the charge or action at issue; evidence which is irrelevant, immaterial, repetitious or voluminous may be limited.
2. The hearing panel or examiner will consider all evidence presented, giving due consideration to the credibility or weight of each item presented; technical rules of evidence will not apply.
3. Each party will have the right to question opposing witnesses.
4. A record will be made of the hearing procedures. However, defects in the record will not invalidate the proceedings.
5. The University will have the burden of providing, by a preponderance of the

evidence, the truth of the charge(s) at issue. Where the charge(s) is found to be true, the person charged will have the burden of proving that the disciplinary action taken or proposed is arbitrary, capricious, or unreasonable.

6. Following the conclusion of the hearing, the hearing panel or examiner will consider the evidence and present written findings within a reasonable time.

~~7. In cases involving an allegation of sexual assault or misconduct, the hearing procedures shall be modified to afford the alleged victim all of the rights described in Chapter 1720-03-03-.08(3e).~~

~~8.~~

~~9.7. 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, the University will investigate and resolve reports of sexual misconduct, relationship violence, stalking, and/or retaliation in accordance with the University's Policy on Sexual Misconduct, Relationship Violence, Stalking, and/or Retaliation. In a case involving an allegation of sexual misconduct, relationship violence, stalking, and/or retaliation the accused student/respondent and the alleged victim/complainant shall have the rights outlined in the University's Policy on Sexual Misconduct, Relationship Violence, Stalking, and/or Retaliation. Additionally, in a case involving sexual assault, dating violence, domestic violence, stalking and/or retaliation, the University shall provide the accused/student/respondent with notice of the role of advisors (e.g., attorneys) in the student conduct process, including the extent to which they are allowed to advise or represent the student in an investigation or hearing.~~

~~(d) For purposes of this Section .08(4), the decision of any board or administrative officer of the University of Tennessee is subject to review by the Chancellor.~~

~~(e) The preceding hearing provisions of this Section .08(4) do not apply to cases in which a Formal Complaint is filed alleging Title IX Allegations. All such Formal Complaints will proceed to a Title IX Hearing in accordance with Section .08(5) unless resolved prior to the Title IX Hearing.~~

(5) Title IX Hearings.

~~(a) Any case involving Title IX Allegations will be resolved through a Title IX Hearing. The Title IX Hearing must be conducted in accordance with 34 C.F.R. 106.45.~~

~~(b) Appointment of Title IX Hearing Officer. The Title IX Hearing Officer. The Chief Student Affairs Officer will appoint a qualified Title IX Hearing Officer to conduct the Title IX Hearing and will notify the parties and their advisors, if any, of the appointment. The Title IX Hearing Officer may be a University employee, a team of University employees, an external person engaged to conduct the Title IX Hearing, or a team of external people engaged to conduct the Title IX Hearing. A party may object to the appointment of any Title IX Hearing Officer, in writing to the Office of Student Conduct. Any objection must be received within three (3) days of the notice of appointment, and it must state the party's grounds for objecting. The Chief Student Affairs Officer will decide whether an objection is justified, and that decision is final. If a Title IX Hearing Officer is removed based on an objection, the Chief Student Affairs Officer will appoint a new qualified Title IX Hearing Officer to conduct the Title IX Hearing.~~

~~(c) Notice of Title IX Hearing.~~

~~1. When a Notice of Title IX Hearing is Sent. The Title IX Hearing Officer will send the Respondent and the Complainant a Notice of Title IX Hearing at least ten (10) business days in advance of the date of the hearing.~~

2. Information in the Notice of Title IX Hearing. The Notice of Title IX Hearing will contain, or be accompanied by, the following information: (1) the date, time, and place of the Title IX Hearing; (2) notice of the right to have an advisor of the party's choice, who may be, but is not required to be, and attorney, and that, if the party does not have an advisor present at the hearing, the University must provide an advisor of the University's choice, without fee or charge, to ask the other party and any witnesses all relevant questions and follow-up questions on behalf of that party; (3) notice that any cross-examination of any other party or witness must be conducted by the advisor, and never by a party personally; and (4) notice that all of the evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint will be available to the parties at the hearing. Other pre-hearing information may also be included in the Notice of Title IX Hearing. Any Title IX Hearing may be rescheduled by the Title IX Hearing Officer or upon request of any party and for good cause shown.

3. Consequences of Failing to Attend a Title IX Hearing. If a party fails to attend a Title IX Hearing, the Title IX Hearing Officer may proceed with the Title IX Hearing without that party's participation.

(d) General Rules Governing Title IX Hearings.

1. The Title IX Hearing will take place no sooner than ten (10) business days after the parties' receipt of the written investigative report.

2. The Title IX Hearing Officer may conduct pre-hearing meetings or conferences with the parties and their advisors, if any, to discuss any pre-hearing issues, including but not limited to, the date of the hearing, the location of the hearing, any technology to be used at the hearing, the general rules governing the hearing, including any rules of decorum, the identification of witnesses, and the availability of evidence at the hearing.

3. Each party must notify the Title IX Hearing Officer at least five (5) business days before the hearing of the identity of the party's advisor, if any, or that the party does not have an advisor so that the University can provide an advisor.

4. At the request of either party, the Student Conduct Officer will provide for the hearing to occur with the parties located in separate rooms with technology enabling the Title IX Hearing Officer and parties to simultaneously see and hear the party or the witness answering questions.

5. Upon request of a party and for good cause shown, the Title IX Hearing Officer may permit the participation of witnesses at the Title IX Hearing who were not identified by the party to the investigator, or the inclusion of evidence at the Title IX Hearing that was not provided by the party to the investigator.

(e) Procedural Rules for Title IX Hearings.

1. Authority of the Title IX Hearing Officer. The Title IX Hearing Officer has the authority to maintain order and make all decisions necessary for the fair, orderly, and expeditious conduct of the Title IX Hearing. The Title IX Hearing Officer shall be the final decision maker concerning what, how, and in what order witnesses are questioned and evidence is examined.

2. Exclusion of Information.

i. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and

- evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
- ii. The University cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so.
- iii. The University cannot not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
3. Preliminary Matters. The Title IX Hearing Officer shall begin the hearing by explaining the substance of the allegations and the specific University policy or policies allegedly violated.
4. Attendance and Participation. Attendance during a Title IX Hearing generally is limited to the Title IX Hearing Officer, a representative from the Student Conduct Officer, the Complainant and the Complainant's advisor, the Respondent and the Respondent's advisor, and witnesses. Witnesses may attend the Title IX Hearing only while they are presenting information to the Title IX Hearing Officer, unless the witness is the Complainant or the Respondent. The Title IX Hearing Officer and the Student Conduct Officer have the discretion to allow other persons to attend the Title IX Hearing, in accordance with state and federal law.
5. Opening Statements. The Complainant and then the Respondent may make a brief statement of no longer than ten (10) minutes to the Title IX Hearing Officer, and they may provide a written copy of their statements to the Title IX Hearing Officer at the hearing. The Title IX Hearing Officer will provide a copy of any written statement received to the other party.
6. Questioning the Witnesses. Following any opening statements, the Title IX Hearing Officer will question the Complainant, the Respondent, and any witnesses requested by the parties. The Title IX Hearing Officer will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. Only relevant cross-examination and other questions may be asked of a party or witness. Before the Complainant, the Respondent, or any witness answers a cross-examination or other question, the Title IX Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. If a party or witness does not submit to cross-examination at the hearing, the Title IX Hearing Officer must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Title IX Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

7. Closing Statements. At the close of the Title IX Hearing, the Title IX Hearing Officer may allow the Complainant and the Respondent equal opportunities to make statements summarizing the information presented to the Title IX Hearing Officer and/or advocating the decision that the Title IX Hearing Officer should reach.
- (f) Recording of the Title IX Hearing. The University will create an audio or audiovisual recording or transcript, of the hearing and make it available to the parties for inspection and review.
- (g) Notice of Decision. Within fifteen (15) business days of the hearing, the Title IX Hearing Officer must issue a written determination regarding responsibility ("Notice of Decision"). The Notice of Decision must include (i) identification of the allegations potentially constituting Sexual Harassment; (ii) a description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; (iii) findings of fact supporting the determination; (iv) conclusions regarding the application of the Standards of Conduct to the facts; (v) a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant; and (vi) the procedures and permissible bases for the Complainant and Respondent to appeal.
- In deciding the appropriate sanctions for a Respondent's misconduct, the Title IX Hearing Officer may consider information provided at the hearing by the Complainant, the Respondent, or any other witness with relevant information concerning the appropriate sanctions, if the Respondent is determined responsible.
- The Title IX Hearing Officer shall transmit a copy of the Notice of Decision to the Student Conduct Officer. The Student Conduct Officer shall notify the Respondent, the Complainant, and their advisors about the written determination and provide a copy of it simultaneously to the parties and their advisors.
- (h) Appeal of Decision of Title IX Hearing Officer. The Complainant and the Respondent may appeal the decisions of the Title IX Hearing Officer (or the dismissal of a Formal Complaint), but the grounds for appeal are limited to those described in Section .08(5)(h)(3).
1. Notice of Appeal. The Notice of Appeal shall be received by the Vice Chancellor of Academic, Faculty, and Student Affairs (VCAFSA) within five (5) business days of the date that the Student Conduct Officer transmitted the Notice of Decision.
 2. 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:
 - i. Procedural Error. A procedural irregularity affected the outcome of the matter.
 - ii. New Evidence. New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could affect the outcome of the matter.
 - iii. Conflict of Interest or Bias. The Title IX Coordinator, the investigator(s), or the Title IX Hearing Officer had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

- iv. Clearly Unreasonable Sanction. The sanction(s) imposed by the Title IX Hearing Officer is clearly unreasonable (i.e., has no sound basis or justification in reason).
 - v. Clearly Erroneous Outcome. The Title IX Hearing Officer made a clear error in determining that the Respondent is or is not responsible for misconduct.
3. Appeal Process. Each party may submit a written statement in support of or challenging the outcome of the Title IX Hearing. The written statement must be received by VCAFSA within five (5) business days of the date on which the Notice of Appeal was filed, or on which the non-appealing party received notice that the other party filed a Notice of Appeal. Within ten (10) business days of the receipt of the last written statement, the VCAFSA will issue a written decision (Notice of Title IX Final Decision) describing the result of the appeal and the rationale for the result, which will be provided simultaneously to both parties. The decision of the VCAFSA is final and not further appealable.
- (6) 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, the University will investigate and resolve reports of sexual harassment, sexual assault, dating violence, domestic violence, stalking and/or retaliation in accordance with the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking and University rules, and the Respondent and the Complainant shall have the rights outlined in that Policy and University rules.
- (4)(7) Emergency Conditions. When, in the judgment of the Chancellor of the University, conditions are such that an emergency exists which makes it impossible for the system of judicial boards to function, he/she may suspend the procedural regulations described in this Chapter. If the procedures are suspended, he may substitute for them arrangements for handling disciplinary matters that will ensure the orderly functioning of the University and at the same time safeguard the basic rights of the students.

Authority: T.C.A. § 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. **Administrative History:** Original rule filed April 17, 2012; effective September 28, 2012. Emergency rule filed August 27, 2015; effective through February 23, 2016. Amendment filed September 14, 2015; effective December 13, 2015. Emergency rules filed June 29, 2018; effective through December 26, 2018. Amendments filed June 29, 2018; effective September 27, 2018. Amendments filed September 30, 2019; effective December 29, 2019.

1720-03-03-.09 STUDENT IDENTIFICATION CARDS.

- (1) All currently registered students are required to have a University Identification Card. Lost and found I.D. cards should be reported to the Office of Campus Safety and Security. Replacement for lost cards may be obtained from the Office of Campus Safety and Security. A replacement charge will be assessed.
- (2) In order to determine the identity of students, all students are required to present their University identification cards promptly on request of a University police officer or member of the administration or faculty of the University. Identification cards will not ordinarily be retained; however, a card may be retained if an emergency situation exists or if the card may be needed as evidence. The retained card, if valid, will be returned to the student as soon as possible.

Authority: T.C.A. § 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. **Administrative History:** Original rule filed April 17, 2012; effective September 28, 2012. Amendments filed September 30, 2019; effective December 29, 2019.

1720-03-03-.10 STUDENT HEALTH INSURANCE. All students are required to obtain basic health care and medical care insurance to protect themselves, their families, their professional health care associates and providers. The student may elect to enroll in the University's student health insurance plan or obtain equivalent health insurance with a private carrier. Students who fail to furnish proof of insurance coverage will be prevented from completing their registration for that academic term.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64.* **Administrative History:** Original rule filed April 17, 2012; effective September 28, 2012. Amendments filed September 30, 2019; effective December 29, 2019.



The University of Tennessee
Board of Trustees

Resolution ___-2020
Emergency Student Code of Conduct Rules
(University of Tennessee Health Science Center)

Resolved:

1. The emergency student code of conduct rules, titled "Rules of The University of Tennessee (Health Science Center), Chapter 1720-03-03: Student Rights and Responsibilities," are hereby approved as set forth in the meeting materials, which shall be attached to this Resolution after adoption and shall become effective after completion of the rulemaking procedures under the Uniform Administrative Procedures Act.
2. The proper officers of the University be and hereby are authorized to take any and all such actions as may be required or which they may deem necessary or appropriate in order to implement the emergency rules upon them becoming effective.

**RULES
OF
THE UNIVERSITY OF TENNESSEE (KNOXVILLE)**

**CHAPTER 1720-04-03
STUDENT CODE OF CONDUCT**

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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 alleged 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 (“SCCS”).

- (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, including, without limitation, the rights protected by the First Amendment to the United States Constitution.
- (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); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64.* **Administrative History:** Original rule filed September 15, 1976; effective October 15, 1976. Amendment filed March 29, 1978; effective June 14, 1978. Repealed by Public Chapter 575, effective July 1, 1986. New rule filed May 27, 1986; effective August 12, 1986. Amendment filed October 31, 1990; effective January 29, 1991. Amendment filed August 31, 1995; effective December 30, 1995. Repeal and new rule filed April 12, 2012; effective September 28, 2012. Repeal and new rules filed May 24, 2017; effective August 22, 2017.

1720-04-03-.02 JURISDICTION.

- (1) Geographical Limits. The Code applies to conduct that occurs on University-controlled property. However, with respect to conduct that occurs off of University-controlled property, the University has the discretion under the Code 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, without limitation, an overseas study program or a clinical, field, internship, or in-service experience; (2) consists of academic dishonesty or research misconduct; (3) is prohibited by local, state, or federal law, and the conduct was committed within the Knoxville Area (or, for UTSI students, the conduct was committed within Coffee County or Franklin County); (4) is fairly attributable to a student organization based on a consideration of the criteria in Section .02(4); (5) is committed against another member of the University community; or (6) threatens, or indicates that the student poses a threat to, the health, safety, or welfare of others or the security of any person’s property including, without limitation, drug-related offenses, arson, assault, fraud, [theft](#), hazing, participation in group violence, sexual [assault](#), [dating violence](#), [domestic violence](#), [misconduct](#), [relationship violence](#), stalking, and [sexual exploitation](#)~~theft~~.
- (2) Professional and Ethical Standards. 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) Responsibility for Conduct. Each student shall be responsible for his/her conduct from the time of application for admission through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment (and even if his/her conduct is not discovered until after a degree is awarded).
- (4) Student Organizations’ Responsibility for Violations of the Standards of Conduct. Notwithstanding anything in the Code to the contrary, a student organization may be found responsible for conduct that violates the Standards of Conduct only if the conduct is fairly attributable to the student organization. Whether conduct is fairly attributable to the student organization will be determined by SCCS based on a totality of the following criteria:
 - (a) Whether 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) Whether 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) Whether 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) Whether 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); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed May 27, 1986; effective August 12, 1986. Amendment filed August 31, 1995; effective December 30, 1995. Repeal and new rule filed April 12, 2012; effective September 28, 2012. Emergency rule filed August 12, 2015; effective through February 8, 2016. Amendment filed September 14, 2015; effective December 13, 2015. Repeal and new rules filed May 24, 2017; effective August 22, 2017.

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 whose conduct 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 SCCS, 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 government 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, SCCS retains the right to investigate and resolve the allegations made against the Respondent as a condition of the Respondent being allowed to re-enroll 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 SCCS. Any meeting or hearing described in the Code may be rescheduled for good cause at the discretion of SCCS.
- (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 Individual Good Samaritans and Students in Need of Emergency Medical Attention).

- (6) Other Rights – Sexual ~~Harassment, Sexual Assault, Dating Violence, Domestic Violence, Misconduct, Relationship Violence,~~ Stalking, ~~Sexual Exploitation,~~ or Retaliation. In addition to rights granted in the Code, in cases involving an allegation of sexual ~~harassment, sexual assault, dating or domestic violence, misconduct, relationship violence,~~ stalking, ~~sexual exploitation,~~ or retaliation, the Complainant and the Respondent shall have the rights outlined in the University's policies and procedures for investigating and resolving complaints of sexual ~~harassment, sexual assault, dating violence, domestic violence, misconduct, relationship violence,~~ stalking, ~~sexual exploitation,~~ or retaliation in accordance with Title IX of the Education Amendments of 1972, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, University rules, and other applicable law.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed May 27, 1986; effective August 12, 1986. Amendment filed March 22, 1990; effective June 26, 1990. Amendment filed October 31, 1990; effective January 29, 1991. Amendment filed November 20, 1990; effective February 27, 1991. Amendment filed September 3, 1992; effective December 29, 1992. Amendment filed August 31, 1995; effective December 30, 1995. Amendment filed June 18, 1996; effective October 28, 1996. Repeal and new rule filed April 12, 2012; effective September 28, 2012. Repeal and new rules filed May 24, 2017; effective August 22, 2017.

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, without limitation, 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, safety, or welfare of any person; 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 ~~Harassment, Sexual Assault, Dating Violence, Domestic Violence, Misconduct, Relationship Violence,~~ Stalking, ~~Sexual Exploitation,~~ and/or Retaliation. Violating the University's Policy on Sexual ~~Harassment, Sexual Assault, Dating and Domestic Violence, Misconduct, Relationship Violence,~~ and Stalking, which includes sexual exploitation, and/or Retaliation.
- (8) Invasion of Privacy. Invasion of another person's privacy when that person has a reasonable

expectation of privacy, including, without limitation, 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, without limitation, 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, safety, or welfare of that student, or which induces or coerces a student to endanger his or her mental or physical health, safety, or welfare. "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, without limitation: 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, carrying, 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 or unless federal or state law affirmatively gives a student a right, irrespective of the Code, to possess or carry a weapon on University-controlled property or in connection with a University-affiliated activity.

- (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 unless expressly permitted by University policy.
- (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, except as provided in Section .05(1)(i); 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, without limitation, a hearing of a University conduct board, following a request to appear either as a party or as a witness, unless the student has a right to not appear under state or federal law.
- (25) Violation of Interim Administrative Actions, Disciplinary Sanctions, or Conditions of Re-Enrollment. Violating the terms of a no-contact directive, an interim restriction, a disciplinary sanction, or a condition of re-enrollment 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, without limitation, University policies or rules relating to facilities' use, smoking, the acceptable use of information technology resources, research 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. Retaliation is an act or omission committed by a student because of another person's participation in a protected activity that would discourage a

reasonable person from engaging in protected activity, including, without limitation, any act or omission constituting "retaliation" under the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking and University rules. 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, without limitation: (1) an act or omission committed against a person's family, friends, advisors, and/or other persons reasonably expected to provide information in connection with a University investigation or hearing; and (2) an act or omission committed by a student through a third party.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed May 27, 1986; effective August 12, 1986. Amendment filed March 22, 1990; effective June 26, 1990. Amendment filed October 31, 1990; effective January 29, 1991. Amendment filed August 31, 1995; effective December 30, 1995. Repeal and new rule filed April 12, 2012; effective September 28, 2012. Emergency ruled filed August 12, 2015; effective through February 8, 2016. Amendment filed September 14, 2015; effective December 13, 2015. Repeal and new rules filed May 24, 2017; effective August 22, 2017.

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 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(~~56~~);
 - (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 in the Code;
 - (e) Right to the presumption that the Respondent is not responsible for the allegations of misconduct 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 a Standard of Conduct, as alleged in the Notice of Allegations);
 - (f) Right to not be directly questioned in a hearing by anyone other than the Student Life Hearing Officer or the Chairperson of the Student Conduct Board ("SCB"), except when a Title IX Hearing must be held in accordance with Section .09;
 - (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, or a Title IX Hearing Officer;
 - (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, except when a Title IX Hearing must be held in accordance with Section .09;
 - (i) Right to refrain from presenting information and witnesses during a hearing before the Student Life Hearing Officer, ~~or~~ the SCB, or the Title IX Hearing Officer, and the right to not have the Student Life Hearing Officer, the ~~or~~ SCB, or the Title IX Hearing Officer 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 or Title IX Hearing Officer, in accordance with Section .08(5) and Section .09(7);
- (k) Right to appeal the decisions of the SCB or a Title IX Hearing Officer that are contained in the Notice of Decision, in accordance with Section .08(6) and Section .09(8);
- (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, SCCS, a Student Life Hearing Officer, the SCB, ~~and/or~~ the Appellate Board, and/or a Title IX Hearing Officer (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 SCCS, a Student Life Hearing Officer, ~~and/or~~ the SCB, or a Title IX Hearing Officer and receive a notice containing information about the right to appeal simultaneously with the Complainant's receipt of a notice of such information, in accordance with Section .07, ~~and~~ Section .08, and Section .09(8).

(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 SCCS 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 in the Code;
 3. Right to be assisted by an Advisor during 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 and Title IX Hearings;
 5. Right to not be directly questioned in a hearing by anyone other than the Student Life Hearing Officer or the Chairperson of the Student Conduct Board ("SCB"), except when a Title IX Hearing must be held in accordance with Section .09;
 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, or a Title IX Hearing Officer;
 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, SCCS, a Student Life Hearing Officer, the SCB, ~~and/or~~ the Appellate Board, and/or a Title IX Hearing Officer (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 SCCS, a Student Life Hearing Officer, ~~and/or~~ the SCB, or a Title IX Hearing Officer and receive a notice containing information about the right to appeal simultaneously with the Complainant's receipt of a notice of such information, in accordance with Section .07, ~~and~~ Section .08, and Section

.09; 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 all stages of the student conduct process.
 - (a) Selection of an Advisor. SCCS 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 SCCS about the student conduct process. The Complainant and the Respondent may obtain the names of trained advisors from SCCS. 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 SCCS because meeting and hearing delays generally will not be granted due to the scheduling conflicts of an Advisor. If a Complainant or Respondent does not have an Advisor present at a Title IX Hearing, the University must provide one (selected by the University) without fee or charge to that party.
 - (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, including at all meetings, investigative interviews, and hearings. 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, except that an Advisor in a Title IX Hearing is permitted to speak on behalf of a Complainant or Respondent for the purposes of asking questions of the other party and witnesses, in accordance with Section .09(5)(f). ~~However, in~~ a UAPA Hearing, the Complainant and the Respondent are entitled to have an attorney advocate on their behalf, in accordance with state law.
 - (c) Notification of the Right to Have an Advisor. SCCS shall provide written notice to the Complainant and the Respondent of their rights to an Advisor. The notice shall contain an explanation of the role of an Advisor during the student conduct process.

Authority: T.C.A. § 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. **Administrative History:** Original rule filed May 27, 1986; effective August 12, 1986. Amendment filed March 22, 1990; effective June 26, 1990. Amendment filed October 31, 1990; effective January 29, 1991. Amendment filed August 31, 1995; effective December 30, 1995. Amendment filed November 17, 2000; effective March 30, 2001. Repeal and new rule filed April 12, 2012; effective September 28, 2012. Emergency rule filed August 12, 2015; effective through February 8, 2016. Amendment filed September 14, 2015; effective December 13, 2015. Repeal and new rules filed May 24, 2017; effective August 22, 2017.

1720-04-03-.06 STUDENT CONDUCT PROCESS: INITIAL STAGES.

- (1) Receipt and Review of Allegations of Misconduct.
 - (a) Except as stated in Section .06(1)(b), SCCS 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. SCCS also may initiate the student conduct process in the absence of written allegations if SCCS becomes

aware, through other means, of potential misconduct committed by a student. Upon receipt of written allegations or other information concerning potential student misconduct, SCCS will review the information and determine whether to initiate the student conduct process. SCCS's determination of whether to initiate the student conduct process generally will be based on: the preliminary investigation by SCCS or other University official(s), if any, into the allegations received by SCCS; SCCS's determination of whether the alleged conduct falls within the jurisdiction of the Code; and SCCS's determination of whether the alleged conduct, if true, violated the Standards of Conduct.

(b) In cases involving allegations of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation, the student conduct process is initiated upon the filing of a Formal Complaint by a Complainant or by the Title IX Coordinator. As soon as practicable after the filing of a Formal Complaint, SCCS will provide a Notice of Receipt of Formal Complaint to the parties who are known. The Notice of Receipt of Formal Complaint shall include the following information: (i) notice of the student conduct process that applies to the allegations; (ii) the identities of the parties involved in the incident; (iii) the conduct allegedly constituting the violation; (iv) the date and location of the incident, if known; (v) a statement that the Respondent is presumed not responsible for the alleged conduct; (vi) a statement that a determination regarding responsibility is made at the conclusion of the student conduct process; (vii) the parties' right to have an Advisor of their choice, who may be, but is not required to be, an attorney; (viii) the parties' right to inspect and review evidence; and (ix) notice of the provisions of the Code that prohibit providing false information to a University official.

~~Investigation of Allegations of Misconduct. SCCS may investigate the allegations against the Respondent by interviewing witnesses and obtaining other information. SCCS is not obligated to interview a witness identified by the Respondent or the Complainant if SCCS believes the witness is not likely to possess relevant information, is not likely to lead SCCS to the discovery of relevant information, or the information the witness is likely to possess is cumulative of other information gathered by SCCS. SCCS 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 SCCS will be prompt, thorough, and equitable. In conducting an investigation, SCCS will act as a fair and impartial party rather than a representative of the person, office, unit, organization, or entity that submitted the allegations to SCCS. Parts of SCCS's investigation may occur before, during, and/or after the Educational Conference (Section .06(6)) and/or any other part of the student conduct process. At the conclusion of its investigation, SCCS 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. SCCS may delegate the investigation of certain types of allegations to other University offices in accordance with University policy (e.g., research misconduct, sexual misconduct, relationship violence, stalking, and retaliation).~~

- (2) Conflicts of Interest.
- (a) The student conduct process must be carried out in a manner that is free from conflicts of interest or bias consistent with due process of law.
 - (b) A University employee shall not act on behalf of SCCS in the student conduct process in any case in which: (1) the employee is a Complainant, Respondent, or a witness; or (2) the employee determines, for any other reason (e.g., personal prejudice or bias), that he/she cannot be fair or impartial.
 - (c) In all cases involving allegations of sexual assault, dating violence, domestic violence, or stalking, the student conduct process must include protections for the Respondent analogous to, and no less protective than, the conflict of interest provisions of Tennessee Code Annotated § 4-5-303. Notwithstanding the preceding sentence: (1) an attorney for

the University is allowed to provide legal advice to multiple University employees who serve in different roles in the process of disciplining a student; and (2) the University is allowed to provide the Complainant with equivalent rights as the Respondent during the student conduct process.

(3) Interim Administrative Actions.

- (a) General. In certain situations, the University may impose interim administrative actions prior to the conclusion of the student conduct process. The University shall determine the appropriate interim administrative actions based on the totality of the circumstances. Examples of interim administrative actions include, without limitation, a no-contact directive (Section .06(34)(b)), a disciplinary hold (Section .06(34)(c)), and interim restrictions (Section .06(34)(d)).
- (b) No-Contact Directive. In cases involving allegations of assault, injury, sexual harassment, sexual assault, dating violence, domestic violence, misconduct, relationship violence, stalking, sexual exploitation, retaliation 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, the University 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.
- (c) Disciplinary Hold. The Respondent's academic record (including, without limitation, 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 SCCS or by another appropriate University office at the request of SCCS for the following reasons: (1) to require the Respondent to participate in the student conduct process (SCCS 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.
- (d) Interim Restrictions. Generally, the status of a student alleged to have violated the Standards of Conduct is not affected until the conclusion of the student conduct process (Section .07(54)). However, the Vice Chancellor for Student Life may impose interim restrictions prior to the conclusion of the student conduct process related to the alleged misconduct when the Vice Chancellor for Student Life has reasonable cause to believe that (1) 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 (2) poses an imminent or ongoing threat to the disruption of, or interference with, the normal operations of the University. Interim restrictions shall be confirmed by notice to the Respondent that explains the basis for the interim restrictions 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 interim restrictions, the Respondent shall be offered an opportunity to appear before the Vice Chancellor for Student Life in order to discuss the following issues only: (1) the reliability of the information concerning the Respondent's conduct; and (2) 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, safety, or welfare of others or to property or poses an imminent or ongoing threat of disruption of or interference with the normal operations of the University. Examples of interim

restrictions include, without limitation, restricting the student's privileges to participate in University affiliated activities, restricting the student's privileges to access University-controlled property, University owned housing removal and/or reassignment, and/or interim suspension. Restrictions contained within no- contact directives (Section .06(43)(b)) are not interim restrictions. An interim suspension is an official separation of the student from the University until the conclusion of the student conduct process or the interim suspension is lifted, whichever occurs first. While on interim suspension, the student loses all University rights and privileges (e.g., enrollment privileges) except for the rights and privileges to contest the allegations pursuant to the Code, shall not represent the University in any official manner, and shall not be present on University-controlled property or participate in University- affiliated activities without the prior approval of the Vice Chancellor for Student Life. When placed on interim suspension, the Respondent may be assigned a grade of "W" or "I," whichever is deemed appropriate by the faculty member involved. A Respondent who violates the terms of an interim restriction shall be subject to further disciplinary action and may be treated as a trespasser.

Notwithstanding any provision in this Section .06(3)(d), in any case that includes Title IX Allegations, the Vice Chancellor for Student Life may impose an interim suspension on a Respondent only after undertaking an individualized safety and risk analysis, and determining that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal of the Respondent. The Vice Chancellor for Student Life will provide the Respondent notice and an opportunity for the Respondent to challenge an interim suspension within three (3) business days.

- (4) 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.
- (5) Educational Conference.
 - (a) Scope of the Educational Conference. The Educational Conference is a meeting between SCCS and the Respondent in which the following generally occurs:
 1. SCCS 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 SCCS.
 2. SCCS provides the Respondent with an opportunity to respond to the allegations, including, without limitation, an opportunity to present information to SCCS concerning the allegations and identify witnesses whom the Respondent believes SCCS should interview to obtain additional information.
 3. Both SCCS 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. Except in cases that include Title IX Allegations, Bbased on information provided by the Respondent during the Educational Conference, SCCS may issue a no-action determination (Section .07(54)(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 SCCS notifies the Respondent that SCCS 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 SCCS has begun or will begin an investigation of allegations SCCS 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), including information about the role of an Advisor; (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 SCCS to discuss the incident, or, in the alternative, an instruction that the Respondent contact SCCS 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 SCCS'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 SCCS has sent the Respondent a Notice of Educational Conference, then the Respondent waives all rights to a Formal Hearing, and SCCS has the discretion to deem the Respondent to have accepted SCCS's determination of responsibility for misconduct and may impose appropriate sanction(s) for the misconduct (unless the Respondent's absence is excused by SCCS for good cause), unless prohibited by state or federal law. SCCS also may determine that the Respondent's failure to attend the Educational Conference constitutes a separate violation of the Standards of Conduct.

(6) Investigation of Allegations of Misconduct.

- (a) SCCS may investigate the allegations against the Respondent by interviewing witnesses and obtaining other information. If SCCS investigates allegations against a Respondent, SCCS will (1) ensure that the burden of proof of gathering evidence rests on the University and not on the parties; (2) SCCS provide an equal opportunity for the parties to identify and present witnesses for interview, including fact witnesses and expert witnesses, and other inculpatory and exculpatory evidence; (3) and provide written notice of the date, time, location, participants, and purpose of all investigative interviews and other meetings, with sufficient time to prepare to participate. ~~is not obligated to interview a witness identified by the Respondent or the Complainant if SCCS believes the witness is not likely to possess relevant information, is not likely to lead SCCS to the discovery of relevant information, or the information the witness is likely to possess is cumulative of other information gathered by SCCS. SCCS may interview and 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 SCCS will be prompt, thorough, and equitable. In conducting an investigation, SCCS will act as a fair and impartial party rather than a representative of the person, office, unit, organization, or entity that submitted the allegations to SCCS. Parts of SCCS'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, SCCS may prepare a written investigative report of the findings of the investigation. The investigative 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. SCCS may delegate the investigation of certain types of allegations to other University offices in accordance with University policy (e.g., research misconduct, sexual misconduct, relationship violence, stalking, and retaliation).~~

- (b) In cases in which a Complainant or the Title IX Coordinator has filed a Formal Complaint

alleging sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation, SCCS will provide both parties with an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint. Prior to completion of the investigative reports, SCCS will send to each party and the party's Advisor, if any, the evidence subject to inspection and review. The parties must have at least ten (10) business days to submit a written response, which SCCS will consider prior to completion of the investigative reports. After the investigative report is final, the parties shall have ten (10) business days to submit a written response to the report. No hearing shall occur until that 10-day period has expired, even if the parties have submitted responses prior to the expiration of the 10-day period.

(7) Notice of Allegations and Notice of Sanctions.

(a) A Notice of Allegations is a written notice that informs the Respondent that SCCS 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 SCCS 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 SCCS has determined the Respondent more likely than not violated; (iv) the Respondent's option(s) to elect a Formal Hearing to contest SCCS'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. SCCS may provide the Respondent with a Notice of Allegations during the Educational Conference.

(b) A Notice of Sanctions is a written notice that informs the Respondent of the disciplinary sanction(s) that SCCS proposes for the violation(s) of the Standards of Conduct.

Authority: T.C.A. § 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. **Administrative History:** Original rule filed May 27, 1986; effective August 12, 1986. Amendment filed August 31, 1995; effective December 30, 1995. Repeal and new rule filed April 12, 2012; effective September 28, 2012. Repeal and new rules filed May 24, 2017; effective August 22, 2017. Emergency rules filed June 29, 2018; effective through December 26, 2018. Emergency rules filed July 30, 2018; effective through January 26, 2019. Amendments filed June 29, 2018; effective September 27, 2018.

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 (other than Title IX Allegations) by signing a Resolution Agreement proposed by SCCS. By signing a Resolution Agreement, the Respondent: (1) accepts responsibility for violating the Standards of Conduct; (2) agrees to the imposition of the sanction(s); and (3) waives all rights the Respondent may have to resolve the allegations through a Formal Hearing. A Resolution Agreement is not valid until it is signed by both the Respondent and SCCS.

(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 Harassment, Sexual Assault, Dating Violence, Domestic Violence Misconduct, Relationship Violence, Stalking, Sexual Exploitation, or Retaliation. In a case involving a Formal Complaint of sexual harassment, sexual assault, dating violence, domestic violence misconduct, relationship violence, stalking, sexual exploitation or retaliation that does not include Title IX Allegations, SCCS will notify the

Complainant about the proposed Resolution Agreement in writing and provide the Complainant with the opportunity to object to the proposed Resolution Agreement. A Complainant must notify SCCS of his/her objection in writing within five (5) business days from the date that SCCS informs the Complainant about the proposed Resolution Agreement. If the Complainant timely informs SCCS of his/her objection, then SCCS may address the Complainant's objection by modifying the proposed Resolution Agreement that is agreeable to both the Respondent and the Complainant and having the Respondent sign the modified Resolution Agreement. Otherwise, SCCS will continue the student conduct process and resolve the allegations against the Respondent in accordance with the Code. Formal Complaints of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation that include Title IX Allegations may not be resolved through a Resolution Agreement but may be resolved through an Informal Resolution set forth in Section .07(4).

- (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 SCCS 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-four~~ (34) types of Formal Hearings, depending on the gravity of the disciplinary sanctions that have been proposed by SCCS and the nature of the allegations:

1. A hearing before a Student Life Hearing Officer, which is described in Section .07(2)(d);

2. A hearing before the SCB ("SCB Hearing"), which is described in Section .08;

2-3. A hearing before a Title IX Hearing Officer ("Title IX Hearing"), which is described in Section .09, and which is the only Formal Hearing provided under the Code for determining responsibility for Title IX Allegations; and

3-4. 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. A Respondent has the right to a Formal Hearing in every case before a Respondent can be found responsible for the alleged violation of the Standards of Conduct. In every case other than those that include Title IX Allegations, the Respondent has the right to resolve allegations of misconduct and/or proposed sanctions through a hearing before a Student Life Hearing Officer. In every case other than those that include Title IX Allegations, a Respondent also has the right to resolve allegations of misconduct and/or the proposed sanctions through a SCB Hearing or a UAPA Hearing when SCCS proposes one (1) or more of the following sanctions: (1) deferred suspension; (2) suspension; (3) expulsion; (4) University housing removal; (5) withholding of degree; (6) revocation of degree; or (7) revocation or suspension of the student organization's University registration. Both Complainants and Respondents have the right to a Title IX Hearing when a Formal Complaint includes Title IX Allegations.

- (c) How to Request a Formal Hearing. In every case other than those that include Title IX Allegations, a Formal Hearing may be requested by the Respondent only in writing

using the form(s) approved by SCCS. 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.

- (d) Hearing before a Student Life Hearing Officer. A Student Life Hearing Officer is a University employee designated and trained by SCCS 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)(d). 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.
- (e) Consequences of Failing to Timely Elect a Formal Hearing. If the Respondent fails to elect a Formal Hearing within five (5) business days of SCCS transmitting a Notice of Allegations in writing to the Respondent, then the Respondent waives all rights to a Formal Hearing, and SCCS has the discretion to deem the Respondent to have accepted SCCS's determination of responsibility for misconduct and may impose sanction(s) deemed appropriate by SCCS (unless SCCS extends the time for the Respondent to request a Formal Hearing for good cause). If SCCS 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 SCCS, then the Respondent waives all rights to a Formal Hearing, and SCCS has the discretion to deem the Respondent to have accepted SCCS's determination of responsibility for misconduct and may impose sanction(s) deemed appropriate by SCCS. All cases that include Title IX Allegations will proceed to Title IX Hearing without either party having to elect the hearing, unless an Informal Resolution is reached as set forth in Section .07(4) or a hearing is otherwise not required or permitted by law.

(3) Alternative Resolution.

- (a) Proposal of Alternative Resolution. At any time during the student conduct process, allegations against the Respondent (except for Title IX Allegations which may be resolved through the Informal Resolution process set forth in Section .07(4)) may be resolved through an alternative resolution. An alternative resolution is a resolution that is reached through a process and/or by a sanction or restriction not described in the Code. Before proposing an alternative resolution SCCS shall determine whether an alternative resolution would be appropriate based on the facts and circumstances of the case, and, if so, what type of alternative resolution process should be used. In cases involving sexual harassment, sexual assault, dating violence, domestic violence, misconduct, relationship violence, stalking, sexual exploitation, or retaliation that are not subject to the Informal Resolution process, SCCS will consult with the Title IX Coordinator in making that determination. Examples of alternative resolution processes that may be proposed by SCCS include but are not limited to mediation, facilitated dialogue, conflict coaching, and restorative justice. The process of trying to reach an alternative resolution is voluntary (i.e., neither the Respondent nor a Complainant is required to participate). 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) Alternative Resolution Agreement. An Alternative Resolution Agreement is a written agreement that confirms an agreement to resolve the allegations against the Respondent through an alternative resolution. To be valid, an Alternative Resolution Agreement shall

in all cases be signed by SCCS and the Respondent, and shall include a waiver of the Respondent's right, if any, to have a Formal Hearing on the allegations. Prior to the execution of an Alternative Resolution Agreement, if a Complainant has not participated with SCCS in the discussion of an alternative resolution, then SCCS will provide the Complainant with an opportunity to provide a timely objection to the proposed alternative resolution. In appropriate cases, SCCS may request the Complainant to sign an Alternative Resolution Agreement and determine that the Alternative Resolution Agreement is not effective without the Complainant's signature. Neither the Respondent nor the Complainant may revoke or appeal an Alternative Resolution Agreement.

- (4) Informal Resolution. In cases that include Title IX Allegations, at any time prior to reaching a determination regarding responsibility, SCCS may facilitate an informal resolution process that does not involve a full investigation and adjudication. To facilitate an informal resolution, SCCS will (i) provide to the parties a written notice disclosing the allegations and the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations, and (ii) obtain the parties' voluntary, written consent to the informal resolution process. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the student conduct process with respect to the Formal Complaint.

- (5) Conclusion of the Student Conduct Process. This Section .07(54) summarizes the different ways in which the student conduct process may be concluded. If more than one (1) of the following events occur, then the student conduct process concludes on the date of the last event to occur. SCCS 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, SCCS 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..

~~(b)~~(a) No Action Determination. The student conduct process concludes when SCCS makes a final determination at any point in the process that no action will be taken (e.g., SCCS 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 SCCS does not have sufficient information or witnesses to move forward with the student conduct process). SCCS may reinstate the student conduct process upon receipt of new information; however, after SCCS has determined to take no action, SCCS may reinstate the student conduct process after a student has graduated only in cases involving Section .04(1) (academic dishonesty) or a violation of the University's policy on research misconduct. A Complainant who is informed by SCCS of a no action determination may appeal the decision to the SCCS, in writing, within five (5) business days of the date that SCCS transmitted notice of the no action determination to the Complainant. The decision of SCCS is final and may not be appealed.

~~(e)~~(b) Failure to Attend or Schedule an Educational Conference. In accordance with Section .06(6)(c), the student conduct process concludes when: SCCS has issued a Notice of Educational Conference; the Respondent either fails to attend an Educational Conference or fails to comply with SCCS's instruction to contact SCCS to schedule an Educational Conference within the time frame designated in the Notice of Inquiry; and SCCS does not exercise its discretion to excuse the Respondent's failure for good cause.

~~(d)~~(c) Failure to Request a Formal Hearing after Notice of ~~Allegations~~Sanctions. In accordance with Section .07(2)(e), the student conduct process concludes when the Respondent fails to elect a Formal Hearing within five (5) business days of SCCS sending or delivering a Notice of ~~Allegations-Sanctions~~ to the Respondent, and SCCS does not exercise its discretion to excuse the Respondent's failure for good cause.

~~(e)~~(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) Informal Resolution. The student conduct process concludes when an Informal Resolution is agreed upon in accordance with Section .07(4).
- (g) 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 and transmitted a Notice of Decision and neither the Respondent nor the Complainant has submitted a valid Notice of Appeal.
- (h) 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 .08(5) and neither the Respondent nor the Complainant has submitted a valid Notice of Appeal under Section .08(6).
- (i) Notice of Appellate Board Final Decision. The student conduct process concludes when the Appellate Board has issued a Notice of Final Decision.
- (j) Notice of Decision of Title IX Hearing Officer – No Valid Appeal. The student conduct process concludes when a Title IX Hearing Officer has issued a Notice of Decision or written determination regarding responsibility under Section .09(7) and neither the Respondent nor the Complainant has submitted a valid Notice of Appeal.
- (k) Notice of Title IX Appeal Final Decision. The student conduct process concludes when the Vice Chancellor for Student Life has issued a Notice of Title IX Final Decision under Section .09(8).
- ~~(l)~~ UAPA. The student conduct process concludes when a Formal Hearing has concluded, either through a final order, settlement, or otherwise, under the University's rules for conducting contested case proceedings under the UAPA, Chapter 1720-01-05.
- ~~(m)~~ Expiration and Satisfaction of All Sanctions. The student conduct process concludes when SCCS 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); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64.* **Administrative History:** Original rule filed May 27, 1986; effective August 12, 1986. Amendment filed March 22, 1990; effective June 26, 1990. Amendment filed October 31, 1990; effective January 29, 1991. Amendment filed August 31, 1995; effective December 30, 1995. Repeal and new rule filed April 12, 2012; effective September 28, 2012. Repeal and new rules filed May 24, 2017; effective August 22, 2017. Emergency rules filed June 29, 2018; effective through December 26, 2018. Emergency rules filed July 30, 2018; effective through January 26, 2019. Amendments filed June 29, 2018; effective September 27, 2018.

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 SCCS 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 (SCCS 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; (7) notice of the right to request a copy of SCCS' investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974, (20 U.S.C. § 1232g), and the federal regulations implementing that statute, as amended; and (8) notice of the right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that the University has in its possession, custody, or control and may use to support claims or defenses, unless the use would be solely for impeachment.
 - (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. SCCS has the discretion to make the final determination of whether to grant such a request and will notify the Respondents of the decision.
 - (d) Consequences of Failing to Attend a SCB Hearing. If the Respondent fails to attend a SCB Hearing, then the Respondent waives 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 SCCS 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 University shall annually appoint a pool of persons who are eligible to serve on a SCB. The University may appoint University students, University faculty members, or University staff employees; however, an employee who works in SCCS is ineligible to serve on a SCB. Persons appointed by the University will be trained by SCCS 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 SCCS from the pool described in Section .08(2)(a). SCCS shall appoint a SCB consisting of one (1) non-voting Chairperson and seven (7) voting members. SCCS shall not

appoint persons on the basis of how SCCS anticipates that they will vote. The Chairperson shall be a University faculty member or staff employee who has received training from SCCS 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 SCCS; however, SCCS 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. or Section .08(2)(b)3., 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. or Section .08(2)(b)3.

2. Exception for Cases Involving Allegations of Sexual Misconduct. Notwithstanding anything to the contrary in Section .08(2)(b)(a), SCCS 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.
 3. Exception for Cases Involving Allegations of Research Misconduct. Notwithstanding anything to the contrary in Section .08(2)(b)(a), SCCS shall not appoint students to serve on the SCB in a case involving an allegation of research misconduct.
- (c) Fairness and Impartiality of SCB Members. Any member of the SCB who determines that they cannot decide a case fairly and impartially for any reason (e.g., having a personal prejudice or bias) shall excuse themselves from serving on the SCB, in which case SCCS 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 SCCS 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) (i.e., other witnesses not identified to SCCS in writing at least five (5) business days prior to the SCB Hearing will not be allowed). 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 SCCS 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, SCCS 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 SCCS when materials are available for review. SCCS may make the information available electronically. In their sole discretion, SCCS 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 University will provide a copy of the verbatim record to the Complainant and the Respondent upon request.
- (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 or the Respondent. The Chairperson and SCCS 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 are 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 assault, dating violence, domestic misconduct, relationship violence, and stalking, and sexual exploitation. 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 SCCS 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), or information from witnesses who were not disclosed 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 SCCS 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 SCCS 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 a Standard 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 SCCS in a sealed envelope prior to the SCB Hearing.
 - (d) **Issuance of Notice of Decision.** Issuance of Notice of Decision. Within three (3) 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 SCCS. SCCS shall notify the Respondent about the Notice of Decision and provide a copy of the Notice of Decision. If permitted or required under law, SCCS shall notify the Complainant about the Notice of Decision (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 SCCS called a "Notice of Appeal;" (2) the Notice of Appeal shall be received by SCCS within five (5) business days of the date that SCCS 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.
 - 4. **Personal Prejudice or Bias of a SCB Member.** A SCB member had a personal prejudice or bias that precluded them from fairly and impartially hearing the case. The fact that a SCB member voted to find a Respondent responsible or not responsible for violating a Standard of Conduct does not, by itself, demonstrate that the SCB member had a personal prejudice or bias for or against the Respondent, the Complainant, or the University.
- (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 Chancellor 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 SCCS. SCCS will appoint a pool of persons trained by SCCS who are eligible to serve on an Appellate Board. SCCS may appoint University students, University faculty members, or University staff employees to be members of that pool. SCCS shall not appoint persons on the basis of how SCCS anticipates that they will vote.

- (f) Determination of Procedural Validity of Notice of Appeal. Within five (5) business days after the receipt of a Notice of Appeal, SCCS 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 SCCS, does not contain information outside of the record of the SCB Hearing, and does not contain a ground for appeal not listed in Section .08(6)(c). 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 SCCS 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 or a ground for appeal not listed in Section .08(6)(c), SCCS 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 and/or the impermissible ground for appeal.
- (g) Appointment of Appellate Board. If the Notice of Appeal is procedurally valid, then SCCS 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, SCCS shall not appoint students to serve on an Appellate Board in a case involving an allegation of research misconduct or 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 SCCS 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 SCCS 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, SCCS 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 ~~three~~ **five (35)** business days of SCCS'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 SCCS determines that the person cannot be fair and impartial, then SCCS 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 they cannot decide the appeal fairly and impartially for any reason shall recuse themselves from serving on the Appellate Board, in which case SCCS 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 and any written responses, in accordance with Section .08(6)(h).
- (k) Potential Decisions of the Appellate Board. The Appellate Board shall reach one (1) of the following decisions, by a majority vote, if the appeal is determined to be procedurally

valid:

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, the Appellate Board may modify the sanctions imposed by the SCB by imposing a greater or lesser sanction(s);
 3. In a case involving a material procedural error, the Appellate Board shall remand the case for a new hearing to be conducted by a new SCB or the same SCB. The Appellate Board should recommend to the Chairperson how to correct the procedural error. SCCS may appoint a substitute member for any member of the SCB who is unavailable to participate in the new hearing; or
 4. In a case 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. SCCS 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.
 5. In a case in which a SCB member had a personal prejudice or bias, remand the case for a new hearing to be conducted by a new SCB.
- (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 SCCS, 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 with 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); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed May 27, 1986; effective August 12, 1986. Amendment filed March 22, 1990; effective June 26, 1990. Amendment filed October 31, 1990; effective January 29, 1991. Amendment filed August 31, 1995; effective December 30, 1995. Amendment filed November 17, 2000; effective March 30, 2001. Repeal and new rule filed April 12, 2012; effective September 28, 2012. Repeal and new rules filed May 24, 2017; effective August 22, 2017. Emergency rules filed June 29, 2018; effective through December 26, 2018. Emergency rules filed July 30, 2018; effective through January 26, 2019. Amendments filed June 29, 2018; effective September 27, 2018.

1720-04-03-.09 TITLE IX HEARINGS: HEARINGS AND APPEALS.

- (1) The Title IX Hearing. Any case that includes Title IX Allegations that reaches the Formal Hearing stage will be resolved through a Title IX Hearing. The Title IX Hearing must be conducted in accordance with 34 C.F.R. 106.45.
- (2) The Title IX Hearing Officer. The Vice Chancellor for Student Life (or a designee) will appoint a qualified Title IX Hearing Officer to conduct the Title IX Hearing and will notify the parties and their Advisors, if any, of the appointment. The Title IX Hearing Officer may be a University employee, a team of University employees, an external person engaged to conduct the Title IX Hearing, or a team of external people engaged to conduct the Title IX Hearing. A party may

object to the appointment of any Title IX Hearing Officer, in writing to the Vice Chancellor for Student Life. Any objection must be received within three (3) days of the notice of appointment, and it must state the party's grounds for objecting. The Vice Chancellor for Student Life will decide whether an objection is justified, and that decision is final. If a Title IX Hearing Officer is removed based on an objection, the Vice Chancellor for Student Affairs will appoint a new qualified Title IX Hearing Officer to conduct the Title IX Hearing

(3) Notice of Title IX Hearing.

- (a) When a Notice of Title IX Hearing is Sent. The Title IX Hearing Officer will send the Respondent and the Complainant a Notice of Title IX Hearing at least ten (10) business days in advance of the date of the hearing.
- (b) Information in the Notice of Title IX Hearing. The Notice of Title IX Hearing will contain, or be accompanied by, the following information: (i) the date, time, and place of the Title IX Hearing; (ii) notice of the right to have an Advisor of the party's choice, who may be, but is not required to be, and attorney, and that, if the party does not have an Advisor present at the hearing, the University must provide an Advisor of the University's choice, without fee or charge, to ask the other party and any witnesses all relevant questions and follow-up questions on behalf of that party; (iii) notice that any cross-examination of any other party or witness must be conducted by the Advisor, and never by a party personally; and (iv) notice that all of the evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint will be available to the parties at the hearing. Other pre-hearing information may also be included in the Notice of Title IX Hearing. Any Title IX Hearing may be rescheduled by the Title IX Hearing Officer or upon request of any party and for good cause shown.
- (c) More than One Respondent. In cases involving more than one (1) Respondent, Title IX Hearings concerning each Respondent's conduct may be conducted separately upon written request of a party submitted at least seven (7) business days in advance of the hearing. SCCS has the discretion to make the final determination of whether to grant such a request and will notify the parties of the decision.
- (d) Consequences of Failing to Attend a Title IX Hearing. If a party fails to attend a Title IX Hearing, the Title IX Hearing Officer may proceed with the Title IX Hearing without that party's participation.

(4) General Rules Governing Title IX Hearings.

- (a) The Title IX Hearing will take place no sooner than ten (10) business days after the parties' receipt of the written investigative report.
- (b) The Title IX Hearing Officer may conduct pre-hearing meetings or conferences with the parties and their Advisors, if any, to discuss any pre-hearing issues, including but not limited to, the date of the hearing, the location of the hearing, any technology to be used at the hearing, the general rules governing the hearing, including any rules of decorum, the identification of witnesses, and the availability of evidence at the hearing.
- (c) Each party must notify the Title IX Hearing Officer at least five (5) business days before the hearing of the identity of the party's Advisor, if any, or that the party does not have an Advisor so that the University can provide an Advisor.
- (d) At the request of either party, the University will provide for the hearing to occur with the parties located in separate rooms with technology enabling the Title IX Hearing Officer and parties to simultaneously see and hear the party or the witness answering questions.

(e) Upon request of a party, and for good cause shown, the Title IX Hearing Officer may permit the participation of witnesses who were not identified by the party to the investigator, or the inclusion of evidence at the Title IX Hearing that was not provided by the party to the investigator.

(5) Procedural Rules for Title IX Hearings.

(a) Authority of the Title IX Hearing Officer. The Title IX Hearing Officer has the authority to maintain order and make all decisions necessary for the fair, orderly, and expeditious conduct of the Title IX Hearing. The Title IX Hearing Officer shall be the final decision maker concerning what, how, and in what order witnesses are questioned and evidence is examined.

(b) Exclusion of Information.

1. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

2. The University cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so.

3. The University cannot not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

(c) Preliminary Matters. The Title IX Hearing Officer shall begin the hearing by explaining the substance of the allegations and the specific University policy or policies allegedly violated.

(d) Attendance and Participation. Attendance during a Title IX Hearing generally is limited to the Title IX Hearing Officer, a representative from SCCS, the Complainant and the Complainant's Advisor, the Respondent and the Respondent's Advisor, and witnesses. Witnesses may attend the Title IX Hearing only while they are presenting information to the Title IX Hearing Officer, unless the witness is the Complainant or the Respondent. The Title IX Hearing Officer and SCCS have the discretion to allow other persons to attend the Title IX Hearing, in accordance with state and federal law.

(e) Opening Statements. The Complainant and then the Respondent may each make an opening statement to the Title IX Hearing Officer, and they may provide a written copy of their opening statements to the Title IX Hearing Officer at the hearing. The Title IX Hearing Officer will provide a copy of any written opening statement received to the other party.

(f) Questioning the Witnesses. Following any opening statements, the Title IX Hearing Officer will question the Complainant, the Respondent, and any witnesses requested by the parties. The Title IX Hearing Officer will permit each party's Advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination must be conducted directly, orally, and in real time by the party's Advisor of choice and never by a party personally. Only relevant cross-examination and other questions may be asked of a party or witness. Before the Complainant, the Respondent, or any witness answers a cross-examination or other question, the Title IX Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. If a party or witness does not submit to cross-examination at the hearing, the Title IX Hearing Officer must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Title IX Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions. Notwithstanding any provisions in this Section .09(5)(f) to the contrary, alleged verbal conduct by a Respondent that constitutes any part of the Title IX Allegations at issue in the case may be considered by the Title IX Officer in reaching a determination regarding responsibility even if Respondent does not submit to cross-examination during the Title IX Hearing.

(g) Closing Statements. At the close of the Title IX Hearing, the Title IX Hearing Officer may allow the Complainant and the Respondent equal opportunities to make closing statements summarizing the information presented to the Title IX Hearing Officer and/or advocating the decision that the Title IX Hearing Officer should reach.

(6) Recording of the Title IX Hearing. The University will create an audio or audiovisual recording or transcript, of the hearing and make it available to the parties for inspection and review.

(7) Notice of Decision of Title IX Hearing Officer. Within ten (10) business days of the hearing, the Title IX Hearing Officer must issue a written determination regarding responsibility ("Notice of Decision of Title IX Hearing Officer"). The written determination must include (i) identification of the allegations potentially constituting Sexual Harassment; (ii) a description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; (iii) findings of fact supporting the determination; (iv) conclusions regarding the application of the Code to the facts; (v) a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant; and (vi) the procedures and permissible bases for the Complainant and Respondent to appeal.

If the Respondent is determined responsible, the Title IX Hearing Officer may consider relevant information provided at the hearing by the Complainant, the Respondent, or any other witness in deciding the appropriate sanction for the Respondent's misconduct.

The Title IX Hearing Officer shall transmit a copy of the Notice of Decision of Title IX Hearing Officer to SCCS. SCCS shall notify the Respondent, the Complainant, and their Advisors about the written determination and provide a copy of it simultaneously to the parties and their Advisors.

(8) Appealing Decisions of the Title IX Hearing Officer.

(a) Appealable Decisions. The Complainant and the Respondent may appeal the decisions of the Title IX Hearing Officer that are contained in the Notice of Decision of Title IX

Hearing Officer (as well as a decision by the University to dismiss a Formal Complaint that includes Title IX Allegations), but the grounds for appeal are limited to those described in Section .09(8)(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 SCCS called a "Notice of Appeal;" (2) the Notice of Appeal shall be received by the Vice Chancellor for Student Life, or their designee, within five (5) business days of the date that SCCS transmitted the Notice of Decision; and (3) the Notice of Appeal shall not include information that is not included in the record of the Title IX Hearing, except the Notice of Appeal may contain a summary of the new information described in Section .09(8)(c)(3). SCCS will notify the other party in writing when an appeal is received.
- (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 Title IX Hearing Officer is clearly unreasonable (i.e., has no sound basis or justification in reason).
 2. Procedural Error. A procedural irregularity affected the outcome of the matter.
 3. New Evidence. New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could affect the outcome of the matter.
 4. Conflict of Interest or Bias. The Title IX Coordinator, the investigator(s), or the Title IX Hearing Officer had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.
- (d) Effective Date of Sanction. The sanction(s) imposed by the Title IX Hearing Officer 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 .09(8)(c)), until a Notice of Title IX Final Decision is issued by the Vice Chancellor for Student Life, whichever is later.
- (e) Appeal Process. Each party may submit a written statement in support of or challenging the outcome of the Title IX Hearing. The written statement must be received by the Vice Chancellor for Student Life within five (5) business days of the date on which the Notice of Appeal was filed, or within five (5) business days on which the non-appealing party received notice that the other party filed a Notice of Appeal. Within ten (10) business days of the receipt of the last timely submitted appeal, the Vice Chancellor for Student Life will issue a written decision (Notice of Title IX Final Decision) describing the result of the appeal and the rationale for the result, which will be provided simultaneously to both parties. The decision of the Vice Chancellor for Student Life is final and not subject to further appeal.

1720-04-03-.~~1099~~ SANCTIONS.

- (1) General Rules.
- (a) Purposes of Sanctions. The purposes of sanctions include, without limitation: (1) to educate the Respondent about appropriate conduct; (2) to promote the personal and professional development of the Respondent; (3) to discourage the Respondent and other students from violating the Standards of Conduct; and (4) to 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, that the misconduct must cease and/or not reoccur, and that 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 more serious sanctions such as 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 must be satisfied prior to a student being allowed to re-enroll and/or conditions that will be in place if the student is allowed to re-enroll. 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 SCCS 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, safety, or welfare 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, other academic dishonesty, or through research misconduct. Revocation of a degree shall be approved by the Chancellor before the revocation is effective. If approved by the Chancellor, 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 or participate in University-affiliated activities. Any exceptions to social probation must be approved, in advance, by the Vice Chancellor for Student Life.
 - (j) **Deferred Suspension for Student Organizations.** A deferred suspension is a designated period of time during which a student organization, while continuing to be active, is given an opportunity to demonstrate the ability to abide by the Standards of Conduct. A student organization may be placed on deferred suspension for serious misconduct or in the case of repeated misconduct. If the student organization is found responsible for any additional violation(s) of the Standards of Conduct while the student organization is on deferred suspension, then the sanction of revocation or suspension of University registration will be the minimum sanction that will be imposed in a Formal Hearing on the subsequent misconduct. Student organizations who are placed on deferred suspension generally also receive disciplinary probation and developmental sanctions.
 - (k) **Revocation or Suspension of University Registration.** In cases of serious or repeated misconduct, a student organization's University registration may be suspended or 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 SCCS.

- (b) **Restitution.** Restitution is compensation for loss, damage, and/or injury incurred as a result of the student's conduct. 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 conduct.
- (d) **Loss or Restriction of Privileges.** Specified student privileges are lost or restricted. Such privileges include, without limitation, representing the University in any official manner, the use of or access to University-controlled property, University parking privileges, or 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).

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64.* **Administrative History:** Original rule filed May 27, 1986; effective August 12, 1986. Amendment filed March 22, 1990; effective June 26, 1990. Amendment filed October 31, 1990; effective January 29, 1991. Amendment filed August 31, 1995; effective December 30, 1995. Amendment filed November 17, 2000; effective March 30, 2001. Repeal and new rule filed April 12, 2012; effective September 28, 2012. Repeal and new rules filed May 24, 2017; effective August 22, 2017. Emergency rules filed July 30, 2018; effective through January 26, 2019. Amendments filed June 29, 2018; effective September 27, 2018.

1720-04-03-.~~1140~~ 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 enforcement of the Honor Statement is 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 (1) 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 SCCS. 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 SCCS, 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 SCCS.
- (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 SCCS, using a form approved by SCCS. The SCB hears appeals of academic penalties. If SCCS 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 SCCS 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), SCCS 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 SCCS 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, SCCS 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 SCCS 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.
- (10) **Research Misconduct.** Notwithstanding anything in this Code to the contrary, allegations of research misconduct shall be reported, assessed, inquired into, investigated, and resolved consistently with the University's Policy on Misconduct in Research and Service.

Authority: T.C.A. § 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. **Administrative History:** Original rule filed May 27, 1986; effective August 12, 1986. Amendment filed March 22, 1990; effective June 26, 1990. Amendment filed October 31, 1990; effective January 29, 1991. Amendment filed August 31, 1995; effective December 30, 1995. Amendment filed November 17, 2000; effective March 30, 2001. Repeal and new rule filed April 12, 2012; effective September 28, 2012. Repeal and new rules filed May 24, 2017; effective August 22, 2017.

1720-04-03-.1241 POLICY ON AMNESTY FOR INDIVIDUAL 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, safety, or welfare emergency, including, without limitation, a situation involving the abuse of alcohol or other drugs.
- (2) Expectations. When individual students know or reasonably should have known that other individual students are in need of emergency medical attention, the individual students are 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 individual students reporting the incident and the impaired individual students; and (2) demonstrate cooperation and care by remaining with the impaired individual students and providing reasonable assistance during and after the incident. Individual students who take all of the steps described in this Section .11(2) will be referred to as a "Good Samaritan" under the Code. The individual students in need of emergency medical attention will be referred to as an "impaired individual student" under the Code.
- (3) Amnesty for Individual Good Samaritans. Unless individual Good Samaritans have 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), individual Good Samaritans 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 individual students who acted as a Good Samaritan may be required to meet with a University staff member to discuss the individual Good Samaritan's misconduct and adhere to appropriate remedial and/or educational recommendations.
- (4) Amnesty for Individual Impaired Students. Unless individual impaired students have 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), individual impaired students 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 individual impaired students may be required to meet with a University staff member, participate in educational activities, and/or establish that the individual students have 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 Individual Good Samaritans and Students in Need of Emergency Medical Attention may not fully apply, adherence to steps described in Section .11(2) by a student organization's officers and/or members 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); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. **Administrative History:** Original rule filed January 13, 1999; effective May 31, 1999. Repeal and new rule filed April 12, 2012; effective September 28, 2012. Repeal and new rules filed May 24, 2017; effective August 22, 2017.

1720-04-03-.1342 EMERGENCY POWERS. 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. 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); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. **Administrative History:** Original rule filed May 27, 1986; effective August 12, 1986. Amendment filed March 22, 1990; effective June 26, 1990. Amendment filed October 31, 1990; effective January 29, 1991. Amendment filed August 31, 1995; effective December 30, 1995. Amendment to renumber rule from 1720-04-03-.11 filed January 13, 1999; effective May 31, 1999. Amendment filed November 17, 2000; effective March 30, 2001. Repeal and new rule filed April 12, 2012; effective September 28, 2012. Repeal and new rules filed May 24, 2017; effective August 22, 2017.

1720-04-03-.1413 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.
 - (a) While a student is enrolled in the University, SCCS may disclose disciplinary records to University officials who have a legitimate educational interest in the disciplinary records, subject to Section .13(2)(b), or to students who request to inspect their disciplinary records. SCCS may disclose disciplinary records to other persons only in accordance with state or federal law and in some circumstances will be required by state or federal law to disclose disciplinary records (e.g., subpoena, judicial order).
 - (b) While a student is still enrolled in the University but applying for post-graduation employment or graduate school, SCCS will disclose a student's disciplinary records to persons outside of SCCS 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, SCCS will disclose disciplinary records as required by state or federal law (e.g., subpoena, judicial order).
- (3) Disclosure of Student Disciplinary Records after a Student is no Longer Enrolled. After a student is no longer enrolled in the University, SCCS will disclose a student's disciplinary records to persons outside of SCCS only if one (1) 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, SCCS will disclose disciplinary records as required by state or federal law (e.g., subpoena, judicial order).
- (4) Expungement of Student Disciplinary Records. SCCS 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. SCCS 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); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. **Administrative History:** Original rule filed May 27, 1986; effective August 12, 1986. Amendment filed March 22, 1990; effective June 26, 1990. Amendment filed August 31, 1995; effective December 30, 1995. Amendment to renumber rule from 1720-04-03-.12 filed January 13, 1999; effective May 31, 1999. Amendment filed November 17, 2000; effective March 30, 2001. Repeal

and new rule filed April 12, 2012; effective September 28, 2012. Repeal and new rules filed May 24, 2017; effective August 22, 2017. Emergency rules filed July 30, 2018; effective through January 26, 2019. Amendments filed June 29, 2018; effective September 27, 2018.

1720-04-03-.1514 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 staff member appointed by SCCS 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) 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 SCCS. This term does not imply pre-judgment concerning whether the Respondent violated the Standards of Conduct. SCCS is the final decision maker with respect to whether an individual is a Complainant for purposes of the Code.
- (6) Conduct Officer: A University employee designated by SCCS to present information on behalf of SCCS 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 SCCS. However, in a case involving alleged academic dishonesty in which SCCS has not issued a Notice of Allegations, the instructor generally will be designated as the Conduct Officer.
- (7) Disciplinary Hold: The University hold described in Section .06(4)(c).
- (8) Disciplinary Records: A written record that personally identifies a Respondent and is maintained by SCCS.
- (9) Faculty Member or Instructor: A person hired by the University to conduct teaching, research, or supervised clinical placements.
- (10) Formal Complaint. A document filed by a Complainant (or signed by the Title IX Coordinator) alleging that a Respondent engaged in sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation, and requesting that the University investigate the allegation. There are two types of Formal Complaints: (i) Formal Complaints that include Title IX Allegations (as defined under Section .02(15)); and (ii) Formal Complaints that do not include Title IX Allegations, but do otherwise include allegations of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation.
- (10)(11) Formal Hearing: A SCB Hearing, a hearing before a Student Life Hearing Officer, a Title IX Hearing, and/or a UAPA Hearing.
- (11)(12) 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.
- (12)(13) 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.

- ~~(13)~~(14) 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.
- ~~(14)~~(15) 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 SCCS.
- ~~(15)~~(16) Possession: Direct control of a substance or property, 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.
- ~~(16)~~(17) Protected Activity: 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.
- ~~(17)~~(18) 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.
- ~~(18)~~(19) 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. This definition does not apply to Title IX Hearings.
- ~~(19)~~(20) Respondent: A student or student organization who has been accused of violating the Standards of Conduct and/or whose conduct is being investigated by SCCS.
- ~~(20)~~(21) Sanction: An administrative sanction and/or a developmental sanction.
- ~~(21)~~(22) SCB: Student Conduct Board.
- ~~(22)~~(23) SCCS: The Office of Student Conduct and Community Standards, which acts through University employees designated by the Director of SCCS to act on behalf of the University in the student conduct process, including, without limitation University employees who work in SCCS and University employees who work in University Housing.
- ~~(24)~~ Sexual Harassment. Conduct on the basis of sex that satisfies one or more of the following: (i) an employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct; (ii) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or (iii) sexual assault, dating violence, domestic violence, or stalking.
- ~~(23)~~(25) 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.

~~(24)~~(26) Standards of Conduct: Chapter 1720-04-03-.04.

~~(25)~~(27) 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).

~~(26)~~(28) Student Life Hearing Officer. As more fully described in Section .07(2)(d), a University employee designated by the Director of SCCS to conduct a Formal Hearing.

~~(27)~~(29) 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.

~~(30)~~ Title IX Allegations. Allegations within a Formal Complaint that a Respondent's conduct constitutes Sexual Harassment (as defined under Section .15(24)) in the University's education program or activity and occurred within the United States.

~~(31)~~ Title IX Hearing Officer. As more fully described in Section .09(1), a person or persons appointed to conduct a Title IX Hearing.

~~(28)~~(32) UAPA: Uniform Administrative Procedures Act, Tennessee Code Annotated, §§ 4-5-301 et seq.

~~(29)~~(33) 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.

~~(30)~~(34) 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.

~~(34)~~(35) University-Affiliated Activity: means an activity on or off University-controlled property that is initiated, aided, authorized, sponsored, or supervised by the University.

~~(32)~~(36) 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.

~~(33)~~(37) **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).

~~(34)~~(38) **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.

~~(35)~~(39) **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, without limitation, 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.

~~(36)~~(40) **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); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. **Administrative History:** Original rule filed May 27, 1986; effective August 12, 1986. Amendment filed March 22, 1990; effective June 26, 1990. Amendment filed August 31, 1995; effective December 30, 1995. Amendment to renumber rule from 1720-04-03-.13 filed January 13, 1999; effective May 31, 1999. Repeal and new rule filed April 12, 2012; effective September 28, 2012. Repeal and new rules filed May 24, 2017; effective August 22, 2017.

1720-04-03-.15 REPEALED.

Authority: T.C.A. § 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. **Administrative History:** Original rule filed May 27, 1986; effective August 12, 1986. Amendment filed August 31, 1995; effective December 31, 1995. Amendment to renumber rule from 1720-04-03-.14 filed January 13, 1999; effective May 31, 1999. Amendment filed November 17, 2000; effective March 30, 2001. Repeal and new rule filed April 12, 2012; effective September 28, 2012. Repeal filed May 24, 2017; effective August 22, 2017.

1720-04-03-.16 REPEALED.

Authority: T.C.A. § 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. **Administrative History:** Original rule filed May 27, 1986; effective August 12, 1986. Amendment filed March 22, 1990; effective June 26, 1990. Repeal filed October 31, 1990; effective January 29, 1991. Amendment filed August 31, 1995; effective December 30, 1995. Amendment to Renumber rule from 1720-04-03-.15 filed January 13, 1999; effective May 31, 1999. Amendment filed November 17, 2000; effective March 30, 2001. Repeal and new rule filed April 12, 2012; effective September 28, 2012. Repeal filed May 24, 2017; effective August 22, 2017.

1720-04-03-.17 REPEALED.

Authority: T.C.A. § 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. **Administrative History:** Original rule filed May 27, 1986; effective August 12, 1986. Amendment filed August 31, 1995; effective December 30, 1995. Amendment to Renumber rule from 1720-04-03-.16 filed January 13, 1999; effective May 31, 1999. Amendment filed November 17, 2000; effective March 30, 2001. Repeal and new rule filed April 12, 2012; effective September 28, 2012. Repeal filed May 24, 2017; effective August 22, 2017.



The University of Tennessee
Board of Trustees

Resolution ___-2020
Emergency Student Code of Conduct Rules
(The University of Tennessee, Knoxville)

Resolved:

1. The emergency student code of conduct rules, titled "Rules of The University of Tennessee (Knoxville), Chapter 1720-04-03: Student Code of Conduct," are hereby approved as set forth in the meeting materials, which shall be attached to this Resolution after adoption and shall become effective after completion of the rulemaking procedures under the Uniform Administrative Procedures Act.
2. The proper officers of the University be and hereby are authorized to take any and all such actions as may be required or which they may deem necessary or appropriate in order to implement the emergency rules upon them becoming effective.

**RULES
OF
THE UNIVERSITY OF TENNESSEE (MARTIN)**

**CHAPTER 1720-05-01
STUDENT RIGHTS AND RESPONSIBILITIES**

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1720-05-01-.01 INTRODUCTION.

- (1) Students at the University of Tennessee at Martin 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 and in compliance with University rules and policies. The University has established the following rules in order to advance the mission of the University by maintaining a safe and secure learning environment; 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 institutional integrity 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.
- (2) The University is committed to respecting students' constitutional rights. Nothing in this chapter is intended or shall be interpreted to restrict students' constitutional rights, including, but not limited to, rights of freedom of speech and assembly.
- (3) Students are responsible for being fully acquainted and for complying with the University catalog, handbook, and other rules and policies relating to students. Failure or refusal to comply with the rules and policies established by the University may subject a student to disciplinary action up to and including permanent dismissal from the University.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed September 15, 1976. Repeal and new rule filed May 27, 1986; effective August 12, 1986. Amendment filed October 31, 1990; effective January 29, 1991. Repeal and new rule filed April 17, 2012; effective September 28, 2012.

1720-05-01-.02 DEFINITIONS. The following words, terms, or phrases, when used in this Chapter, shall have the following meanings:

- (1) **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 this Chapter, the business day of the event that triggers a time period is excluded.
- (2) **Disciplinary Hold:** The University hold described in Section .05(3).
- (3) **Faculty Member:** A person hired by the University to conduct teaching, research, or supervised clinical placements.

- (4) 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.
- ~~(5)~~ Formal Complaint. A document filed by a Complainant (or signed by the Title IX Coordinator) alleging that a Respondent engaged in sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation, and requesting that the University investigate the allegation. There are two types of Formal Complaints: (i) Formal Complaints that include Title IX Allegations (as defined under Section .02(15)); and (ii) Formal Complaints that do not include Title IX Allegations, but do otherwise include allegations of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation.
- ~~(5)~~(6) 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.
- ~~(6)~~(7) Notice: 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 the University.
- ~~(7)~~(8) Possession: Direct control of a substance or property, 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.
- ~~(8)~~(9) Protected Activity: 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.
- ~~(10)~~ Sexual Harassment. Conduct on the basis of sex that satisfies one or more of the following: (1) an employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct; (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking.
- ~~(9)~~(11) Staff Member: A person employed by the University on a part- or full-time basis, primarily involved in planning, organizing, staffing, directing and/or controlling efforts to achieve the goals and objectives of the University.
- ~~(10)~~(12) Standards of Conduct: Chapter 1720-05-01-.04.
- ~~(11)~~(13) Student: For purposes of this Chapter, 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).

~~(12)~~(14) 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.

~~(15)~~ Title IX Allegations. Allegations within a Formal Complaint that a Respondent's conduct constitutes Sexual Harassment (as defined under Section .02(5)) in the University's education program or activity and occurred within the United States, as defined in federal regulations, 34 C.F.R. 106.30(a).

~~(13)~~(16) "UAPA" means the Uniform Administrative Procedures Act, Tennessee Code Annotated § 4- 5-101 et seq.

~~(14)~~(17) University: The University of Tennessee at Martin, including without limitation its campuses, centers, institutes, and constituent parts.

~~(15)~~(18) University-Affiliated Activity: means an activity on or off University-controlled property that is initiated, aided, authorized, sponsored, or supervised by the University.

~~(16)~~(19) 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.

~~(17)~~(20) University Official: An employee of the University, including, without limitation, faculty members and staff members, or, for purposes of this Chapter, 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 University duties.

~~(18)~~(21) 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, without limitation, 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 (including but not limited to tasers and stun guns), devices designed to discharge an object (including but not limited to bb guns, air guns, pellet guns, potato guns, and slingshots, but not water guns), explosives, dangerous chemicals (including but not limited to 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.

~~(19)~~(22) Written: To communicate words either on paper and/or electronically. For example, a notice delivered via e-mail constitutes a written notice under this rule.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed September 15, 1976. Repeal and new rule filed May 27, 1986; effective August 12, 1986. Amendment filed October 31, 1990; effective January 29, 1991. Amendment filed January 13, 1999; effective May 31, 1999. Repeal and new rule filed April 17, 2012; effective September 28, 2012. Emergency rule filed August 27, 2015; effective through February 23, 2016. Amendment filed September 14, 2015; effective December 13, 2015. Emergency rules filed June 29, 2018; effective through December 26, 2018. Amendments filed June 29, 2018; effective September 27, 2018. Amendments filed September 30, 2019; effective December 29, 2019.

1720-05-01-.03 JURISDICTION.

- (1) The Standards of Conduct, Chapter 1720-05-01-.04, apply to conduct that occurs on University-controlled property.
- (2) The University also has the discretion to discipline a student for an act in violation of the Standards of Conduct that occurs off University-controlled property if the conduct adversely affects the interests of the University, including, but not limited to, conduct which:
 - (a) Occurs in connection with a University-affiliated activity, including, but not limited to, an overseas study program or a clinical, field, internship, or in-service experience;
 - (b) Involves another member of the University community; or
 - (c) Threatens, or indicates that the student may pose a threat to, the health or safety of him/herself or others or the security of any person's property, including, but not limited to, alcohol-related offenses, drug-related offenses, arson, battery, fraud, hazing, participation in group violence, rape, sexual assault or misconduct, stalking, and theft.
- (3) The Standards of Conduct have been adopted in furtherance of the University's interests and serve to supplement, rather than substitute for, the enforcement of the civil and criminal law. Accordingly, University disciplinary action may be instituted against a student charged with conduct that potentially violates both the criminal law and the Standards of Conduct without regard to the pendency of criminal charges or civil litigation. At the discretion of the Vice Chancellor for Student Affairs, or his/her designee, disciplinary action relating to a violation of the Standards of Conduct may be carried out prior to, simultaneously with, or following criminal proceedings. Students accused of violating the Standards of Conduct may not challenge the University disciplinary proceedings 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 not yet adjudicated.
- (4) Each student shall be responsible for his/her conduct from the time of application for admission through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment (and even if conduct is not discovered by the University until after a degree is awarded). Should a student withdraw from the University with disciplinary charges pending, the student's academic record and/or ability to register for classes may be encumbered by the appropriate University office.
- (5) Graduate or professional programs within the University may initiate charges against students for alleged violations of professional standards or ethics as a separate issue or as an

extension of alleged acts of academic dishonesty or other violations of the Standards of Conduct.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed September 15, 1976. Repeal and new rule filed May 27, 1986; effective August 12, 1986. Amendment filed October 31, 1990; effective January 29, 1991. Amendment filed November 20, 1990; effective February 27, 1991. Amendment filed September 3, 1992; effective December 29, 1992. Amendment filed June 18, 1996; effective October 28, 1996. Amendment filed January 13, 1999; effective May 31, 1999. Repeal and new rule filed April 17, 2012; effective September 28, 2012.

1720-05-01-.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, without limitation, an act in violation of the Honor Code.
- (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.
- (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, safety, or welfare of any person; 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, 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 ~~Harassment, Sexual Assault, Dating Violence, Domestic Misconduct, Relationship Violence, Stalking, Sexual Exploitation, and/or Retaliation.~~ Violating the University's Policy on Sexual ~~Harassment, Sexual Assault, Dating and Domestic Misconduct, Relationship Violence, and Stalking,~~ which includes sexual exploitation and/or Retaliation.
- (8) Invasion of Privacy. Invasion of another person's privacy when that person has a reasonable expectation of privacy, including, without limitation, 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, without limitation, 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, safety, or welfare of that student, or which induces or coerces a student to endanger his or her mental or physical health, safety, or welfare. "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, without limitation: 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, carrying, 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 or unless federal or state law affirmatively gives a student a right, irrespective of this Chapter, to possess or carry a weapon on University-controlled property or in connection with a University-affiliated activity.
- (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 unless expressly permitted by University policy.
- (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, without limitation, a hearing of a University conduct board, following a request to appear either as a party or as a witness, unless the student has a right to not appear under state or federal law.
- (25) Violation of Interim Administrative Actions, Disciplinary Sanctions, or Conditions of Re-Enrollment. Violating the terms of a no-contact directive, an interim restriction (e.g., interim suspension), a disciplinary sanction, or a condition of re-enrollment 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, without limitation, University policies or rules relating to facilities' use, smoking, the acceptable use of information technology resources, research 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. Retaliation is an act or omission committed by a student because of another person's participation in a protected activity that would discourage a reasonable person from engaging in protected activity, including, without limitation, any act or omission constituting "retaliation" under the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking and University rules. 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, without limitation: (1) an act or omission committed against a person's family, friends, advisors, and/or other persons reasonably expected to provide information in connection with a University investigation or hearing; and (2) an act or omission committed by a student through a third party.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64.* **Administrative History:** Original rule filed September 15, 1976; effective October 15, 1976. Amendment filed August 22, 1980; effective December 1, 1980. Amendment filed August 27, 1981; effective November 30, 1981. Amendment filed July 29, 1983; effective October 14, 1983. Repeal and new rule filed May 27, 1986; effective August 12, 1986. Amendment filed October 14,

1990; effective January 29, 1991. Amendment filed January 13, 1999; effective May 31, 1999. Repeal and new rule filed April 17, 2012; effective September 28, 2012. Emergency rule filed August 27, 2015; effective through February 23, 2016. Amendment filed September 14, 2015; effective December 13, 2015. Amendments filed September 30, 2019; effective December 29, 2019.

1720-05-01-.05 SANCTIONS.

- (1) Disciplinary sanctions are primarily intended to educate students and student organizations about appropriate behavior, encourage students and student organizations to take responsibility for misconduct, promote the personal and professional development of students, discourage other students and student organizations from violating the Standards of Conduct, and protect members of the University community. The sanctions imposed should be 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 student's or student organization's conduct record; the student's or student organization's responsiveness to the conduct process; whether the student acted in self-defense, and, if so, whether the amount of force used was reasonable under the circumstances; student academic classification; and other aggravating or mitigating factors.
- (2) The following sanctions may be imposed on any student found to have violated the Standards of Conduct:
 - (a) **Warning.** A warning is a notice that the student is violating or has violated the Standards of Conduct. A disciplinary warning is used for minor infractions and consists of a restatement of the Standard(s) of Conduct violated with an official warning concerning future behavior.
 - (b) **Loss of Privilege.** A loss of privilege is intended to serve as a reminder of the Standards of Conduct and is for a specific period of time. Privileges that may be lost include, but are not limited to, scholarships, stipends, participation in extracurricular activities (e.g. intramurals), housing privileges, participation in social activities, and use of certain University-controlled property (e.g., information technology resources).
 - (c) **Education.** Students may be required to attend classes, at their own expense, dealing with issues such as the consequences of alcohol or drug use, civility, ethics, or other topics as deemed appropriate by the Vice Chancellor for Student Affairs or his/her designee.
 - (d) **Restitution.** Restitution may be required in situations that involve destruction, damage, or loss of property, or unreimbursed medical expenses resulting from physical injury. Restitution may take the form of a monetary payment or appropriate service to repair or otherwise compensate for the destruction, damage, or loss.
 - (e) **Disciplinary Probation.** Disciplinary probation permits a student to remain at the University on probationary status but with the understanding that a future violation of the Standards of Conduct may result in suspension. Conditions of probation include loss of eligibility to join a student organization and to serve as an officer in a student organization. Other conditions are specific to the individual case and may include ineligibility to participate in certain student activities. Probation may be for a definite or indefinite period.
 - (f) **Suspension for a Specific Period of Time.** Suspension for a specific period of time means that the student is withdrawn from the University and is not eligible to apply for readmission for a designated period of time. Usually, the designated period of time does not exceed one (1) calendar year. Persons suspended from the University may not return to the campus for the duration of their suspension, except to conduct official business with an administrative officer or faculty member. Upon return to the University

following a suspension for a specific period of time, the student shall be placed on indefinite disciplinary probation.

- (g) **Indefinite Suspension.** Indefinite suspension is imposed in cases of serious or repeated misconduct or in cases in which the prognosis for rehabilitation is uncertain. Indefinite suspension means that the student is withdrawn from the University for an unspecified period of time but typically for a minimum of one (1) calendar year from the effective date of the indefinite suspension. A student who receives the sanction of indefinite suspension is not eligible to apply for readmission until the student successfully petitions the University Council to lift the suspension. Upon return to the University following an indefinite suspension, the student shall be placed on indefinite disciplinary probation.
 - (h) **Permanent Dismissal.** Permanent dismissal means that a student is permanently barred from matriculating as a student on the Martin campus. This sanction is used when the violation of one (1) or more Standards of Conduct is deemed so serious as to warrant total and permanent disassociation from the University community without the possibility of re-enrollment; or when, by his/her repeated violation of the Standards of Conduct, a student exhibits blatant disregard for the health and safety of other members of the University community or the University's right to establish rules of conduct.
 - (i) **Revocation of Degree.** Revocation of a degree means revoking a degree already awarded to a student by the University. Revocation of a degree shall be approved by the University of Tennessee Board of Trustees.
- (3) A disciplinary hold may be placed on a student's account until the completion of the student disciplinary process and/or until the student satisfies the terms and conditions of any sanctions imposed. A student who, at the time of commencement, is subject to a continuing disciplinary sanction or an unresolved disciplinary charge shall not be awarded a degree before the conclusion of all sanctions and/or resolution of all disciplinary charges.
- (4) The following sanctions may be imposed on a student organization found to have violated the Standards of Conduct:
- (a) **Warning.** A warning is a notice that the student organization is violating or has violated the Standards of Conduct. A disciplinary warning is used for minor infractions and consists of a restatement of the Standard(s) of Conduct violated with an official warning concerning future behavior.
 - (b) **Loss of Privilege.** A loss of privilege is intended to serve as a reminder of the Standards of Conduct and is for a specific period of time. Examples of privileges that may be lost include participating in extracurricular activities (e.g., intramurals), housing privileges, participating in social activities, and using certain University-controlled property.
 - (c) **Education.** Student organizations and/or their representatives may be required to attend classes, at their own expense, dealing with issues such as the consequences of alcohol or drug use, civility, ethics, or other topics as deemed appropriate by the Vice Chancellor for Student Affairs or his/her designee.
 - (d) **Restitution.** Restitution may be required in situations that involve destruction, damage, or loss of property, or unreimbursed medical expenses resulting from physical injury. Restitution may take the form of a monetary payment or appropriate service to repair or otherwise compensate for the destruction, damage, or loss.
 - (e) **Social Probation.** This sanction 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). Any

exceptions to social probation must be approved, in advance, by the Vice Chancellor for Student Affairs or his/her designee.

- (f) Disciplinary Probation. Disciplinary probation means that a student organization is permitted to retain University registration on a probationary status. Violation of the Standards of Conduct during the period of disciplinary probation may result in more serious sanctions, including revocation of University registration.
 - (g) Revocation of University Registration. In cases of serious misconduct, a student organization's University registration may be revoked.
- (5) More than one (1) of the sanctions listed above may be imposed for any single violation of the Standards of Conduct. Sanctions may be applied retroactively to the date of the offense.
 - (6) Intoxication or impairment because of alcohol, drugs, chemicals, or other substances does not diminish or excuse a violation of the Standards of Conduct.
 - (7) Except for an interim suspension, disciplinary sanctions shall not become effective until after opportunities for appeal have been exhausted. Sanctions may be applied retroactively to the date of the offense. Coursework performed while disciplinary charges are pending or disciplinary proceedings are underway shall be considered conditional. Coursework may be affected or disregarded based on a final finding of misconduct or the sanction imposed, which may result in loss of course credit, a loss of tuition and/or fees, a delay in the awarding of a degree, or revocation of a degree that was awarded prior to a final decision in the disciplinary proceeding.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed July 29, 1983; effective October 14, 1983. Repeal and new rule filed May 27, 1986; effective August 12, 1986. Amendment filed January 13, 1999; effective May 31, 1999. Repeal and new rule filed April 17, 2012; effective September 28, 2012. Amendments filed September 30, 2019; effective December 29, 2019.

1720-05-01-.06 NO CONTACT DIRECTIVE. In cases involving allegations of assault, injury, sexual abuse, harassment, or in cases where there is reason to believe continued contact between a student/student organization and specific persons, including complainants and witnesses, may interfere with those persons' security, safety or ability to participate effectively in work or studies, the Vice Chancellor for Student Affairs, or his/her designee, may require that the student/student organization not have verbal, physical, or written contact with specific persons for a definite or indefinite period of time. The student/student organization will receive written or electronic notice of the no contact directive. 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/student organization. In addition to an internal University no contact directive, complainants are advised that other similar options exist and can be obtained from law enforcement and civil and criminal courts.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed April 17, 2012; effective September 28, 2012.

1720-05-01-.07 INTERIM SUSPENSION.

- (1) When the Vice Chancellor for Student Affairs or his/her designee has reasonable cause to believe that a student's or student organization'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 ongoing threat to the disruption of, or interference with, the normal operations of the University, the Vice Chancellor for Student Affairs or his/her designee may impose an interim suspension prior to the conclusion of a full hearing on the alleged misconduct.

- (2) An interim suspension shall be confirmed by a written statement that explains the basis for the interim suspension and shall remain in effect until the conclusion of a full hearing in accordance with the rules of the University of Tennessee, which shall be held without undue delay. The statement shall be delivered to the student in person, to the address the University has on file for the student, or to the student's University-provided e-mail account. The statement shall be delivered in person or via e-mail to the advisor to the student organization.
- (3) Within three (3) business days of the imposition of the suspension, the student or student organization shall be offered an opportunity to appear personally before the Vice Chancellor for Student Affairs or his/her designee in order to discuss the following issues only: (i) the reliability of the information concerning the student's conduct; and (ii) whether the conduct and surrounding circumstances reasonably indicate that the student's or student organization'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.
- (4) During an interim suspension, the student or student organization shall be denied access to University-controlled property, including residence halls, and all other University-affiliated activities or privileges for which the student or student organization might otherwise be eligible, as the Vice Chancellor for Student Affairs or his/her designee determines in his/her sole discretion to be appropriate. A student or student organization who 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 Affairs or his/her designee.
- (5) When a student is placed on interim suspension from the University, he/she may be assigned a grade of "W" or "I," whichever is deemed appropriate by the faculty member involved.
- ~~(5)~~(6) Notwithstanding any other provision in this Section .07, in any case in which a Formal Complaint is filed that includes Title IX Allegations, the Vice Chancellor for Student Affairs may impose an interim suspension on a Respondent only after undertaking an individualized safety and risk analysis, and determining that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal of the Respondent. The Vice Chancellor for Student Affairs will provide the Respondent notice and an opportunity for the Respondent to challenge an interim suspension or removal within three (3) business days.

Authority: T.C.A. § 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. **Administrative History:** Original rule filed April 17, 2012; effective September 28, 2012.

1720-05-01-.08 HEARING PROCEDURES.

- (1) Conflicts of Interest
- (a) The student conduct process must be carried out in a manner that is free from conflicts of interest or bias and is consistent with due process of law.
- (b) In all cases involving allegations of sexual assault, dating violence, domestic violence, or stalking and/or retaliation, the student conduct process must include protections for the accused student/respondent analogous to, and no less protective than, the conflict of interest provisions of Tennessee Code Annotated § 4-5-303. Notwithstanding the preceding sentence: (1) an attorney for the University is allowed to provide legal advice to multiple University employees who serve in different roles in the process of disciplining a student; and (2) the University is allowed to provide the alleged victim/complainant with equivalent rights as the accused student/respondent during the

student conduct process.

- (2) Allegations of Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, or Sexual Exploitation.
- (a) Case Initiation. In cases involving allegations of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation, the student conduct process is initiated upon the filing of a Formal Complaint by a Complainant or by the Title IX Coordinator. As soon as practicable after the filing of a Formal Complaint, the Office of Student Conduct will provide a Notice of Receipt of Formal Complaint to the parties who are known. The Notice of Receipt of Formal Complaint shall include the following information: (1) notice of the student conduct process that applies to the allegations; (2) the identities of the parties involved in the incident; (3) the conduct allegedly constituting the violation; (4) the date and location of the incident, if known; (5) a statement that the Respondent is presumed not responsible for the alleged conduct; (6) a statement that a determination regarding responsibility is made at the conclusion of the student conduct process; (7) the parties' right to have an advisor of their choice, who may be, but is not required to be, an attorney; (8) the parties' right to inspect and review evidence; and (9) notice of the provisions of the Code that prohibit providing false information to a University official.
- (b) Right to an Advisor. The Complainant and the Respondent each may be assisted by one (1) advisor of their choice and at their own cost during all stages of the student conduct process. The advisor may be, but is not required to be, an attorney. If a Complainant or Respondent does not have an advisor present at a Title IX Hearing, the University must provide one (selected by the University) without fee or charge to that party. The role of an advisor is limited to assisting, advising, and/or supporting a Complainant or Respondent during the student conduct process, including at all meetings, investigative interviews, and hearings. 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, except that the advisor is permitted to speak on behalf of a Complainant or Respondent for the purposes of asking questions of the other party and witnesses in a Title IX Hearing, in accordance with Section .08(8)(e)(6) of this Chapter.
- (c) Investigations.
1. Investigations of allegations of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation will be conducted by the Office of Student Conduct unless another person or organization is designated to serve as the investigator in accordance with University rules or policy.
 2. Investigations will be conducted in a prompt, fair, and impartial manner.
 3. When conducting an investigation, the Office of Student Conduct (or other designated investigator) will act as a fair and impartial party rather than as a representative of the person who filed the Formal Complaint.
 4. During an investigation, the Complainant(s), the Respondent(s), witnesses, or any other persons may be interviewed, and other relevant information and documentation will be obtained as applicable. The Office of Student Conduct (or other designated investigator) may interview and e-interview the Complainant(s), Respondent(s), witnesses, and/or any other person at any time during the investigation in order to obtain additional and/or clarifying information.
 5. During an investigation, the Office of Student Conduct will (1) ensure that the burden of proof and burden of gathering evidence rests on the University and not

on the parties; (2) provide an equal opportunity for the parties to identify and present witnesses for interview, including fact witnesses and expert witnesses, and other inculpatory and exculpatory evidence; (3) and provide written notice of the date, time, location, participants, and purpose of all investigative interviews and other meetings, with sufficient time to prepare to participate.

6. The Office of Student Conduct will provide both parties with an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint. Prior to completion of the investigative report, the Office of Student Conduct will send to each party and the party's advisor, if any, the evidence subject to inspection and review. The parties must have at least ten (10) business days to submit a written response, which the Office of Student Conduct will consider prior to completion of the investigative report. After the investigative report is completed, the parties must have at least ten (10) business days to submit a written response to the report, and no hearing shall occur until that period has lapsed, even if the parties have submitted responses prior to the expiration of the ten (10) day period.

(3) Notice of Charges.

- (a) A student charged with violating the Standards of Conduct, Chapter 1720-05-01-.04, shall be provided written notice of:
1. The substance of the charge(s) against him/her;
 2. The disciplinary action taken or proposed; and
 3. His/her rights to a hearing should he/she wish to contest the charge(s) and information concerning the process for requesting a hearing, including the requirement that a request for a hearing before the Disciplinary Hearing Board must be made within five (5) days of the student's receipt of the notice of the charges against him/her.
- (b) This Section .08(3)(a) does not apply to Formal Complaints that include Title IX Allegations.

(3)(4) Hearing Options. A student charged with violating the Standards of Conduct, Chapter 1720-05-01-.04, shall have the following options for a hearing:

- (a) An administrative hearing before the Student Conduct Officer;
- (b) A hearing before the Disciplinary Hearing Board;
- (b)(c) A hearing before a Title IX Hearing Officer ("Title IX Hearing"), which is described in Section .08(6) and which is the only hearing option provided under the Code for determining responsibility for Title IX Allegations; or
- (e)(d) A hearing in accordance with the University's rules for conducting contested case proceedings under the Uniform Administrative Procedures Act ("UAPA Hearing"). All disciplinary cases that may result in suspension or permanent dismissal of a student, the revocation of a degree, or the revocation of registration of a student organization are subject to the contested case provisions of the UAPA. The University's procedures for conducting contested case hearings under the UAPA are contained in Chapter 1720-01-05, and the University's rules concerning waivers of contested case proceedings are contained in Chapter 1720-01-03. Disciplinary hearings will be conducted in accordance with the University's procedures for conducting contested case proceedings under the UAPA unless the student waives those procedures in writing and elects to have his or her case resolved in accordance with Section .08(3) or

Section .08(4).

~~(4)~~(5) Notice of Hearing Concerning Allegations of Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking and Sexual Exploitation/or Retaliation. In administrative hearings before the Student Conduct Officer or hearings before the Disciplinary Hearing Board, ~~At~~ least seventy-two (72) hours prior to a hearing under Section .08(~~4~~3) concerning allegations of sexual harassment, sexual assault, dating violence, domestic violence, stalking, sexual exploitation, and/or retaliation, the University shall provide the accused student/respondent with notice of the following: (1) the time, place, and date of the hearing; (2) the name of each witness the University expects to present at the hearing and those the University may present if the need arises; (3) notice of the right to request a copy of the University's investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974, (20 U.S.C. § 1232g), and the federal regulations implementing that statute, as amended; and (4) notice of the right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that the University has in its possession, custody, or control and may use to support claims or defenses, unless the use would be solely for impeachment.

~~(5)~~(6) Administrative Hearing. A student charged with violating the Standards of Conduct has a right to resolve a disciplinary case through an administrative hearing with the Student Conduct Officer by accepting responsibility for violating the Standards of Conduct. Following the student's written acceptance of responsibility and written waiver of the right to a hearing under the UAPA, the Student Conduct Officer will assess a penalty that is appropriate under Chapter 1720-05-01-.05. Following the assessment of the penalty, the student may acknowledge the acceptance of the penalty in writing or appeal the penalty to the Vice Chancellor for Student Affairs in accordance with Chapter 1720-05-01-.09. A student who resolves a disciplinary case through an administrative hearing with the Student Conduct Officer may only appeal the penalty to the Vice Chancellor for Student Affairs.

~~(6)~~(7) Disciplinary Hearing Board.

- (a) The Disciplinary Hearing Board is an ad hoc board composed of five (5) members of the University Council, in addition to the Vice Chancellor for Student Affairs, who shall serve as the non-voting chairperson of the Disciplinary Hearing Board. The Disciplinary Hearing Board hears cases of alleged violations of the Standards of Conduct and other cases deemed appropriate by the Vice Chancellor for Student Affairs. The Vice Chancellor for Student Affairs shall select the members of the Disciplinary Hearing Board from the membership of the University Council. A majority vote of the members present is required for all decisions of the board.
- (b) A request for a hearing before the Disciplinary Hearing Board shall be made within five (5) days of the student's receipt of the notice of the charges against him/her. A hearing shall be scheduled promptly after receipt of the request for a hearing. A student shall be notified of the date, place, and time for the hearing at least seventy-two (72) hours in advance of the hearing. A student has no right to have a hearing before the Disciplinary Hearing Board unless the student waives the provisions of the UAPA in writing.
- (c) Members of the Disciplinary Hearing Board shall be impartial and anyone lacking such impartiality shall recuse himself/herself. The accused student has the right to challenge any member of the Disciplinary Hearing Board for good cause and request that he/she be dismissed and replaced. The chairperson of the Board determines whether to dismiss and replace a member of the Disciplinary Hearing Board. Neither the Student Conduct Officer nor a person who investigated the allegations of misconduct against the accused student shall be a member of the Disciplinary Hearing Board or advise the Disciplinary Hearing Board.
- (d) The chairperson of the Disciplinary Hearing Board will conduct the hearing, without regard to technical rules of procedures in such a manner as will best serve the cause of

justice within the following general guidelines:

1. An accused student has a right to a hearing closed to the public. In cases involving more than one (1) student, the chairperson may permit the hearings concerning each student to be conducted separately.
2. The chairperson shall rule on all motions, objections, and other procedural issues. The chairperson shall ascertain that the accused student has been advised of the charges against him/her and shall then read a statement describing the charges. A student who fails to appear before the Disciplinary Hearing Board following proper notice shall be deemed to have waived his/her rights to be present during the hearing, to know the evidence against him/her, to present evidence in his/her own behalf, and to exercise reasonable cross-examination of witnesses appearing against him/her. This waiver shall become effective if the student fails to appear at the designated time and place of the hearing unless, at least twenty-four (24) hours prior to the hearing, the student communicates in writing to the Dean of Students good cause for granting a continuance of the hearing. However, no student may be found to have violated the Standards of Conduct solely because the student failed to appear before the Disciplinary Hearing Board. In all cases, the evidence in support of the charges shall be presented to and considered by the Disciplinary Hearing Board.
3. The accused shall enter a plea of responsible or not responsible. If a responsible plea is entered, he/she shall be advised of the maximum penalty, and the Board shall review the circumstances of the case and make appropriate decisions or recommendations regarding the penalty.
4. The accused student may be accompanied by no more than one (1) advisor during the hearing, including but not limited to a parent, spouse, friend, or attorney. The role of the advisor shall be limited to providing advice or support to the accused student. Even if accompanied by an advisor, the accused student is responsible for presenting his/her own case to the Disciplinary Hearing Board. An advisor is not permitted to: introduce evidence; raise objections; present arguments; directly address the members of the Disciplinary Hearing Board, the Student Conduct Officer, or any witnesses participating in the hearing; or otherwise participate in the hearing. In consideration of the limited role of the advisor, and of the compelling interest of the University to expeditiously conclude the matter, a hearing shall not be delayed due to the unavailability of an advisor. The accused student shall inform the Student Conduct Officer of the name of the student's advisor, if any, at least three (3) days before the hearing before the Disciplinary Hearing Board.
5. Each party to a hearing shall be given an opportunity to make opening and closing statements.
6. Each party to a hearing shall be afforded a full and fair opportunity to present all evidence, including witnesses, reasonably relating to the charge or action at issue. Each party will have the right to question opposing witnesses. Technical rules of evidence will not apply. Evidence which is irrelevant, immaterial, repetitious or voluminous may be limited or excluded. Hearsay evidence is admissible. If a not responsible plea has been entered, evidence in mitigation of the alleged offense shall be presented only if the Board has determined that the accused student is responsible for the violation.
7. The Student Conduct Officer shall present the case on behalf of the University. The University shall have the burden of proving, by a preponderance of the evidence, the truth of the charge(s) at issue. Where the charge(s) is found to be true, the accused student shall have the burden of proving that the disciplinary

action taken or proposed is arbitrary, capricious, or unreasonable.

8. The Board will consider all evidence presented, giving due consideration to the credibility or weight of each item presented. During Board deliberations all persons except the Board members shall be excused from the hearing room. The decision shall be based solely upon the evidence presented. No mention will be made during the hearing on innocence or guilt of the student's previous disciplinary record, unless appropriate as rebuttal to character evidence introduced by the accused.
9. After a determination of responsibility by the Board, the Student Conduct Officer, on behalf of the University, shall present the previous disciplinary record of the accused student if any, and evidence of any other aggravating circumstances, to the Board together with the recommendation of the Student Conduct Officer as to an appropriate penalty.
10. After presentation of evidence by the Student Conduct Officer, the accused shall be allowed to present character evidence, evidence of mitigating circumstances, and an alternative penalty recommendation.
11. After the Board determines the penalty, the accused student shall be advised in writing of its decision within forty-eight (48) hours of the hearing.
12. A record will be made of the hearing procedures. However, defects in the record will not invalidate the proceedings. The results of the Board's decision shall be kept on official University forms. If a verbatim record of the hearing is prepared, it shall be retained in the custody of the Office of Student Conduct and considered a confidential disciplinary record.
13. Appeals from decisions of the Disciplinary Hearing Board may be made to the Vice Chancellor for Student Affairs in accordance with Chapter 1720-05-01-.09.
14. In cases involving an allegation of sexual assault or misconduct, the hearing procedures shall be modified to afford the alleged victim all of the rights described in Chapter 1720-05-01-.08(98). The Disciplinary Hearing Board may consider evidence introduced by the alleged victim as part of the University's proof.

(8) Title IX Hearing.

(a) Any case involving allegations that a Respondent's conduct constitutes Sexual Harassment in the University's education program or activity in the United States as defined in 34 C.F.R. 106.30(a) ("Title IX Allegations") will be resolved through a Title IX Hearing. The Title IX Hearing must be conducted in accordance with 34 C.F.R. 106.45.

(b) Appointment of Title IX Hearing Officer. The Title IX Hearing Officer. The Vice Chancellor for Student Affairs will appoint a qualified Title IX Hearing Officer to conduct the Title IX Hearing and will notify the parties and their advisors, if any, of the appointment. The Title IX Hearing Officer may be a University employee, a team of University employees, an external person engaged to conduct the Title IX Hearing, or a team of external people engaged to conduct the Title IX Hearing.

(c) Notice of Title IX Hearing.

1. When a Notice of Title IX Hearing is Sent. The Title IX Hearing Officer will send the Respondent and the Complainant a Notice of Title IX Hearing at least ten (10) business days in advance of the date of the hearing.

2. Information in the Notice of Title IX Hearing. The Notice of Title IX Hearing will

contain, or be accompanied by, the following information: (1) the date, time, and place of the Title IX Hearing; (2) notice of the right to have an advisor of the party's choice, who may be, but is not required to be, an attorney, and that, if the party does not have an advisor present at the hearing, the University must provide an advisor of the University's choice, without fee or charge, to ask the other party and any witnesses all relevant questions and follow-up questions on behalf of that party; (3) notice that any cross-examination of any other party or witness must be conducted by the advisor, and never by a party personally; and (4) notice that all of the evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint will be available to the parties at the hearing. Other pre-hearing information may also be included in the Notice of Title IX Hearing. Any Title IX Hearing may be rescheduled by the Title IX Hearing Officer or upon request of any party and for good cause shown.

3. Consequences of Failing to Attend a Title IX Hearing. If a party fails to attend a Title IX Hearing, the Title IX Hearing Officer may proceed with the Title IX Hearing without that party's participation.

(d) General Rules Governing Title IX Hearings.

1. The Title IX Hearing will take place no sooner than ten (10) business days after the parties' receipt of the written investigative report.

2. The Title IX Hearing Officer may conduct pre-hearing meetings or conferences with the parties and their advisors, if any, to discuss any pre-hearing issues, including but not limited to, the date of the hearing, the location of the hearing, any technology to be used at the hearing, the general rules governing the hearing, including any rules of decorum, the identification of witnesses, and the availability of evidence at the hearing.

3. Each party must notify the Title IX Hearing Officer at least five (5) business days before the hearing of the identity of the party's advisor, if any, or that the party does not have an advisor so that the University can provide an advisor.

4. At the request of either party, the Office of Student Conduct will provide for the hearing to occur with the parties located in separate rooms with technology enabling the Title IX Hearing Officer and parties to simultaneously see and hear the party or the witness answering questions.

5. Upon request of a party, and for good cause shown, the Title IX Hearing Officer may permit the participation of witnesses who were not identified by the party to the investigator, or the inclusion of evidence at the Title IX Hearing that was not provided by the party to the investigator.

(e) Procedural Rules for Title IX Hearings.

1. Authority of the Title IX Hearing Officer. The Title IX Hearing Officer has the authority to maintain order and make all decisions necessary for the fair, orderly, and expeditious conduct of the Title IX Hearing. The Title IX Hearing Officer shall be the final decision maker concerning what, how, and in what order witnesses are questioned and evidence is examined.

2. Exclusion of Information.

i. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions

- and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
- ii. The University cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so.
 - iii. The University cannot not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
3. Preliminary Matters. The Title IX Hearing Officer shall begin the hearing by explaining the substance of the allegations and the specific University policy or policies allegedly violated.
 4. Attendance and Participation. Attendance during a Title IX Hearing generally is limited to the Title IX Hearing Officer, a representative from the Office of Student Conduct, the Complainant and the Complainant's advisor, the Respondent and the Respondent's advisor, and witnesses. Witnesses may attend the Title IX Hearing only while they are presenting information to the Title IX Hearing Officer, unless the witness is the Complainant or the Respondent. The Title IX Hearing Officer and the Office of Student Conduct have the discretion to allow other persons to attend the Title IX Hearing, in accordance with state and federal law.
 5. Opening Statements. The Complainant and then the Respondent may make a brief statement of no longer than ten (10) minutes to the Title IX Hearing Officer, and they may provide a written copy of their statements to the Title IX Hearing Officer at the hearing. The Title IX Hearing Officer will provide a copy of any written statement received to the other party.
 6. Questioning the Witnesses. Following any opening statements, the Title IX Hearing Officer will question the Complainant, the Respondent, and any witnesses requested by the parties. The Title IX Hearing Officer will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. Only relevant cross-examination and other questions may be asked of a party or witness. Before the Complainant, the Respondent, or any witness answers a cross-examination or other question, the Title IX Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. If a party or witness does not submit to cross-examination at the hearing, the Title IX Hearing Officer must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Title IX Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.
 7. Closing Statements. At the close of the Title IX Hearing, the Title IX Hearing

Officer may allow the Complainant and the Respondent equal opportunities to make statements summarizing the information presented to the Title IX Hearing Officer and/or advocating the decision that the Title IX Hearing Officer should reach.

(f) Recording of the Title IX Hearing. The University will create an audio or audiovisual recording or transcript, of the hearing and make it available to the parties for inspection and review.

(g) Notice of Decision. Within fifteen (15) business days of the hearing, the Title IX Hearing Officer must issue a written determination regarding responsibility ("Notice of Decision"). The Notice of Decision must include (i) identification of the allegations potentially constituting Sexual Harassment; (ii) a description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; (iii) findings of fact supporting the determination; (iv) conclusions regarding the application of the Code to the facts; (v) a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant; and (vi) the procedures and permissible bases for the Complainant and Respondent to appeal.

In deciding the appropriate sanctions for a Respondent's misconduct, the Title IX Hearing Officer may consider information provided at the hearing by the Complainant, the Respondent, or any other witness with relevant information concerning the appropriate sanctions, if the Respondent is determined responsible.

The Title IX Hearing Officer shall transmit a copy of the Notice of Decision to the Office of Student Conduct. The Office of Student Conduct shall notify the Respondent, the Complainant, and their advisors about the written determination and provide a copy of it simultaneously to the parties and their advisors.

(h) Appeal. The decision of the Title IX Hearing Officer may be appealed to the Vice Chancellor for Student Affairs in accordance with Section .09(2) of this Chapter.

~~(7)(9)~~ 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, the University will investigate and resolve reports of sexual harassment, sexual assault, dating violence, domestic sexual misconduct, relationship violence, stalking and/or retaliation in accordance with the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Misconduct, Relationship Violence, and Stalking and University rules and/or Retaliation, and the . ~~In a case involving an allegation of sexual misconduct, relationship violence, stalking and/or retaliation, the accused student/Respondent and the alleged victim/cComplainant shall have the rights outlined in the University's that Policy and University rules on Sexual Misconduct, Relationship Violence, Stalking and/or Retaliation. Additionally, in a case involving sexual assault, dating violence, domestic violence, stalking and/or retaliation, the University shall provide the accused student/respondent with notice of the role of advisors (e.g., attorneys) in the student conduct process, including the extent to which they are allowed to advise or represent the student in an investigation or hearing.~~

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed April 17, 2012; effective September 28, 2012. Emergency rule filed August 27, 2015; effective through February 23, 2016. Amendment filed September 14, 2015; effective December 13, 2015. Emergency rules filed June 29, 2018; effective through December 26, 2018. Amendments filed June 29, 2018; effective September 27, 2018. Amendments filed September 30, 2019; effective December 29, 2019.

1720-05-01-.09 APPEALS.

(1) Appeal of Decisions of a Student Conduct Officer or Disciplinary Board Hearing. A decision of the Disciplinary Hearing Board, or a decision of the Student Conduct Officer concerning a penalty following an administrative hearing, may be appealed to the Vice Chancellor for Student Affairs.

(a) The request for appeal shall be submitted in writing to the Vice Chancellor for Student Affairs within five (5) ~~seven (7)~~ calendar-business days of written notice of the decision of the Disciplinary Hearing Board or Student Conduct Officer. ~~If the seventh day falls on a weekend or holiday, the time is extended to the next regular workday.~~

(b) The request for appeal shall contain:

1. A statement that the student or student organization appeals the decision of the Disciplinary Hearing Board or Student Conduct Officer; and
2. A brief statement of the grounds for the appeal.

(c) All appeals to the Vice Chancellor for Student Affairs are written and heard based upon the record made before the Disciplinary Hearing Board.

(d) Pending the outcome of an appeal, the penalty specified in the decision of the Disciplinary Hearing Board shall not be imposed.

(e) The Vice Chancellor for Student Affairs may:

1. Affirm the decision of the Disciplinary Hearing Board or Student Conduct Officer;
2. Amend the decision of the Disciplinary Hearing Board or Student Conduct Officer;
3. Return the case to the Disciplinary Hearing Board or Student Conduct Officer with instructions for reconsideration of the case; or
4. Overturn the decision of the Disciplinary Hearing Board.

(2) Appeal of Decisions of a Title IX Hearing Officer. A decision of a Title IX Hearing Officer following a Title IX Hearing (or the dismissal of a Formal Complaint alleging Title IX Allegations) may be appealed by either the Complainant or the Respondent to the Vice Chancellor for Student Affairs.

(a) The request for appeal shall be submitted in writing to the Vice Chancellor for Student Affairs.

(b) The request for appeal shall contain:

1. A statement that the student appeals the decision of the Title IX Hearing Officer; and
2. A brief statement of the grounds for the appeal.

(c) Pending the outcome of an appeal, the penalty specified in the decision of the Title IX Hearing Officer shall not be imposed.

(d) Grounds for Appeal. The grounds for the appeal, which shall be limited to one (1) or more of the following grounds:

1. Procedural Error. A procedural irregularity affected the outcome of the matter.

2. New Evidence. New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could affect the outcome of the matter.

3. Conflict of Interest or Bias. The Title IX Coordinator, the investigator(s), or the Title IX Hearing Officer had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

4. Clearly Unreasonable Sanction. The sanction(s) imposed by the Title IX Hearing Officer is clearly unreasonable (i.e., has no sound basis or justification in reason).

(e) Appeal Process. Each party may submit a written statement in support of or challenging the outcome of the Title IX Hearing. The written statement must be received by the Vice Chancellor for Student Affairs within five (5) business days of the date on which the Notice of Appeal was filed, or within five (5) business days of the date on which the non-appealing party received notice that the other party filed a Notice of Appeal. Within ten (10) business days of the receipt of the last written statement, the Vice Chancellor for Student Affairs will issue a written decision describing the result of the appeal and the rationale for the result, which will be provided simultaneously to both parties.

(f) The Vice Chancellor for Student Affairs may:

1. Affirm the decision of the Title IX Hearing Officer;

2. Amend the decision of the Title IX Hearing Officer;

3. Return the case to the Title IX Hearing Officer with instructions for reconsideration of the case; or

4. Overturn the decision of the Title IX Hearing Officer.

(2)(3) The decision of any board or administrative officer of the University of Tennessee at Martin is subject to review by the Chancellor.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed April 17, 2012; effective September 28, 2012.

1720-05-01-.10 EMERGENCY POWERS. When, in the judgment of the Chancellor of the University of Tennessee at Martin, conditions are such that an emergency exists which makes it impossible for the system of judicial boards to function, he/she may suspend these procedural regulations. If the procedures are suspended, he/she may substitute for them arrangements for handling disciplinary matters that will insure the orderly functioning of the University and at the same time safeguard the basic rights of the students and student organizations.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed April 17, 2012; effective September 28, 2012.

1720-05-01-.11 INVOLUNTARY MEDICAL WITHDRAWAL OR SUSPENSION.

- (1) When a student is unable to effectively pursue his/her academic work, or when his/her behavior is disruptive to the normal educational processes of the University, or constitutes a threat to members of the University community, due to, among other things, alcohol use, drug use, or a physical or mental incapacitating condition, he/she may be withdrawn or temporarily suspended from the University as hereinafter provided.

- (2) **Withdrawal.** A student may be withdrawn from the University only after an evaluation of his/her mental and physical condition by a panel of at least three (3) persons appointed by the Vice Chancellor for Student Affairs. The student shall be notified of the reasons for the evaluation and given an opportunity to present evidence to the committee. The committee's findings and recommendations shall be forwarded to the Vice Chancellor for Student Affairs, who will notify the student in writing of his/her decision.
- (3) **Temporary Suspension.** Whenever a student, because of his/her mental or physical condition constitutes a danger to persons or property, or when his/her behavior is disruptive to the normal educational processes of the University, he/she may be suspended from the University, for a reasonable period of time, by the Vice Chancellor for Student Affairs. If the University does not withdraw the student in accordance with procedures outlined above, he/she may return to the University at the end of the suspension period.
- (4) **Grades.** When a student is withdrawn or temporarily suspended from the University, he/she may be assigned a grade of "W" or "I," whichever is deemed appropriate by the faculty member involved.
- (5) **Readmission.**
 - (a) A student who is involuntarily withdrawn under this rule may not be readmitted to the University before the start of the next semester or without the approval of the Vice Chancellor for Student Affairs. The student shall also meet all of the admission requirements of the University and of the school or college in which he/she wishes to be readmitted.
 - (b) A student shall submit a written request for permission to reapply to the University with the Vice Chancellor for Student Affairs by October 1 for Spring enrollment, by February 1 for Summer enrollment, and by May 1 for Fall enrollment. The student's written request shall include an explanation of why the Vice Chancellor for Student Affairs should allow the student to reapply and an explanation of the student's plan to transition successfully back into the academic community.
 - (c) The Vice Chancellor for Student Affairs may require the student to provide the panel of individuals who recommended that the student be involuntarily withdrawn with proof that the condition that caused the withdrawal is no longer present or that the condition is under control through treatment such that the student does not present a direct threat to the health or safety of him/herself or others and will not disrupt the normal educational processes of the University. Proof may consist of a current medical or mental health evaluation, demonstration of ongoing medical or mental health treatment, and a plan for treatment upon readmission. The panel may request any other information or documentation that it deems necessary. In exceptional circumstances, the panel may request a second, independent opinion of a qualified medical or mental health professional paid for by the University. In cases where the Vice Chancellor for Student Affairs has imposed other conditions for readmission, it is the responsibility of the student to provide documentation of compliance with those conditions.
 - (d) The panel's recommendation concerning reenrollment or readmission shall be provided to the Vice Chancellor for Student Affairs, who will notify the student in writing of his/her decision. The decision of the Vice Chancellor for Student Affairs is final and may not be appealed.

Authority: T.C.A. § 49-9-209(e); *Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History:* Original rule filed April 17, 2012; effective September 28, 2012.

1720-05-01-.12 INSPECTION AND SEARCH POLICIES.

- (1) Entry by University authorities into occupied rooms in residence halls will be divided into three (3) categories; inspection, search, and emergency. Inspection is defined as the entry into an occupied room by University authorities in order to ascertain the health and safety conditions in the room, to check the physical condition of the room, to make repairs on facilities, or to perform cleaning and janitorial operations. Search is defined as the entry into an occupied room by on-campus authorities for the purpose of investigating suspected violations of campus regulations. An emergency situation exists when the delay necessary to obtain a search authorization constitutes an apparent danger to person, property, or the building itself.
- (2) Inspection: Scheduled inspections by on-campus authorities with the exception of daily janitorial operations shall be preceded, if possible, by twenty-four (24) hours' notice to the residents. During the inspection there will be no search of drawers, closets, or personal belongings. This policy is applicable for residence halls and fraternity houses.
- (3) Search: On-campus authorities will not enter a room for purposes of search without the permission of the resident unless they have a campus authorization to search, authorized by the Vice Chancellor for Student Affairs or his/her designee, which specifies the reasons for the search and the objects or information sought, or unless they enter in compliance with federal or state law. If possible, the student should be present during the search. Normally these searches will not be made unless the Vice Chancellor for Student Affairs or his/her designee is present.
- (4) If the search reveals objects the possession of which violates a law or a University rule, the University may take appropriate disciplinary action even though the objects were not listed on the search authorization.

Authority: *T.C.A. § 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History: Original rule filed April 17, 2012; effective September 28, 2012.*

1720-05-01-.13 ACADEMIC DISHONESTY. The University of Tennessee at Martin has chosen as its primary objective quality undergraduate education. Commitment to this objective must include an obligation by all members of the University community to promote and protect the highest standards of integrity in study, research, instruction and evaluation. Dishonesty or unethical behavior does not belong at an institution dedicated to the promotion of knowledge and learning. Integrity of the academic process requires fair and impartial evaluation by faculty and honest academic conduct by students. A student may be found to have violated this obligation if he/she:

- (1) Refers during an academic evaluation to materials, sources, or devices not authorized by the instructor;
- (2) Provides assistance during an academic evaluation or assignment to another person in a manner not authorized by the instructor;
- (3) Receives assistance during an academic evaluation or assignment from another person in a manner not authorized by the instructor;
- (4) Possesses, buys, sells, obtains, or uses a copy of any materials intended to be used as an instrument of academic evaluation in advance of its administration;
- (5) Acts as a substitute for another person in any academic evaluation or assignment;
- (6) Utilizes another person as a substitute for him/herself in any academic evaluation or assignment;
- (7) Practices any form of deceit in an academic evaluation or assignment;

- (8) Depends on the aid of others, in a manner expressly prohibited by the instructor, in the research, preparation, creation, writing, performing, or publication of work to be submitted for academic credit or evaluation;
- (9) Provides aid to another person, knowing such aid is expressly prohibited by the instructor, in the research, preparation, creation, writing, performing, or publication of work to be submitted for academic credit or evaluation;
- (10) Indulges in plagiarism by presenting as one's own, for academic evaluation or assignment, the ideas, representations, or works of another person or persons without customary and proper acknowledgment of sources;
- (11) Submits the work of another person in a manner that represents the work to be one's own;
- (12) Knowingly permits one's work to be submitted by another person without the instructor's authorization;
- (13) Attempts deceitfully to influence or change one's academic evaluation or record; or
- (14) Indulges in conduct that is so disruptive as to infringe upon the rights of an instructor or fellow students during a class or examination session.

Authority: *T.C.A. § 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. Administrative History: Original rule filed April 17, 2012; effective September 28, 2012.*



The University of Tennessee
Board of Trustees

Resolution ___-2020
Emergency Student Code of Conduct Rules
(University of Tennessee at Martin)

Resolved:

1. The emergency student code of conduct rules, titled "Rules of The University of Tennessee (Martin), Chapter 1720-05-01: Student Rights and Responsibilities," are hereby approved as set forth in the meeting materials, which shall be attached to this Resolution after adoption and shall become effective after completion of the rulemaking procedures under the Uniform Administrative Procedures Act.
2. The proper officers of the University be and hereby are authorized to take any and all such actions as may be required or which they may deem necessary or appropriate in order to implement the emergency rules upon them becoming effective.



THE UNIVERSITY OF TENNESSEE BOARD OF TRUSTEES

AGENDA ITEM SUMMARY

Meeting Date:	August 4, 2020
Item:	Approval of Revisions to Board Policy BT0006 - Policies Governing Academic Freedom, Responsibility, and Tenure
Type:	Action
Presenter:	Ryan Stinnett, General Counsel

Background Information

On May 6, 2020, the U.S. Department of Education released new regulations implementing Title IX of the Education Amendments of 1972 (Title IX). The regulations become effective on August 14, 2020. As one step in implementing the new regulations, Board Policy BT0006 - Policies Governing Academic Freedom, Responsibility, and Tenure must be revised to incorporate grievance procedures and appeal rights for faculty members who are accused of sexual harassment.

The Office of General Counsel, in collaboration with Dr. Linda Martin, Vice President for Academic Affairs and Student Success, and the Chief Academic Officers at each campus and institute, has drafted proposed revisions to this Board policy to implement the new Title IX regulations for faculty. A summary of the most significant proposed changes to the Board policy is as follows:

1. A new Appendix C1 is added to specify the procedures for discipline and termination of faculty members who have been alleged to have committed sexual harassment, to supplement the currently existing Appendix B (the procedures used when the issue is unsatisfactory job performance) and Appendix C (the procedures used when the issue pertains to other kinds of misconduct).
2. By the time the faculty member appeals, a thorough hearing that satisfies the constitutional requirements of due process will already have taken place; for that reason, the new Appendix C1 does not call for an additional evidentiary hearing for the faculty member to contest the imposition of discipline or termination after having been found responsible for committing sexual harassment.



THE UNIVERSITY OF TENNESSEE BOARD OF TRUSTEES

3. Appendix C1 authorizes each campus's Chief Academic Officer to make the final decision on termination or other discipline, and also includes a consultation process similar to those contained in Appendices B and C - the faculty member's departmental colleagues, department head, and dean are consulted, along with the Faculty Senate President and the Chancellor, before the Chief Academic Officer makes a decision.
4. As required by the new Title IX regulations, the appeal process is open to both the respondent faculty member and the complainant on an equal basis.

The proposed revisions to the Board Policy follows this summary.

Board Action

The Board Chair will ask a member of the Board to make a motion to approve the following Resolution:

Resolved:

The Board of Trustees hereby adopts the proposed revisions to Board Policy "BT0006 - Policies Governing Academic Freedom, Responsibility, and Tenure," as set forth in the materials presented, which shall be attached to this Resolution after adoption.

**PROPOSED REVISIONS TO BOARD POLICY
BT0006 - POLICIES GOVERNING ACADEMIC FREEDOM,
RESPONSIBILITY, AND TENURE**

Change BT006, Article III, Section H.2, where it says “in Appendices B and C,” to “in Appendices B, C, and C1.”

Add a new Appendix C1 as follows:

APPENDIX C1: TERMINATION PROCEDURES FOR TITLE IX SEXUAL HARASSMENT

Notwithstanding any other provision in this Policy or in any faculty handbook or other campus-level policy or procedure, the following procedures shall be used for tenured faculty members, tenure-track faculty members, and non-tenure-track faculty members to appeal cases alleging misconduct that constitutes “sexual harassment” as defined in the federal Title IX regulations, 34 C.F.R. § 106.30(a), and that have been subject to the procedures set forth in the applicable campus Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence and Stalking, Appendixes D and D-1, as required by the federal Title IX regulations, 34 C.F.R. § 106.45 (85 Fed. Reg. 30,026, 30,574-78 (May 19, 2020)) (“Title IX Allegations¹”).

Each campus shall incorporate these procedures into the campus faculty handbook, but these procedures are effective and applicable immediately upon adoption by the Board of Trustees and govern instead of the terms of any faculty handbook or other campus-level policy or procedure to the extent of any inconsistency between it and this Policy.

The rights provided in this Appendix C1 are in lieu of any other rights of grievance or appeal in the applicable faculty handbook or any appeal to the President.

1. Right of Appeal Regarding Title IX Allegations

When a Formal Complaint alleging Title IX Allegations against a faculty member is either:

- (1) dismissed, or any allegations therein are dismissed; or
- (2) a Title IX Hearing Officer issues a determination regarding responsibility then either the Complainant or the Respondent faculty member may appeal to the Chief Academic Officer.

¹ “Title IX Allegations” are allegations of sexual harassment that occur in the University’s education program or activity and within the United States. 34 C.F.R. § 106.44(a).

a. Method of Appeal

If the Complainant or the Respondent faculty member wishes to appeal, then the person appealing must provide written notice of appeal in the manner set forth in the applicable Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence and Stalking, Appendix D and D-1.

b. Basis of Appeal

The following bases may be asserted and considered on any appeal:

- (1) Procedural irregularity that affected the outcome of the matter;
- (2) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter;
- (3) The Title IX Coordinator, investigator(s), or Title IX Hearing Officer had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter;
- (4) Any disciplinary sanctions imposed on the Respondent faculty member should not be imposed, or different disciplinary sanctions from those specified in the determination regarding responsibility should be imposed, or disciplinary sanctions should be imposed if none were imposed; or
- (5) The Title IX Hearing Officer made a clear error in dismissing a Formal Complaint or in determining that the Respondent faculty member is or is not responsible for the Title IX Allegations.

2. Determination of Appeal by Chief Academic Officer

a. Additional Information Gathering by Chief Academic Officer

In addition to the materials submitted by the parties as set forth in the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking, Appendixes D and D-1, the Chief Academic Officer may, at the Chief Academic Officer's discretion, request the parties to provide additional written statements or other information to the Chief Academic Officer with copies provided at the same time to other parties, and provide reasonable time limits for them to do so, provided that the Chief Academic Officer provides each party the same opportunity to do so.

b. Consultation Regarding Disciplinary Actions**(1) Termination or Suspension Without Pay**

Before imposing the disciplinary action of either termination of employment or suspension without pay, the Chief Academic Officer will:

(1) request the faculty member's department head to consult with the departmental tenured faculty regarding whether the faculty member's conduct, as determined by the Title IX Hearing Officer, constitutes Adequate Cause for termination or suspension without pay;

(2) consult with the department head regarding whether the faculty member's conduct, as determined by the Title IX Hearing Officer, constitutes Adequate Cause for termination or suspension without pay, and during that consultation receive a report from the department head of the department head's consultation with the tenured faculty;

(3) consult with the dean regarding whether the faculty member's conduct, as determined by the Title IX Hearing Officer, constitutes Adequate Cause for termination or suspension without pay;

(4) consult with the faculty senate president regarding whether the faculty member's conduct, as determined by the Title IX Hearing Officer, constitutes Adequate Cause for termination or suspension without pay; and

(5) consult with the Chancellor regarding whether the faculty member's conduct, as determined by the Title IX Hearing Officer, constitutes Adequate Cause for termination or suspension without pay.

(2) Other Disciplinary Action

Before imposing disciplinary action that is not either termination of employment or suspension without pay, the Chief Academic Officer will consult with the department head and the dean.

c. Decision by Chief Academic Officer

After considering the matters presented to him or her, the Chief Academic Officer will issue a written decision describing the result of the appeal and the rationale for the result, including any disciplinary sanction imposed, which will be provided simultaneously to both parties. The decision of the CAO is final and not further appealable.



THE UNIVERSITY OF TENNESSEE BOARD OF TRUSTEES

AGENDA ITEM SUMMARY

Meeting Date: August 4, 2020
Item: **Grant of Tenure upon Initial Appointment**
Type: Action
Presenter: Randy Boyd, President

Background Information

Chancellor Plowman has recommended tenure be granted to certain individuals upon their initial appointment to a faculty position. I have received documentation that each individual satisfies the following requirements to be considered for tenure upon initial appointment:

- (1) The tenure candidates were tenured at the institution from which they were recruited and could not have been successfully recruited without being considered for tenure upon initial appointment; and
- (2) All the required tenure review and recommendation procedures were followed; all candidates received a positive recommendation for tenure at every level of review.

Information on the candidates is provided in Attachments 1 and 2.

Following my review of the tenure dossiers, in consultation with the Vice President for Academic Affairs and Student Success, I am recommending that the Board grant tenure to these individuals in their faculty appointments.

Board Action

The Board Chair will call for a motion to recommend adoption of the following Resolution:

Resolved: The Board of Trustees hereby grants tenure upon initial appointment to the individuals listed on Attachment 1, which shall be attached to this Resolution after adoption.

August 2020 Tenure upon Initial Appointment

UTK			
Last Name	First Name	College	Department
McNulty	Christopher	College of Arts and Sciences	School of Art
Neelakanta	Girish	College of Veterinary Medicine	Biomedical and Diagnostic Sciences
Sultana	Hameeda	College of Veterinary Medicine	Biomedical and Diagnostic Sciences
Sunil	Thankum	College of Education, Health and Human Science	Public Health

August 2020 Grant of Tenure upon Initial Appointment

Candidate Summaries

UTK

Chancellor Donde Plowman has recommended that tenure be granted to the following individuals upon their initial appointment to a faculty position at UT Knoxville:

Mr. Christopher McNulty was recruited from Auburn University to serve as the Director of the of the School of Art in the College of Arts and Sciences. Mr. McNulty joined the faculty at Auburn University in 2001, achieved tenure in 2006, and was promoted to the rank of Full Professor in 2012; he served as Chair of the Department of Art & Art History at Auburn since 2018 where he managed an annual budget of \$1.86M. Mr. McNulty has had an active and distinguished career in creative research. His artwork has been featured in major galleries and museums located in Austin, New Orleans, Atlanta, San Francisco, Miami, Barcelona, and Toronto, as well as in eminent universities and art schools. Reviews of his work have been featured in many publications including *Art Papers*, *New American Paintings*, *The Atlanta Journal Constitution*, and *The Week*. In addition, Mr. McNulty has completed artist residencies at the MacDowell Colony, Marble House Project, Hambidge Center, and Vermont Studio Center, and he received the Emerging Arts Administrator Fellowship from the National Council of Arts Administrators in 2019.

Dr. Girish Neelakanta was recruited from Old Dominion University, where he held tenure, to serve as associate professor in the Department of Biomedical and Diagnostic Sciences in the College of Veterinary Medicine. Dr. Neelakanta has a strong publication record which includes 38 peer-reviewed articles and 2 book chapters. He has been prolific in obtaining extramural grant support and is currently funded with a \$1.9 million R01 grant from NIH. He has established a national reputation in infectious disease research. Dr. Neelakanta has been invited to present his research and serve as session chair at national and international conferences; speak at academic and federal institutions; organize national scientific meetings and symposia; and serve as a grant reviewer for federally sponsored programs. Dr. Neelakanta will bring needed expertise to the One Health initiative in the areas of vector-borne infectious agents and disease pathogenesis. In addition to his research accomplishments, Dr Neelakanta received the Old Dominion University Shining Star Faculty Award for helping students succeed inside and outside of the classroom.

Dr. Hameeda Sultana was recruited from Old Dominion University, where she held tenure, to serve as associate professor in the Department of Biomedical and Diagnostic Sciences in the College of Veterinary Medicine. Her documented accomplishments include widely read scholarly articles in peer-reviewed publications addressing novel treatments of West Nile, Zika, and other viruses. She has also been prolific in writing and carrying out grant-funded projects and is in year two of a \$1.9 million R01 project funded by NIH and is concluding a previous R01 grant also funded at the \$1.9 million level. In addition to her research accomplishments, Dr. Sultana taught a 3-credit course for undergraduate and/or graduate students every semester in Neurobiology, Cell Biology, and Cell Signaling. She has a strong record of successfully training PhD and MS graduate students and postdoctoral fellows, and she has successfully mentored numerous undergraduate students in her laboratory.

Dr. Thankum Sunil was recruited from the University of Texas at San Antonio (UTSA) to serve as Head of the Department of Public Health in the College of Education, Health and Human Sciences. Dr. Sunil has a strong record of leadership, scholarship, teaching, and curriculum development (at both the undergraduate and graduate levels). He served as founding Director of the Institute for Health Disparities Research, and Program Director for the Public Health program while at UTSA. As Program Director, he developed a new undergraduate program in Public Health; enrollment in this program went from zero to over 900 students in six years. In addition, Dr. Sunil has an impressive scholarly record that includes high-impact, interdisciplinary research and extensive grantsmanship. He has published over 60 articles in peer-reviewed journals such as *Preventative Medicine* and *Journal of Maternal Health Medicine*, and *Maternal and Child Nutrition*. He has secured extramural grants and contracts from both state and federal agencies, totaling more than \$7M.