

**RULES
OF
THE TENNESSEE BOARD OF REGENTS**

**CHAPTER 0240-01-05
CONTESTED CASE PROCEDURES**

TABLE OF CONTENTS

0240-01-05-.01 Contested Case Procedures

0240-01-05-.01 CONTESTED CASE PROCEDURES.

- (1) This Chapter outlines the procedures that the Tennessee Board of Regents (the TBR) and institutions under the authority of the TBR shall use to conduct hearings in contested cases under the Uniform Administrative Procedures Act, Tennessee Code Annotated §§ 4-5-101 et seq. (the UAPA). Contested cases are proceedings in which the legal rights, duties, or privileges of a student, student organization, employee, or other person are required by any statute or constitutional provision to be determined only after that individual or entity has been provided an opportunity for a hearing.
- (2) Applicability – TBR and institutions under its authority will apply the contested case provisions of the UAPA to:
 - (a) The suspension or expulsion of students who elect and properly request to pursue a UAPA hearing when made available by TBR rules instead of another available hearing option;
 - (b) Revocation of recognition of a student organization; and
 - (c) Any case where a contested case hearing is properly requested and required by law to be offered.
 - (d) These rules are not applicable either to termination of faculty for adequate cause, which proceedings are subject to the provisions of T.C.A. § 49-8-302; to proceedings subject to TBR Chapter 0240-02-10, Title IX Compliance; or where otherwise prohibited by state or federal law.
- (3) Administrative Judges and Hearing Officers
 - (a) In any case where a UAPA contested case hearing is available, elected, and properly requested, the president (or chancellor for cases arising out of the TBR System Office) or designee may make a request to the office of the secretary of state to have the contested case heard by an administrative judge or hearing officer employed in the office of the secretary of state.
 - (b) In lieu of asking the secretary of state to have the contested case heard by an administrative judge or hearing officer employed in the office of the secretary of state, the president (or chancellor for cases arising out of the TBR System Office) or designee may determine, in his or her sole discretion, whether the hearing shall be held before:
 1. A person who is licensed to practice law and who is not employed as an attorney for a TBR institution or the TBR System Office;
 2. A former state, county, or municipal judge or a former federal judge or magistrate;

(Rule 0240-01-05-.01, continued)

3. An employee of a TBR institution or TBR System Office who has been trained to conduct contested cases, but who does not provide legal representation to the institution; or
 4. An employee of another public institution who has been trained to conduct contested cases.
- (c) Any administrative judge or hearing officer who hears a case involving sexual harassment, sexual assault, domestic violence, dating violence, or stalking shall receive training as required by federal and/or state law.
- (4) Procedures
- (a) The UAPA and the Tennessee Department of State's Uniform Rules of Procedures for Hearing Contested Cases before State Administrative Agencies, Tennessee Department of State Rule Chapter 1360-04-01, shall be used for contested case hearings under this Chapter.
 - (b) For purposes of review and action following issuance of an initial order, the agency head will be the president or other head of an institution out of which the contested case arises, and the chancellor or chancellor's designee when the contested case arises out of the TBR System Office or when the president or other head of an institution is not available to serve as agency head due to a conflict of interest, recusal, disqualification, or other reason.

Authority: T.C.A. §§ 49-7-167 and 49-8-203. **Administrative History:** New rule filed July 13, 2021; effective October 11, 2021.