

**RULES
OF
THE TENNESSEE BOARD OF REGENTS**

**CHAPTER 0240-02-03
STUDENT CONDUCT AND DISCIPLINARY SANCTIONS**

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0240-02-03-.01 INSTITUTIONAL RESTATEMENT OF RULES.

- (1) Students enrolled in a TBR postsecondary educational institution are citizens of their civic communities as well as the academic community. As such, they are expected to conduct themselves as law-abiding members of each community at all times. Admission to an institution of postsecondary education carries with it special privileges and imposes special responsibilities apart from those rights and duties enjoyed by non-students. In recognition of the special relationship that exists between the institution and the academic community which it seeks to serve, the Tennessee Board of Regents ("TBR" or "the Board") has authorized the presidents of the institutions under its jurisdiction to take such action, consistent with these rules and the institution's restatement of these rules, as may be necessary to maintain conditions on institution-owned and/or controlled property and to preserve the integrity of the institution and its educational environment.
- (2) Pursuant to this authorization and in fulfillment of its duties to provide a secure and stimulating atmosphere in which individual and academic pursuits may flourish, the TBR has developed the following rules to govern student conduct for the institutions under its jurisdiction. Each institution under the jurisdiction of the TBR is directed to publish an institutional restatement of these rules to students. In addition, students are subject to all federal, state, and local laws and ordinances. Institutions may enforce these rules regardless of the status or outcome of any external proceedings instituted by other civil or criminal authorities. Students are responsible for compliance with these rules.
- (3) For the purpose of these rules, a "student" shall mean any person:
 - (a) Who is admitted, enrolled, and/or registered for study (including for non-credit classes) at a TBR institution for any academic period. This shall include any period of time following admission and/or registration, but preceding the start of classes for any academic period, following the end of an academic period through the last day for registration for the succeeding academic period, and during any period while the student is under suspension from the institution;
 - (b) Subject to a period of suspension or removal from campus resulting from a finding of a violation of these rules;
 - (c) Who engaged in academic misconduct as part of the application process; and/or
 - (d) Who previously attended a TBR institution and who was found to have violated these rules during the time of enrollment.
 - (e) Unless explicitly provided otherwise in these rules, the term "student" shall also refer to a student organization.

(Rule 0240-02-03-.01, continued)

- (4) Disciplinary action may be taken against a student for violation of these rules that occurs on institutionally owned, leased or otherwise controlled property (including all streets, alleys, sidewalks, and public ways abutting such property), while participating in international or distance learning programs, and off campus when the conduct impairs, interferes with, or obstructs any institutional activity or the mission, processes, and functions of the institution. In the case of violations that occur off institutionally owned, leased, or controlled property, the institution will take into account whether the violation impairs, interferes with, or obstructs any institutional activity, or the mission, processes, and function of the institution, including, but not limited to, conduct that:
 - (a) Occurs in connection with any institutional activity, including but not limited to, international, distance, online, or remote learning programs, athletics events and other extracurricular activities, clinical, internship, practicum, and similar activities;
 - (b) Occurs while using institutional resources, such as computers and network systems;
 - (c) Involves or affects another member of the TBR community (a student, faculty, staff member or guest of a TBR institution); or
 - (d) Poses a credible, serious threat to the health and safety of the TBR community.
- (5) These rules are applicable to student organizations as well as individual students. Whether a student organization will be held responsible for a violation of these rules by one (1) or more of its members will be based on the following considerations:
 - (a) The violation is endorsed by the student organization or any of its officers. "Endorsed by" includes, but is not limited to, active or passive consent or support, having prior knowledge that the conduct was likely to occur, or helping to plan, advertise, or promote the conduct;
 - (b) The violation took place during the course of an activity paid for by the student organization or by members of the student organization to support the activity in question;
 - (c) The prohibited conduct occurred on property owned, controlled, rented, leased, or used by the student organization or any of its members for an organizational event;
 - (d) The prohibited conduct was related to initiation, admission into, affiliation with, or as a condition for continued membership in the student organization; and
 - (e) One (1) or more officers of the student organization had prior knowledge or reasonably should have known the prohibited conduct would likely take place.
- (6) Confidentiality of Discipline Process. Subject to the exceptions provided pursuant to the Family Educational Rights and Privacy Act of 1974 (FERPA), 20 U.S.C. 1232g, the Tennessee Public Records Act, T.C.A. §§ 10-7-501 et seq., and/or other state and federal law, a student's disciplinary records and files are considered "education records" and are confidential in accordance with those acts.
- (7) Matters involving sexual harassment, sexual assault, stalking, domestic violence, and dating violence occurring within an education program or activity of TBR or a TBR institution, if within the scope of TBR Chapter 0240-02-10, Title IX Compliance, which implements 34 C.F.R. Part 106 related to Title IX of the Education Amendments of 1972, shall proceed in accordance with TBR Chapter 0240-02-10, Title IX Compliance, and not these rules.

(Rule 0240-02-03-.01, continued)

Authority: T.C.A. §§ 4-5-101, et seq. and 49-8-203. **Administrative History:** Repeal of all rules by Public Chapter 261; effective July 1, 1983. New rule filed April 28, 1983; effective July 13, 1983. Amendment filed August 28, 1984; effective November 13, 1984. Amendment filed November 12, 2008; effective March 30, 2009. Repeal and new rule filed August 10, 2011; effective January 29, 2012. Amendment filed August 18, 2015; effective November 15, 2015. Amendments filed July 13, 2021; effective October 11, 2021.

0240-02-03-.02 DISCIPLINARY OFFENSES.

- (1) Disciplinary measures shall be imposed according to these rules and the institution's restatement of these rules, procedures, and processes implementing these rules. Institutions shall use the standard of evidence contained in the Tennessee Uniform Administrative Procedures Act, T.C.A. §§ 4-5-101 et seq. ("UAPA") and Department of State Rule 1360-04-01. These rules shall not be used to violate rights guaranteed under the constitution of the State of Tennessee or the constitution of the United States.
- (2) Both students and student organizations may be subject to disciplinary action for the following disciplinary offenses identified in these rules:
 - (a) **Threatening Conduct.** Any conduct, threatened conduct, or attempted conduct that poses a threat to a person's safety, health, or personal well-being, including, but not limited to, endangering the health, safety, or welfare of any person; 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 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;
 - (b) **Disruptive Conduct.** Any conduct, threatened conduct, or attempted conduct that is disruptive to the institution's learning environment, including, but not limited to, engaging in any action that interferes with the ability of the instructor to teach or other students to learn. Disruptive conduct in the classroom includes, but is not limited to, behavior that obstructs or disrupts the learning environment (e.g., offensive language, harassment of students and instructors, repeated outbursts from a student that disrupt the flow of instruction or prevent concentration, failure to cooperate in maintaining classroom decorum, etc.), text messaging, and the continued use of any electronic or other noise or light emitting device which disturbs others;
 - (c) **Hazing.** Hazing, as defined in T.C.A. § 49-7-123(a)(1), means any intentional or reckless act on or off the property of any higher education institution by an individual acting alone, or with others, which is directed against any other person(s) that endangers the mental or physical health or safety of that person(s), or which induces or coerces a person(s) to endanger such person's mental or physical health or safety. Hazing does not include customary athletic events or similar contests or competitions, and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization;
 - (d) **Disorderly Conduct.** Any individual or group behavior which is abusive, obscene, lewd, indecent, (including, without limitation, public exposure of one's sex organs, public urinating, and public sexual acts), violent, excessively noisy, disorderly, or which unreasonably disturbs institutional functions, operations, classrooms, other groups or individuals;
 - (e) **Obstruction of or Interference with Institutional Activities or Facilities.** Any intentional interference with or obstruction of any institutional program, event, or facility including but not limited to the following:

(Rule 0240-02-03-.02, continued)

1. Any unauthorized occupancy of facilities owned or controlled by an institution or blockage of access to or from such facilities;
 2. Interference with the right of any institution member or other authorized person to gain access to any activity, program, event or facilities sponsored or controlled by an institution;
 3. Any obstruction or delay of a security officer, public safety officer, police officer, firefighter, EMT, or any official of an institution, or failure to comply with any emergency directive issued by such person in the performance of his or her duty;
 4. Participation in a demonstration that substantially impedes institutional operations; or
 5. Obstruction of the free flow of pedestrian or vehicular traffic on property owned, leased or controlled by an institution or at an institutional activity.
- (f) Misuse of or Damage to Property. Any act of misuse, vandalism, malicious or unwarranted damage or destruction, defacing, disfiguring or unauthorized use of property belonging to the institution or a member of the TBR community including, but not limited to, any personal property, fire alarms, fire equipment, elevators, telephones, institution keys, library materials and/or safety devices;
- (g) Theft, Misappropriation, or Unauthorized Sale of Property;
- (h) Misuse of Documents or Identification Cards. Any forgery, alteration of or unauthorized use of institutional documents, forms, records or identification cards, including the giving of any false information, or withholding of necessary information, in connection with a student's admission, enrollment or status in the institution;
- (i) Weapons. Possessing, carrying, using, storing, or manufacturing any weapon on institution controlled property or in connection with an institution affiliated activity, unless federal or state law provides a student with an affirmative right to possess or carry a weapon on institution controlled property or in connection with an institution-affiliated activity;
- (j) Explosives, Fireworks, Flammable and Hazardous Materials. The unauthorized possession, ignition, or detonation of any object or article that represents a potential danger to the TBR community, including, but not limited to, explosives, fireworks, flammable materials, ammunition, hazardous liquids, chemicals, or hazardous materials;
- (k) Alcoholic Beverages and Alcohol-Related Conduct. The use, possession, distribution, or sale of alcoholic beverages on institution owned or controlled property or in connection with any institutional activity unless expressly permitted by the institution;
- (l) Drugs. The unlawful possession, use, distribution, sale, or manufacture of any drug or controlled substance (including, but not limited to, any stimulant, depressant, narcotic or hallucinogenic drug, or marijuana). This offense includes using or possessing a prescription drug if the prescription was not issued to the student, as well as the violation of any local ordinance, state, or federal law concerning the unlawful possession or use of drugs;

(Rule 0240-02-03-.02, continued)

- (m) Drug Paraphernalia. The use, possession, distribution, sale, or manufacture of equipment, products or materials that are used or intended for use in manufacturing, growing, using or distributing any drug or controlled substance. This offense includes the violation of any local ordinance, state, or federal law concerning the unlawful possession of drug paraphernalia;
- (n) Public Intoxication. Appearing on institution owned or controlled property or at an institutional sponsored event while under the influence of alcohol, a controlled substance or of any other intoxicating substance;
- (o) Gambling. Unlawful gambling in any form;
- (p) Financial Irresponsibility. Failure to meet financial responsibilities to the institution promptly including, but not limited to, knowingly passing a worthless check or money order in payment to the institution;
- (q) Unacceptable Conduct Related to Disciplinary Proceedings. Any conduct at any stage of an institutional disciplinary proceeding or investigation that is contemptuous, threatening, retaliatory, or disorderly, including false complaints, false testimony or other falsification of evidence, and attempts to influence the impartiality of a member of an adjudicatory body, verbal or physical harassment or intimidation of an institutional official, hearing panel member, complainant, respondent, or witness;
- (r) Failure to Cooperate with Institutional Officials. Failure to comply with reasonable directions of institutional officials acting in the performance of their duties. This includes, but is not limited to, failing to respond to a request to report to an institutional administrative office, failing to cooperate in an institutional investigation, failing to appear at an institutional hearing, including, without limitation, a disciplinary hearing;
- (s) Attempts, Aiding, and Abetting. Any attempt to commit any of the offenses listed under this section or the aiding or abetting of the commission of any of the offenses listed under this section. (An attempt to commit an offense is defined as the intention to commit the offense coupled with the taking of some action toward its commission.) Being present during the planning or commission of any, offense listed under this section without having made an immediate report to the institution prior to the commission of the planned offense will be considered as aiding and abetting. Students who anticipate or observe an offense must remove themselves from the situation and are required to report the offense to the institution;
- (t) Violation of State or Federal Laws. Any violation of state or federal laws, rules, or regulations prohibiting conduct or establishing offenses;
- (u) Violation of Imposed Disciplinary Sanctions. Intentional or unintentional violation of a disciplinary sanction imposed through an institutional disciplinary proceeding;
- (v) Sexual Misconduct. Committing any act of sexual assault, rape, sexual battery, domestic violence, or dating violence as defined by state or federal law;
- (w) Harassment, Stalking, or Retaliation. Any conduct that falls within T.C.A. § 39-17-308 (Harassment) or T.C.A. § 39-17-315 (Stalking) or "student-on-student harassment," which means unwelcome conduct directed toward a person that is discriminatory on a basis prohibited by federal, state, or local law, and that is so severe, pervasive, and objectively offensive that it effectively bars the victim's access to educational opportunity or benefit. Engaging in "retaliation," which is an act or omission committed by a student because of another person's participation in a protected activity that would

(Rule 0240-02-03-.02, continued)

discourage a reasonable person from engaging in protected activity. Retaliation violates these standards regardless of whether the underlying allegation of a violation of a rule is ultimately found to have merit. Retaliation can include, without limitation: an act or omission committed against a person's family, friends, advisors, and or other persons reasonably expected to provide information in connection with an institutional investigation or hearing, and an act or omission committed by a student through a third party;

- (x) Discrimination. Any conduct prohibited by any federal or state law, rule, or regulation related to discrimination, harassment, or retaliation;
- (y) Academic Misconduct. Any action or attempted action designed to provide an unfair academic advantage or disadvantage for oneself or others. Academic misconduct includes a wide variety of behaviors such as plagiarism, cheating, fabrication, and other academic dishonesty. For purposes of these rules the following definitions apply:
 - 1. Plagiarism. The adoption or reproduction of ideas, words, statements, images, or works of another person as one's own without proper attribution. Examples include but are not limited to copying of passages from works of others into one's own work without acknowledgment; summarizing or paraphrasing ideas from another source without proper attribution, unless such information is recognized as common knowledge; and using facts, statistics, graphs, representations, or phrases without proper attribution;
 - 2. Cheating. Using or attempting to use unauthorized materials, information, or aids in any academic exercise or test/examination. Examples include but are not limited to copying another's work; obtaining or giving unauthorized assistance; unauthorized collaboration or collusion with another person; having another person take a test for a student; and the use of unauthorized materials or devices. The term academic exercise includes all forms of work submitted for credit or hours; and
 - 3. Fabrication. Falsifying, fabricating, or misrepresenting data, research results, citations or other information in connection with an academic assignment. Unauthorized falsification or invention of any information or citation in an academic exercise.
- (z) Unauthorized Duplication or Possession of Keys. Making, causing to be made or the possession of, with the intent to use or make available for use by others, any key for an institutional facility without proper authorization;
- (aa) Litter. Dispersing litter in any form onto the grounds or facilities of the institution;
- (bb) Pornography. Public display of literature, films, pictures or other materials which an average person applying contemporary community standards would find, (1) taken as a whole, appeals to the prurient interest, (2) depicts or describes sexual conduct in a patently offensive way, and/or (3) taken as a whole, lacks serious literary, artistic, political or scientific value;
- (cc) Abuse of Computer Resources and Facilities. Misusing and/or abusing institutional computer resources including, but not limited to the following:
 - 1. Use of another person's identification to gain access to institutional computer resources;

(Rule 0240-02-03-.02, continued)

2. Use of institutional computer resources and facilities to violate copyright laws, including, but not limited to, the act of unauthorized distribution of copyrighted materials using institutional information technology systems;
 3. Unauthorized access to a computer or network file, including but not limited to, altering, using, reading, copying, or deleting the file;
 4. Unauthorized transfer of a computer or network file;
 5. Use of computing resources and facilities to send abusive or obscene correspondence;
 6. Use of computing resources and facilities in a manner that interferes with normal operation of the institutional computing system;
 7. Use of computing resources and facilities to interfere with the work of another student, faculty member, or institutional official; or
 8. Unauthorized peer-to-peer file sharing.
- (dd) Unauthorized Access to Institutional Facilities and/or Grounds. Any unauthorized access and/or occupancy of institutional facilities and/or grounds is prohibited, including, but not limited to, gaining access to facilities and grounds that are closed to the public, being present in areas of campus that are open to limited guests only, being present in academic buildings after hours without permission, and being present in buildings when the student has no legitimate reason to be present;
- (ee) Providing False Information. Giving any false information to, or withholding necessary information from, any institutional official acting in the performance of his or her duties in connection with a student's admission, enrollment, or status in the institution;
- (ff) Observation Without Consent. Observation Without Consent, which is prohibited by T.C.A. § 39-13-607 (a criminal statute) for purposes of these rules, means knowingly spying upon, observing, or otherwise viewing an individual, regardless of whether a photo, video, or recording is made, when the individual is in a place where there is reasonable expectation of privacy, without the prior effective consent of the individual, if the viewing would offend or embarrass an ordinary person if the person knew the person was being viewed. This includes, but is not limited to, taking video or photographic images in shower/locker rooms, living quarters, and restrooms, and storing, sharing, and/or distributing of such unauthorized images by any means;
- (gg) Smoking Violations. Smoking or tobacco use in any institution building or facility, in any state-owned vehicle, or on any institution grounds or property, unless in a designated smoking or tobacco use area. For the purposes of these rules, "tobacco use" includes, but is not limited to, the personal use of any tobacco product, whether intended to be lit or not, which includes smoking tobacco or other substances that are lit and smoked, as well as the use of an electronic cigarette or any other device intended to simulate smoking, and the use of smokeless tobacco, including snuff; chewing tobacco; smokeless pouches; any form of loose-leaf, smokeless tobacco; and the use of unlit cigarettes, cigars, and pipe tobacco;
- (hh) Maintenance of Ethical and Professional Standards. Failure to maintain the high ethical and professional standards of the various disciplines of the health professions may subject a student to suspension from a program, dismissal from a program, or other appropriate remedial action.

(Rule 0240-02-03-.02, continued)

1. A student enrolled in a program leading to a degree or certificate in a health profession is subject to disciplinary action up to and including suspension and dismissal from a program for engaging in the following acts of misconduct, regardless of location:
 - (i) Commission of an offense classified as a felony by Tennessee or federal criminal statutes;
 - (ii) Unlawful use, possession, or sale of drugs or narcotics, whether or not felonious;
 - (iii) Other unprofessional or unethical conduct that would bring disrepute and disgrace upon both the student and profession and that would tend to substantially reduce or eliminate the student's ability to effectively practice the profession in which discipline he or she is enrolled; or
 - (iv) Conduct that is in violation of either a relevant Tennessee statute establishing professional standards or a rule or regulation of a Tennessee regulatory board or other body responsible for the establishment and enforcement of professional standards.
 2. A person applying for admission to a health profession program may be denied admission to the program on the basis of his or her violation of the aforementioned ethical and/or professional standards;
 - (ii) Traffic and Parking Fines. Receiving \$100.00 or more in traffic and/or parking violations on institution property or institution-controlled property during any semester.
 - (jj) Indecent Exposure. Indecent exposure, which is prohibited by T.C.A. § 39-13-511 (a criminal statute), for purposes of these rules means in a public place intentionally exposing one's genitals or buttocks to another or engaging in sexual contact or sexual penetration where the person reasonably expects that the acts will be viewed by another, and the acts will offend an ordinary viewer or are for the purpose of sexual arousal and/or gratification.
- (3) Disciplinary holds
- (a) An institution may place a hold on a student record when the student has:
 1. Withdrawn from the institution while a disciplinary meeting and/or proceeding is pending;
 2. Not responded to an institutional official's request for a meeting or hearing; or
 3. Been suspended or expelled.
 - (b) A disciplinary hold may remain on a student's record until final resolution of a disciplinary meeting and/or disciplinary hearing.
 - (c) An institution will not confer a degree when a student record has been placed on hold, or when a student has a pending disciplinary meeting and/or disciplinary proceeding.

(Rule 0240-02-03-.02, continued)

- (4) Except for cases involving Academic Misconduct, an institution will not revoke a degree or credential based on conduct occurring while a person was a student, but not discovered until after the awarding of a degree or credential.

Authority: T.C.A. §§ 4-5-101, et seq., 49-7-123(a)(1), and 49-8-203. **Administrative History:** Repeal of all rules by the Public Chapter 261; effective July 1, 1983. New rule filed April 28, 1983; effective July 13, 1983. Amendment filed August 28, 1984; effective November 13, 1984. Amendment filed May 13, 1991; effective August 28, 1991. Amendment filed July 3, 1996; effective November 28, 1996. Amendment filed November 20, 1996; effective March 28, 1997. Amendment filed February 18, 1999; effective June 28, 1999. Amendment filed August 11, 2004; effective December 29, 2004. Amendments filed November 12, 2008; effective March 30, 2009. Repeal and new rule filed August 10, 2011; effective January 29, 2012. Emergency rule filed August 18, 2015; effective through February 14, 2016. Amendment filed August 18, 2015; effective November 15, 2015. Amendments filed July 13, 2021; effective October 11, 2021.

0240-02-03-.03 CLASSROOM AND ACADEMIC MISCONDUCT.

(1) Classroom Misconduct

- (a) The instructor has the primary responsibility for controlling class (which for these rules includes any remote class and/or offsite class such as a clinic site or other non-traditional class environment) behavior and responding to disruptive conduct.
- (b) The instructor may order the temporary removal or exclusion from the classroom of any student engaged in disruptive conduct or other conduct that violates these rules for each class session during which the conduct occurs. Extended or permanent exclusion from the classroom beyond the session in which the conduct occurred or further disciplinary action can be effected only through appropriate procedures set forth in these rules.

(2) Academic Misconduct

- (a) Academic misconduct is prohibited. Students guilty of academic misconduct, either directly or indirectly, through participation or assistance, are immediately responsible to the instructor of the class. In addition to other possible disciplinary sanctions that may be imposed in accordance with these rules and institutional restatement of these rules, the instructor has the authority to take academic discipline consistent with these rules and institutional restatement of these rules, procedures, and processes.
- (b) An instructor who determines that a student has engaged in academic misconduct may choose to exercise academic discipline by lowering to any extent, including to a grade of "F" or "zero," a student's grade in the course, assignment, or examination affected by the alleged academic misconduct.
- (c) An instructor who initiates academic discipline shall inform the appropriate Chair and Dean (or other individual(s) identified by the institution) in writing of the finding of academic misconduct, the basis therefor, the academic discipline imposed, and the appeals process within five (5) days of the imposition of academic discipline.
- (d) A student may not withdraw from a course pending final resolution of an allegation of academic misconduct. Students are permitted and encouraged to continue attending class until the academic disciplinary decision, including all appeals, is final.
- (e) A student charged with academic misconduct has the option of either accepting the academic discipline imposed by the instructor or initiating the appeals process to challenge the allegation of academic misconduct or the severity of the academic

(Rule 0240-02-03-.03, continued)

discipline. If the student does not respond in writing within five (5) days by either accepting or appealing the academic discipline to the institutional academic misconduct appeals committee, the student waives the right to contest the academic discipline, at which time it becomes final.

- (f) An institutional academic misconduct appeals committee shall consist of at least three (3) individuals and include at least one (1) student. The chief academic officer or other administrator identified by the institution will assemble the committee and coordinate the hearing but will not participate on the committee. Any individual who has an interest in the incident, a conflict of interest, or a bias is not permitted to serve on the committee. An institution may maintain standing pools from which individuals may be appointed and/or appoint ad hoc academic misconduct appeals committees. At a technical college, the president has the authority to appoint a single administrator to perform the functions of the academic misconduct appeals committee and to effectuate the processes identified in this rule.
- (g) The academic misconduct appeals committee will set a hearing date that is within fifteen (15) business days of receipt of date of the student's appeal. The student must receive at least seven (7) calendar days' notice of the date, time, and location of the hearing. A student will be notified of the due process protections provided for in TBR Rule 0240-02-03-.06.
- (h) The academic misconduct appeals committee will conduct the appeal hearing, consider the evidence presented, and make a decision based on a simple majority vote using a preponderance of the evidence standard. The committee can either uphold, overturn, or lessen the academic discipline. The results of the committee's decision will be conveyed to the student in writing, through the chief academic officer or other individual identified by the institution, within ten (10) business days of the hearing.
- (i) If the academic misconduct appeals committee upholds or lessens the academic discipline, the student may appeal in writing to the president within five (5) business days following receipt of the decision of the committee. The president will make a decision within ten (10) business days. The president's decision is final.
- (j) The institution's chief academic officer, president, or other administrator identified by the institution has the ability to extend any deadline in this section for good cause and upon written notice to the student.
- (k) In addition to academic discipline, a student who is found responsible for academic misconduct, either one (1) or more times, may be subject to disciplinary sanctions in accordance with these rules.
- (l) The institution shall maintain permanently all submissions by the student and all decisions of institutional officials and committees relating to academic misconduct.

Authority: T.C.A. §§ 4-5-101, et seq. and 49-8-203. **Administrative History:** Repeal of all rules by Public Chapter 261; effective July 1, 1983. New rule filed April 28, 1983; effective July 13, 1983. Amendment filed August 28, 1984; effective November 13, 1984. Amendment filed August 11, 2004; effective December 29, 2004. Repeal and new rule filed August 10, 2011; effective January 29, 2012. Amendment filed August 18, 2015; effective November 15, 2015. Amendments filed July 13, 2021; effective October 11, 2021.

0240-02-03-.04 DISCIPLINARY SANCTIONS.

- (1) Institutions shall publish these rules and provide notice of potential disciplinary sanctions applicable to both students and student organizations. Disciplinary sanctions may be

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imposed only after a violation of these rules has been established. Disciplinary sanctions may be imposed, either singly or in combination.

(2) Types of Sanctions:

- (a) Restitution. Restitution may be required in situations, which involve theft, destruction, damage, or loss of property, or unreimbursed medical expenses resulting from physical injury. When restitution is required, the student or student organization is obligated by the appropriate institutional authority to compensate a party or parties for a loss suffered as a result of disciplinary violation(s). This action may take the form of appropriate service, monetary compensation, or material replacement. Any monetary payment in restitution shall be limited to actual cost of repair, replacement or financial loss;
- (b) Warning. The appropriate institutional official may notify orally or in writing the student or student organization that continuation or repetition of specified conduct may be cause for other disciplinary action;
- (c) Reprimand. A written or verbal reprimand or censure may be given to any student or student organization whose conduct violates any part of these rules and provides notice that any further violation(s) may result in more serious penalties;
- (d) Service to the Institution or Community. A student or student organization may be required to donate a specified number of service hours to the institution performing reasonable tasks for an appropriate institution office, official(s), or the local community. The service required shall be commensurate to the offense (including but not limited to, service for maintenance staff for defacing institutional property);
- (e) Specified Educational/Counseling Program. A student or student organization may be required to participate in specified educational or counseling program(s) relevant to the offense, or to prepare a project or report concerning a relevant topic;
- (f) Restriction. A restriction upon a student's or student organization's privileges for a period of time may be imposed. This restriction may include, but not be limited to, denial of the ability to represent the institution at any event, ability to participate in institution or TBR sponsored travel, use of facilities, parking privileges, participation in extracurricular activities or restriction of organizational privileges;
- (g) Probation. Continued enrollment of a student or recognition of a student organization on probation may be conditioned upon adherence to these rules. Any student or organization placed on probation will be notified in writing of the terms and length of the probation. Probation may include but not be limited to restrictions upon extracurricular activities, or any other appropriate special condition(s). Any conduct in further violation of these rules while on probationary status or the failure to comply with the terms of the probationary period may result in the imposition of further disciplinary action;
- (h) Suspension. Suspension is the separation of a student or student organization from the institution for a specified period of time. Suspension may be accompanied by special conditions for readmission or recognition;
- (i) Expulsion. Expulsion entails a permanent separation from the institution. The imposition of this sanction is a permanent bar to the student's admission, or a student organization's recognition by the institution. A student or organization that has been expelled may not enter institution property or facilities or institution-controlled property or facilities without obtaining prior approval from an appropriate institution official with knowledge of the expulsion directive;

(Rule 0240-02-03-.04, continued)

- (j) Revocation and Withholding of Admission, Degree, or Credential; and
 - (k) Interim Involuntary Withdrawal or Suspension. As a general rule, the status of a student or student organization accused of violation of these rules should not be altered until a final determination has been made in regard to the charges. However, interim or involuntary withdrawal or suspension, pending the completion of disciplinary procedures, may be imposed upon a finding that the conduct, or attempted conduct of the student poses a direct threat to the safety of any other member of the institution, its guests, property, or the student's behavior is materially and substantially disruptive of the institution's learning environment, or other campus activities. In any case of interim or involuntary withdrawal or suspension, the student, or student organization, shall be given an opportunity at the time of the decision, or as soon thereafter as reasonably possible, to contest the suspension in accordance with these rules.
- (3) The president is authorized, either personally or through a designee, to negotiate a mutually acceptable resolution to any disciplinary proceeding or to rescind or convert any sanction imposed to a lesser sanction.

Authority: T.C.A. §§ 4-5-101, et seq. and 49-8-203. **Administrative History:** Repeal of all rules by Public Chapter 261; effective July 1, 1983. New rule filed April 28, 1983; effective July 13, 1983. Amendment filed August 28, 1984; effective November 13, 1984. Amendment filed August 11, 2004; effective December 29, 2004. Amendments filed November 12, 2008; effective March 30, 2009. Repeal and new rule filed August 10, 2011; effective January 29, 2012. Emergency rule filed August 18, 2015; effective through February 14, 2016. Amendment filed August 18, 2015; effective November 15, 2015. Amendments filed July 13, 2021; effective October 11, 2021.

0240-02-03-.05 REPEALED.

Authority: T.C.A. §§ 4-5-101, et seq. and 49-8-203. **Administrative History:** Original rule filed August 10, 2011; effective January 29, 2012. Amendment filed August 18, 2015; effective November 15, 2015. Repeal filed July 13, 2021; effective October 11, 2021.

0240-02-03-.06 DISCIPLINARY PROCEDURES.

- (1) General
 - (a) Institutions shall provide students with a system of constitutionally and legally sound procedures that provide the protection of due process of law in accordance with these rules, institutional restatement of these rules, and applicable state and federal law. The institution's restatement of rules, processes, and procedures shall be published on the institution's website and communicated to students.
 - (b) At community colleges, the Vice President of Student Affairs or other administrator designated by the institution is responsible for matters within the scope of these rules, except that the Chief Academic Officer is responsible for matters related to academic misconduct. In situations where the conduct could fall within both areas of responsibility, the two (2) offices will confer and decide which rules will apply and advise the student or student organization in writing of the decision. At colleges of applied technology, the president or designee has responsibility.
 - (c) Complaints related to discrimination, harassment, and retaliation that are not subject to another rule will be investigated and resolved in accordance with these rules and the institution's restatement of these rules, procedures, and processes.

(Rule 0240-02-03-.06, continued)

1. In determining whether the evidence establishes a violation of these rules, the institution shall use the standard of evidence for contested cases under the UAPA and Department of State Rule 1360-04-01. At all times the burden of obtaining evidence and establishing a violation shall be on the institution.
2. In the event of bias or conflict of interest by an institutional official, the institution may appoint a substitute, who may or may not be employed by the institution.
3. The investigator shall conduct an appropriate investigation, which may include interviews of the parties and witnesses, as well as review of documents and other information. The purpose of the investigation is to determine whether the evidence establishes a violation of these rules. The parties are encouraged, but not required, to provide information that they want the investigator to consider.
4. The investigator shall provide written notice of receipt of a written complaint or the decision to initiate an investigation.
5. The investigator shall notify students that the institution will comply with FERPA and only disclose information in accordance with FERPA and other applicable law.
6. The investigator shall prepare a report summarizing the investigation. The report shall include, but not be limited to, the dates of the alleged occurrences, the response of the respondent, the findings of the investigator, and recommendations regarding disposition of the complaint.
7. The report shall be submitted to the institution's president within sixty (60) calendar days following receipt of the complaint, absent cause for extending the investigation timeline. In situations where more time is needed to complete the investigation, written notice shall be provided to the parties explaining the reasons.
8. The president shall review the investigator's report and shall make a written determination as to whether these rules have been violated and the appropriate disciplinary sanction, if any. The president's determination and the investigator's report shall be provided to the parties, unless prohibited by law.
9. Either party may send a written request to reconsider to the president within ten (10) working days, absent good cause, of receipt of the president's determination.
 - (i) The request to reconsider process shall consist of an opportunity for the parties to provide information to the president's attention that would change the determination and/or disciplinary sanction. A party must explain why the factual information was incomplete, the analysis of the facts was incorrect, the determination was affected by bias or a conflict of interest, procedural irregularity, and/or the appropriate standard was not applied, and how this would affect the determination. Failure to do so may result in denial of the request to reconsider.
 - (ii) The parties will not be allowed to present their request to reconsider in person unless the president determines, in his or her sole discretion, to allow an in-person appearance.

(Rule 0240-02-03-.06, continued)

- (iii) The president shall issue a written response to the request to reconsider as promptly as possible. The decision will constitute the institution's final decision.
 - (iv) The institution shall provide written notice of the ability to contest the determination and/or disciplinary sanctions, including where applicable, the ability to request a contested case hearing pursuant to the UAPA, to the parties at the time the parties are advised of the determination and upon the resolution of any request to reconsider or appeal.
 - (d) Students and student organizations subject to any disciplinary sanction are entitled to a due process hearing in accordance with these rules and standards established by the constitutions of the State of Tennessee and the United States unless that right is waived after receiving written notice of the available procedures.
 - (e) All proceedings under these rules will be held in closed session and not open to the public. Formal rules of evidence shall not be applicable. The administrator or committee chair may exclude evidence, which in their judgment is immaterial, irrelevant, or unduly repetitious. Evidence in contested case hearings will be considered in accordance with TBR Rule 0240-01-05 and Department of State Rule 1360-04-01.
 - (f) Written notice to a student or student organization is accomplished either by handing a copy to the student; sending documents via email to the student's or student organization's institutional email account; email account of record on file with the institution; or by sending a copy via certified mail, registered mail, return receipt requested mail, or a nationally recognized delivery service that tracks delivery to the student's residence of record or the student organization's address of record.
- (2) Initiation of Charges
 - (a) An institution may initiate the disciplinary process on the basis of written allegations received from any source, including any member of the college community. Complaints should be directed to the Vice President of Student Affairs or other administrator identified by the institution, except that complaints relating to discrimination, harassment, and retaliation should be referred to the administrator identified by the institution so that such complaints can be handled in accordance with these rules. The institution may also initiate disciplinary procedures without written allegations if it becomes aware of potential violations of these rules through other means.
 - (b) When the allegations, if proven, may warrant the imposition of a disciplinary sanction, the institution shall inform the student of the allegations and proceed to gather information concerning the matter, including, but not limited to, interviewing relevant witnesses and reviewing relevant documents and evidence. Students who may be the subject of disciplinary sanctions will be provided the minimum due process protections identified in these rules.
 - (c) After reviewing the evidence, the administrator with responsibility for the matter shall decide whether sufficient evidence exists to charge the student, and if so, the appropriate disciplinary sanction(s). Notice of the charges and disciplinary sanction(s), if any, shall be provided in writing to the student. If there is insufficient evidence to continue the disciplinary process, the matter will be closed, and written notice will be provided to the student.
- (3) Minimum Due Process Protections. Institutions shall provide the following minimum procedural due process protection components in disciplinary matters:

(Rule 0240-02-03-.06, continued)

- (a) The student shall be advised, in writing, of the breach of the rule(s) of which he or she is charged;
- (b) The student shall be advised of the time, date, and place of the hearing allowing reasonable time for preparation; and
- (c) The student shall be advised of the following rights applicable at the hearing:
 - 1. The right to present his or her case;
 - 2. The right to be accompanied by an advisor of his or her choice. The advisor's participation shall be limited to advising the student, and not include advocating on behalf of the student, speaking on behalf of the student, or otherwise actively representing the student. An advisor is not permitted to interfere with the hearing;
 - 3. The right to call witnesses on his or her behalf;
 - 4. The right to confront witnesses against him or her; and
 - 5. The method and time limitations for appeal, if any is applicable.
- (4) Options for Students. Four (4) potential processes exist for adjudication of disciplinary matters. The student will be informed in writing of each available option and the due process rights associated with each option. A student will have five (5) business days following written notification to select an option. If a student fails to return the election of a procedure in a timely manner, the student will be deemed to have waived the right to contest the disciplinary sanction. Selection of one (1) option constitutes waiver of all other options.
 - (a) Contested Case Hearing. All cases which may result in either suspension or expulsion of a student from the institution for disciplinary reasons, or revocation of registration of a student organization, are subject to the contested case provisions of the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-301 et seq., and TBR Rule 0240-01-05, unless the student or student organization, after receiving written notice, waives those procedures.
 - (b) A student at a community college may elect an institutional panel hearing. A student at a college of applied technology may elect a formal hearing in front of a single administrator appointed by the president.
 - 1. Institutional Panel Hearing (Community Colleges)
 - (i) An institutional panel hearing committee at a community college shall consist of at least three (3) individuals and include at least one (1) student. The dean of students or other administrator identified by the institution will assemble the committee and coordinate the hearing but will not vote as to the committee's decision. An individual who has an interest in the incident, a conflict of interest, or a bias is not permitted to serve on the committee. The institution may appoint individuals from standing pools and/or appoint ad hoc committees.
 - (ii) The committee will set a hearing date that is within fifteen (15) business days of receipt of the student's request for a panel hearing. The student must be notified of the date, time, and location of the hearing as soon as possible, but given at least seven (7) calendar days' notice. A student will be notified of the due process protections provided for in these rules.

(Rule 0240-02-03-.06, continued)

- (iii) The committee will conduct the hearing, consider the relevant evidence presented, and make a decision based on a simple majority vote. The committee can either uphold, overturn, or lessen the disciplinary finding and/or sanction. The results of the decision will be conveyed to the student in writing, through the dean of students or other administrator identified by the institution, within ten (10) business days of the hearing.
- (iv) If the committee upholds or lessens the disciplinary finding and/or sanction, the student may appeal in writing to the president within five (5) business days following receipt of the decision of the committee. The president will make a decision within ten (10) business days. The president's decision is final.
- (v) The president, dean of students or other administrator identified by the institution has the ability to extend deadlines for good cause and upon written notice to the student.
- (vi) The institution shall maintain all submissions by the student and all decisions of institutional officials and committees permanently.

2. Formal Administrative Hearing (Colleges of Applied Technology)

- (i) The president of a college of applied technology shall appoint an administrator who will set a hearing date that is within fifteen (15) business days of receipt of the student's request for a hearing. The student must be given at least seven (7) calendar days' notice of the hearing. A student will be notified of the due process protections provided for in these rules.
 - (ii) The administrator will conduct a hearing, consider the relevant evidence presented, and make a decision either upholding, overturning, or lessening the disciplinary finding and/or sanction. The results of the decision will be conveyed to the student within ten (10) business days of the hearing.
 - (iii) If the administrator upholds or lessens the disciplinary finding and/or sanction, the student may appeal in writing to the president within five (5) business days following receipt of the decision of the committee. The president will make a decision within ten (10) business days. The president's decision is final.
 - (iv) The president has the ability to extend deadlines for good cause and upon written notice to the student.
- (c) Administrative Resolution. An administrative resolution involves the student meeting with a single administrator appointed by (i) for community college students, the dean of students or other administrator identified by the institution or (ii) for college of applied technology students, the president. There is no appeal. The decision of the administrator is final.
- (d) A student may elect not to contest the disciplinary action, either affirmatively or by failing to return the election of a procedure in a timely manner, which serves as a waiver of the right to contest the disciplinary action.

(5) Procedures Related to Interim Involuntary Withdrawal or Suspension Hearings

(Rule 0240-02-03-.06, continued)

- (a) When the Vice President for Student Affairs or other administrator identified by the institution determines that an interim suspension or other interim measure is required for the health and safety of the institutional community and/or property, or to prevent an ongoing imminent threat of disruption to or interference with the normal operations of the institution, the student will receive an opportunity for an informal hearing with the Vice President of Student Affairs or other administrator identified by the institution to contest the interim measure.
 - (b) The informal hearing will be held within five (5) calendar days, absent good cause.
 - (c) The evidence presented at the hearing shall be limited to that which is relevant to the basis asserted for imposition of the interim suspension or other interim measure.
 - (d) The student will be entitled to a formal hearing in accordance with the due process protections described in these rules before a permanent disciplinary sanction is imposed.
- (6) **Alternative Resolution Procedures:** An institution, with the consent of all relevant parties, may use an alternative resolution method including, but not limited to, an apology, mediation or a negotiated resolution.

Authority: T.C.A. §§ 4-5-101, et seq. and 49-8-203. **Administrative History:** Original rule filed August 10, 2011; effective January 29, 2012. Emergency rules filed August 18, 2015; effective through February 14, 2016. Amendment filed August 18, 2015; effective November 15, 2015. Amendments filed July 13, 2021; effective October 11, 2021.