

**RULES
OF
MIDDLE TENNESSEE STATE UNIVERSITY**

**CHAPTER 0240-07-08
CASES HEARD PURSUANT TO THE UNIFORM ADMINISTRATIVE PROCEDURES ACT**

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0240-07-08-.01 PURPOSE.

- (1) This rule describes the circumstances under which Middle Tennessee State University (MTSU or University) may apply the contested case hearing provisions of the Uniform Administrative Procedures Act (UAPA), T.C.A. §§ 4-5-101 et seq. and the procedures for UAPA hearings.

Authority: T.C.A. §§ 49-8-101(a)(2)(A), 49-8-203(a)(1)(D), and 49-8-203(a)(4). **Administrative History:** New rules filed February 8, 2022; effective May 9, 2022.

0240-07-08-.02 SCOPE.

- (1) The contested case procedures set forth in the UAPA may be applicable in all cases in which the legal rights, duties, and privileges of a party are required by any statute or constitutional provision to be determined by an agency after an opportunity for a hearing. These procedures may also apply when MTSU rule provides that a hearing take place pursuant to the provisions of the UAPA.

Except as may be set forth by other applicable rule or law, the contested case procedures in the UAPA may apply in the following cases:

- (a) Demotion, suspension without pay, or termination of support staff employees where the employee has elected to pursue a UAPA hearing instead of an employee panel hearing as the final step of the grievance process;
- (b) Suspension or expulsion of a student who elects a UAPA hearing instead of an institutional hearing;
- (c) Revocation of the registration of a student organization who elects a UAPA hearing instead of an institutional hearing; and
- (d) Any other case where law requires a contested case hearing and such a hearing is requested.

Authority: T.C.A. §§ 49-8-101(a)(2)(A), 49-8-203(a)(1)(D), and 49-8-203(a)(4). **Administrative History:** New rules filed February 8, 2022; effective May 9, 2022.

0240-07-08-.03 AUTHORITY OF THE PRESIDENT.

- (1) The President of MTSU is responsible for implementation of these procedures and has final decision-making authority in any proceeding subject to these procedures.

(Rule 0240-07-08-.03, continued)

- (2) The authority and responsibilities of the President set forth herein may be delegated by him/her to individual designees who are members of the staff of MTSU. All references herein to the President include any designee of the President. The President shall be responsible for any action taken under a delegation of his/her authority.

Authority: T.C.A. §§ 49-8-101(a)(2)(A), 49-8-203(a)(1)(D), and 49-8-203(a)(4). **Administrative History:** New rules filed February 8, 2022; effective May 9, 2022.

0240-07-08-.04 SELECTION OF ADMINISTRATIVE JUDGE, HEARING OFFICER, OR HEARING COMMITTEE.

- (1) The President shall determine, in his/her discretion, whether the hearing shall be held before an administrative judge appointed by the Administrative Procedures Division of the Office of the Secretary of State, a hearing officer, or a hearing committee.
- (2) The following individuals may serve as administrative judges/hearing officers:
 - (a) A person licensed to practice law who is not employed as an attorney for the University;
 - (b) A former state, county, or municipal judge or former federal judge or magistrate;
 - (c) An employee of the University who has been trained to conduct contested cases, but who does not provide legal representation to the University;
 - (d) An employee of another public institution of higher education who has been trained to conduct contested cases; or,
 - (e) An administrative judge employed by the Office of the Secretary of State pursuant to T.C.A. § 4-5-301(d) to hear contested cases.
- (3) A hearing committee may be appointed by the President from the administrative, professional staff, and/or appropriate employees or students at MTSU. The person appointed by the President as administrative judge/hearing officer shall be deemed to be the chair of the hearing committee for purposes of presiding at the hearing.
- (4) For matters involving sexual assault, dating violence, domestic violence, or stalking, the administrative judge/hearing officer/hearing committee members shall complete 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 (20 U.S.C. §1092(f)), and the federal regulations implementing those statutes, as amended. This training must take place no earlier than twelve (12) months prior to hearing the contested case.

Authority: T.C.A. §§ 49-7-167, 49-8-101(a)(2)(A), 49-8-203(a)(1)(D), and 49-8-203(a)(4). **Administrative History:** New rules filed February 8, 2022; effective May 9, 2022.

0240-07-08-.05 HEARING PROCEDURES.

- (1) Except as may be set forth by other applicable rule or law, the hearing procedures set forth in T.C.A. §§ 4-5-301, et seq. and Tenn. Comp. R. & Regs. 1360-04-01-.01 et seq. shall apply to cases heard pursuant to this rule.

Authority: T.C.A. §§ 49-8-101(a)(2)(A), 49-8-203(a)(1)(D), and 49-8-203(a)(4). **Administrative History:** New rules filed February 8, 2022; effective May 9, 2022.

0240-07-08-.06 SUSPENSIONS PENDING A CONTESTED CASE HEARING.

- (1) The President shall have authority to suspend a student or employee pending a contested case hearing in the manner required by University rules.

Authority: T.C.A. §§ 49-8-101(a)(2)(A), 49-8-203(a)(1)(D), and 49-8-203(a)(4). **Administrative History:** New rules filed February 8, 2022; effective May 9, 2022.