

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
DIVISION OF REHABILITATION SERVICES**

**CHAPTER 1240-08-09
TENNESSEE REHABILITATION SERVICES – CONDUCT POLICY**

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1240-08-09-.01 SCOPE.

Generally, through appropriate due process procedures, facility disciplinary measures shall be imposed for conduct which adversely affects the facility's pursuit of its rehabilitation responsibilities, which violates or shows a disregard for the rights of other members of the Tennessee Rehabilitation Center, the Community Tennessee Rehabilitation Centers, or the facility community, or which endangers property or persons on facility or facility-controlled property.

Authority: TCA §§4-5-202; 71-1-105(12); 49-11-605; 49-11-608. **Administrative History:** Original rule filed June 30, 1980; effective August 14, 1980. Transferred from the Department of Education by Executive Order No. 43; effective February 11, 1983. Amendment filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed September 30, 1985; effective October 30, 1985. Repeal and new rule filed June 30, 2009; effective September 13, 2009. Repeal and new rule filed June 30, 2009; effective September 13, 2009.

1240-08-09-.02 MISCONDUCT SUBJECT TO DISCIPLINARY SANCTION.

Individual or organizational misconduct which is subject to disciplinary sanction shall include, but not be limited to, the following examples:

- (1) Conduct Dangerous to Others. Any act of violence or threat of violence to other persons or to oneself.
- (2) Excessive Noise. Any excessive noise in the dormitories, infirmary area, administrative office area, or in the classroom area when classes are in session.
- (3) Disorderly Conduct. Any individual or group behavior which constitutes criminal obscenity, lewdness, or other conduct intended to, or which could reasonably be expected to, disrupt the normal operation of a facility or the peaceful use of the facility by others.
- (4) Obstruction of or Interference with Facility, Activities, or Buildings. Any intentional interference with or obstruction of any facility activity, program, event, or facilities, including the following:
 - (a) Any unauthorized occupancy of facility-controlled property and buildings or blockage of access to or from such facilities;
 - (b) Interference with the right of any facility member or other authorized person to gain access to any facility-controlled activity, program, or event; or

(Rule 1240-08-09-.02 continued)

- (c) Any obstruction or delay of a facility security officer or any facility official in the performance of his/her duty.
- (5) 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 facility including, but not limited to, fire alarms, fire equipment, elevators, telephones, facility keys, training materials, and/or safety devices; and any such act against a member of the facility community or guest of the facility.
- (6) Theft, Misappropriation, or Unauthorized Sale. Any act of theft, misappropriation, or unauthorized possession or sale of facility property or any such act against a member of the facility community or a guest of the facility.
- (7) Misuse of Documents or Identification Cards or Providing False Information and Withholding Information. Any forgery, alteration, or unauthorized use of facility documents, forms, records or identification cards, including the giving of any false information, or withholding of necessary information upon reasonable request.
- (8) Firearms and Other Dangerous Weapons. Any unauthorized possession or use of any kind of firearm or dangerous weapon on facility property.
- (9) Explosives, Fireworks, and Flammable Materials. The unauthorized possession, ignition, or detonation of any object or article which could cause damage by fire or other means to persons or property, or possession of any substance which could be considered or is used as fireworks.
- (10) Alcoholic Beverages. The consumption or possession of alcoholic beverages on facility property.
- (11) Drugs. The unlawful possession or use of any drug or controlled substance (including, without limitation, any stimulant, depressant, narcotic, or hallucinogenic drug or substance, or marijuana), or sale or distribution of any such drug or controlled substance on facility property.
- (12) Gambling. Gambling in any form on facility property.
- (13) Financial Irresponsibility. Failure to meet promptly financial responsibilities to the facility, including, but not limited to, passing a worthless check or money order in payment to the facility or to a member of the facility community acting in an official capacity.
- (14) Unacceptable Conduct in Hearings. Giving false testimony or other false evidence at any hearing.
- (15) Failure to Cooperate with Facility Officials. Failure to comply with directions of facility officials acting in the proper performance of their duties.
- (16) Smoking in Prohibited Areas. Smoking in dormitory rooms of the facility or in any other area on campus where smoking is prohibited.
- (17) Unauthorized Dormitory Access. Any unauthorized presence of male students in female dormitories, or unauthorized presence of female students in male dormitories.
- (18) Car Registration. Failure of students to register any vehicle brought on campus.
- (19) Identification Cards. Failure of students to carry identification cards while on facility premises.

(Rule 1240-08-09-.02 continued)

- (20) Sexual Misconduct. Engaging in sexual acts on Center property.
- (21) Violation of State or Federal Laws. Any violations of state or federal laws or regulations prescribing conduct or establishing offenses, which laws and regulations are incorporated herein by reference.
- (22) Academic Dishonesty. Plagiarism, cheating, stealing, or any other form of academic dishonesty.
- (23) Chronic Tardiness or Absenteeism.
- (24) Attempts, Aiding and Abetting. Any attempt to break any of the foregoing rules of conduct, or helping or assisting in any way another person to break any of the foregoing rules.

Authority: TCA §§4-5-202; 71-1-105(12); 49-11-604(b). **Administrative History:** Original rule filed June 30, 1980; effective August 14, 1980. Transferred from the Department of Education by Executive Order No. 43; effective February 11, 1983. Amendment filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed September 30, 1985; effective October 30, 1985. Repeal and new rule filed June 30, 2009; effective September 13, 2009. Repeal and new rule filed June 30, 2009; effective September 13, 2009.

1240-08-09-.03 WHEN DISCIPLINARY ACTION MAY BE TAKEN.

Disciplinary Action may be taken against a student for violation of the foregoing regulations which occur on facility owned, leased or otherwise controlled property, or which occur off facility premises when the conduct impairs, interferes with, or obstructs any facility activity or the missions, processes, and functions of the facility. In addition, disciplinary action may be taken on the basis of any conduct on or off campus which poses a substantial threat to persons or property within the facility community.

Authority: TCA §4-5-202; 71-1-105(12); 49-11-604. **Administrative History:** Original rule filed June 30, 1980; effective August 14, 1980. Transferred from the Department of Education by Executive Order No. 43; effective February 11, 1983. Amendment filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed September 30, 1985; effective October 30, 1985. Repeal and new rule filed June 30, 2009; effective September 13, 2009.

1240-08-09-.04 PERSONNEL RESPONSIBILITIES FOR DISCIPLINARY ACTION.

The facility counselors are responsible for coordinating disciplinary sanctions according to facility rules and regulations when students violate the foregoing rules.

Authority: TCA §§4-5-202; 71-1-105(12); 49-11-604. **Administrative History:** Original rule filed June 30, 1980; effective August 14, 1980. Transferred from the Department of Education by Executive Order No. 43; effective February 11, 1983. Amendment filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed September 30, 1985; effective October 30, 1985. Repeal and new rule filed June 30, 2009; effective September 13, 2009.

1240-08-09-.05 DISCIPLINARY SANCTIONS.

- (1) Upon a determination that a student has violated any of the rules, regulations, or disciplinary offenses set forth in the regulations, the following disciplinary sanctions may be imposed, either individually or in combination, by appropriate facility officials.
 - (a) Restitution. A student who has committed an offense against property may be required to reimburse the facility or other owner for damage to or misappropriation of such property. Any such payment in restitution shall be limited to the actual cost of repair or replacement.

(Rule 1240-08-09-.05 continued)

- (b) Warning. The appropriate facility official may notify the student that continuation or repetition of specified conduct may be cause for other disciplinary action.
 - (c) Reprimand. A written reprimand, or censure, may be given to any student whose conduct violates any part of these regulations. Such a reprimand does not restrict the student in any way, but does have important consequences. It signifies to the student that he or she is, in effect, being given another chance to conduct himself or herself as a proper member of the facility community, but that any further violation may result in more serious penalties.
 - (d) Restriction. A restriction upon a student's privilege for a period of time may be imposed. This restriction may include, for example, denial of the right to represent the institution in any way, denial of the right to use of facilities, denial of parking privileges, denial of the right to participate in extracurricular activities, or restriction to the facility grounds.
 - (e) Probation. Continued enrollment of a student on probation may be conditioned upon adherence to these regulations. Any student placed on probation will be notified of such in writing and will also be notified of the terms and length of the probation. Probation may include restrictions upon the extracurricular activities of a student. Any conduct in violation of these regulations while on probationary status may result in the imposition of a more serious disciplinary sanction.
 - (f) Suspension. If a student is suspended, he or she is separated from the facility for a stated period of time with conditions of readmission stated in the notice of suspension.
 - (g) Expulsion.
 - 1. Expulsion with Option to Reapply. Expulsion entails separation from the facility for serious or continuous violations of Center rules and regulations. Students expelled with an option to reapply will be so informed at the time of expulsion. Students will be given a stated period of time, usually six (6) months, after which they may reapply for TRC services. An application for readmission will be considered by the Admissions Committee and judged against standard admission criteria used for all incoming students.
 - 2. Permanent Expulsion. This sanction entails permanent separation from the facility. The imposition of this sanction is a permanent bar to the student's readmission to the Tennessee Rehabilitation Center. This is the most severe disciplinary action available to the Center and is used only when Center officials determine that the student cannot be rehabilitated in the setting of a comprehensive rehabilitation center. Permanent expulsion does not necessarily mean the student loses access to rehabilitation services. Services can be provided through the sponsoring counselor or at other appropriate rehabilitation sites.
 - (h) Interim or Summary Suspension. Summary suspension may be imposed upon a finding by the appropriate institutional official that the continued presence of the accused on the facility premises poses continuing danger to persons or property or poses an ongoing threat of disrupting the academic or rehabilitative process. In any case of immediate suspension, the student shall be provided the opportunity for an administrative review/fair hearing on the suspension as soon as possible.
- (2) The administrator of the facility is authorized, in his or her discretion, to subsequently convert any sanction imposed to a lesser sanction, or to rescind any previous sanction, in appropriate cases.

(Rule 1240-08-09-.05 continued)

Authority: TCA. § 4-5-202; 71-1-105(12); 49-11-605. **Administrative History:** Original rule filed June 30, 1980; effective August 14, 1980. Transferred from the Department of Education by Executive Order No. 43; effective February 11, 1983. Amendment filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed June 30, 2009; effective September 13, 2009.

1240-08-09-.06 RIGHT TO ADMINISRATIVE REVIEW AND/OR FAIR HEARING.

Students may request due process review of a sanction imposed upon them and are to be offered all levels of appropriate review as set forth herein prior to the imposition of the sanction, except for those circumstances justifying temporary removal or exclusion.

- (1) Supervisory Review. All students who have been notified that they will be sanctioned shall be afforded the opportunity to request and receive a supervisory review of the events leading to disciplinary action with the Regional Facilities Supervisor. The supervisory review is available in all cases of sanction less severe than suspension or expulsion.
- (2) Administrative Review. Students may elect to have an administrative review in cases of suspension, expulsion, summary suspension, or in any other circumstances deemed appropriate by the administrative official. If the student elects to have an administrative review, he/she will be informed that the administrative review will be held within twenty-four (24) hours of the date of receipt of notice. Immediately, the student will be informed in writing of the following: date and time of review, that the review will consider the allegations of the statement of misconduct contained in the original notification, that the student will have a right to make a personal appearance to present evidence, call witnesses in his/her behalf, and to question staff. This notice is to be formally presented in writing to the student and attached to the notice of violation. The TRC Superintendent or designee will notify the student in writing of his or her decision. The sanction will be imposed after a determination by the administrative official. If it is determined through the administrative appeal that a reversal of the previous decision is imminent, the student shall be reinstated to his/her former status immediately. Further appeals are available under the fair hearing procedures of the Division of Appeals and Hearings.
- (3) Fair Hearings. Any student who has been notified that he/she will be suspended, expelled, or directed to make restitution has the right to request and receive a fair hearing on the action, as provided in Chapter 1240-05-01. The student may proceed to a fair hearing request without first requesting or receiving an administrative review.
- (4) Right to Administrative Review and/or Fair Hearing. Right to Administrative Review and/or Fair Hearing policies also applies to the Tennessee Vocational Training Center facilities program and is identical to the statement above concerning the Tennessee Rehabilitation Center program, except that the supervisory review will be conducted by the Center Manager and the administrative review will be conducted by the Regional Facilities Supervisor.

Authority: TCA §§4-5-202; 71-1-105(12); 49-11-604. **Administrative History:** Original rule filed June 30, 1980; effective August 14, 1980. Transferred from the Department of Education by Executive Order No. 43; effective February 11, 1983. Amendment filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed June 30, 2009; effective September 13, 2009.

1240-08-09-.07 SEARCH AND INSPECTION POLICY.

- (1) Search by Center Officials. The Center reserves the right to enter into facility-owned property or student property brought to the facility for the purpose of search and seizure if there is reasonable cause to believe that a student is using property for purposes which are illegal or contrary to the regulations of the facility.

(Rule 1240-08-09-.07 continued)

- (a) An “Authorization to Search” may be issued when there is reasonable cause to believe that persons, objects, or materials are illegally present or in violation of Center regulations. The search authorization may be made by the Night Administrator or by the Deputy Center Director. When there is apparent danger to persons or property or a situation involving serious misconduct, any of the above persons named or any executive level staff member of the Center may authorize a search.
 - (b) The persons authorizing a search will normally complete the Authorization to Search Form (Form A-33) before the search is conducted. When it is not feasible to obtain a letter of authorization, oral authorization will be obtained from the Center Director or designee. The Authorization to Search will be confirmed in writing at the earliest possible time. A completed copy of the Authorization to Search Form will be filed with the Security Office and with the Office of the Center Director as soon as possible after the search. A third copy will be presented to the individual whose premises were searched. Circumstances which would authorize a search by Center officials consist of the officials observing or otherwise determining through physical senses (sound, smell, etc.) that a violation is taking place at any given time. For example, if a Center official can see illegal contraband in a resident’s room, he/she does not need the consent of the student to legally enter and confiscate the contraband.
 - (c) Except in apparently dangerous situations, a search will be conducted by at least two (2) persons, one of whom should be an administrative official. If feasible, the person or persons whose residence is being searched should be present during the search. A reasonable effort will be made by the Center official conducting the search to locate the student prior to conducting the search.
 - (d) All evidence found in such searches will be retained by the Center Security Office or by local law enforcement until disposition of the case. A statement will be given to the student listing all items seized during the search.
 - (e) The Center also has the option to obtain a warrant for a search by campus security or city police. In these instances, the student will be subject to the disciplinary regulations of the Center and whatever action local law enforcement deems necessary.
- (2) Housing Facility Inspection. A Dormitory Supervisor will make periodic, scheduled inspections of housing facilities to see that no damage is occurring from improper cleaning, storage of food, or abuse of furnishings. As an integral part of a comprehensive rehabilitation program, room inspections will be made for students whose rehabilitation program includes vocational evaluation and work adjustment training. These inspections will be scheduled in advance. In addition, all non-honor students in vocational training will be scheduled for weekly room inspections. After thirty (30) days in honor status and evidence of proper room maintenance, room inspections may be discontinued by the student’s Program Manager. These inspections are not deemed “searches.” Dormitory Supervisors will examine the facilities only for the purpose stated.
 - (3) Entry for Safety and Health Inspection. The facility reserves the right of entry to dormitory rooms on an announced scheduled basis if health hazards present at the facility should necessitate such inspections.
 - (4) Maintenance Inspection of Center Housing Facilities. Center maintenance personnel will enter Center-owned housing facilities for routine maintenance work and in response to requests for repairs.
 - (5) Emergency Entry. The facility reserves the right of entry to dormitory rooms for purposes of responding to health, safety or maintenance problems of an emergency nature.

(Rule 1240-08-09-.07 continued)

- (6) The "Search and Inspection Policy" of the Community Tennessee Rehabilitation Centers facilities program will follow the same policies outlined in the Search and Inspection Policy described above for the Tennessee Rehabilitation Center, except that the search authorization will be made by the Center Manager.

Authority: TCA §§4-5-202; 71-1-105(12); 49-11-604. **Administrative History:** Original rule filed June 30, 1980, effective August 14, 1980. Transferred from the Department of Education by Executive Order No. 43; effective February 11, 1983. Amendment filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed June 30, 2009; effective September 13, 2009.