



A G E N D A
PRESIDENTS MEETING
TBR Central Office – Board Room - Suite 366
Tuesday, August 19, 2014 – 9:00 A.M. (CT)

1. PLA (Prior Learning Assessment) Task Force (Associate Vice Chancellor Raylean Henry) - *Attachment*
2. Dual Enrollment Admissions Policy (Associate Vice Chancellor Raylean Henry) - *Attachment*
3. Updates to Policies, Procedures and Guidelines for Reverse Transfer (Vice Chancellor Tristan Denley) - *Attachment*
4. Tennessee Transfer Pathways-Fall Activities (Vice Chancellor Tristan Denley) - *Attachment*
5. Completion Academy and Bill and Melinda Gates Foundation Grant (Vice Chancellor Tristan Denley) - *Attachment*
6. Accessibility to Instructional Materials and Technology Summit September 17-18, 2014, Nashville Airport Marriott (Vice Chancellor Tristan Denley) - *Attachment*
7. Update on Policy 4:01:07:03 – Foundations (Vice Chancellor Dale Sims)
8. Review of New Budget Principles Policy 4:01:00:01 (Vice Chancellor Dale Sims) - *Attachment*
9. Review of New Institutional Financial Performance Policy 4:01:00:02 (Vice Chancellor Dale Sims) - *Attachment*

Presidents Meeting Agenda, August 19, 2014

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10. Recommended Revisions to TBR Policy 4:03:02:00 - Motor Vehicles (Vice Chancellor Dale Sims) – *Attachment*
11. Recommended Revisions to TBR Guideline B-110 – Fixed Assets and Sensitive Minor Equipment (Vice Chancellor Dale Sims) - *Attachment*
12. Recommended Revisions to TBR Guideline B-061 – Educational Assistance (State Employees and Dependents of State Employees and Teachers (Vice Chancellor Dale Sims) - *Attachment*
13. Proposed Revisions to TBR Guideline P-130 Educational Assistance for TBR System Employees (Vice Chancellor Dale Sims) - *Attachment*
14. Proposed Revisions to TBR Guideline P-045 Deferred Compensation (Vice Chancellor Dale Sims) - *Attachment*
15. Proposed Revisions to TBR Policy 5:01:01:07 Sick Leave (Vice Chancellor Dale Sims) - *Attachment*
16. Information Technology Resources Policy 1:08:00:00 and Accompanying Guidelines for Approval (Tom Danford, Chief Information Officer) – *Attachment*
17. Sex Discrimination, Sexual Harassment and Sexual Misconduct Policies (Mary Moody, General Counsel) - *Attachment*
18. Women in Higher Education – Tennessee (WHET) (President MaryLou Apple and Vice Chancellor Wendy Thompson) - *Attachment*

PRESIDENTS QUARTERLY MEETING

DATE: Presidents Meeting (August 19, 2014)

AGENDA ITEM: PLA (Prior Learning Assessment) Task Force

ACTION: Requires Vote

PRESENTER: Associate Vice Chancellor Raylean Henry

BACKGROUND INFORMATION:

THEC convened a Task Force two years ago comprised on TBR, UT, and private schools to develop guidelines and policies for the transfer of PLA among institutions. General guidelines and procedures were adopted and have been approved by the Board. The Task Force recommended that a standard, consistent fee be approved for the following:

- Test administration for exams such as CLEP and ACT. The Community College Presidents last week approved a \$25.00 per exam fee.
- Campus challenge exam fee. The recommendation is \$25.00 per challenge exam without a charge of tuition.

PRESIDENTS QUARTERLY MEETING

DIRECTORS QUARTERLY MEETING

DATE: Presidents Meeting (August 19, 2014)
Directors Meeting (August 19, 2014)

AGENDA ITEM: Dual Enrollment Admissions Policy

ACTION: Requires Vote

PRESENTER: Associate Vice Chancellor Raylean Henry

BACKGROUND INFORMATION:

The Community College Research Center submitted the “Dual Enrollment for College Completion: Policy Recommendations for Tennessee” (CCRC) report to the Tennessee Board of Regents on February 2013. The goal was to develop a series of policy recommendations for strengthening dual enrollment in Tennessee in order to ensure the program was a meaningful driver of Tennessee’s completion goals. The study indicates that Tennessee stakeholders are supportive of dual enrollment and that dual enrollment can be a key driver in college completion, however, Tennessee’s current dual enrollment policies are not optimal.

- The CCRC recommends “requiring multi-tiered eligibility throughout the state would make dual enrollment more accessible to a range of students.”
- The CCRC suggests Tennessee “require dual enrollment course taking to occur within the state’s general education core, transfer pathways, or key labor market areas”. Based on these recommendations, a Dual Enrollment Admissions Policy was drafted and approved by all TBR Sub-Councils and submitted to TBR Legal for inclusion in the current TBR Admissions Policy 2-03-00-00 - Section II, Sub-section D.

A. Non-Degree Admission

1. Each university and community college shall develop policy and procedures for admitting applicants who wish to take credit courses, but who either do not qualify for or do not wish to apply for degree admission.
2. Policies shall include any conditions of enrollment and any term or overall credit-hour limitations.
3. Applicants who are eligible for non-degree admission include:
 - i. Persons Not Previously Enrolled in College
 - (1) High School Graduates
 - (2) Persons 21 years of age or older who have not earned a high school diploma and are not currently enrolled in high school.
 - (3) Persons 18 years of age or older who have not earned a high school diploma or are not currently enrolled in high school and wish to enroll in HSE preparatory courses only.
 - (4) High school students who meet the following criteria as specified in T.C.A. § 49-6-3111:
 - a) Academically talented/gifted students enrolled in grades 9, 10, 11, or 12 in public or private high schools in Tennessee may, with the recommendation and approval of the high school principal and appropriate higher education institution personnel, enroll in and receive regular college degree credit from a Tennessee postsecondary institution if such a student has a grade point average equivalent to 3.2 on a 4.0 maximum basis and if such placement is a part of the student's planned Individual Education Program (IEP) as established by the multi-disciplinary team process.
 - b) High school students who ~~have completed their sophomore~~ are in their freshman year of high school. Such students may be admitted for either joint enrollment or dual enrollment or both. For the purposes of this policy, the terms joint and dual enrollment are defined in the "Definitions"

section. **Dual Enrollment students must meet the following eligibility criteria:**

- i. **The student must be enrolled as a 9th, 10th, 11th, or 12th grade student in a Tennessee public or nonpublic secondary school, or in a home education program.**
- ii. **The student may enroll in a specific course based on the course's specific placement requirements as determined by the campus.**
- iii. **The student must enroll in dual enrollment courses in the general education core, Tennessee Pathways leading to a degree, Career and Technical Program of study leading to an academic award, or middle college or equivalent program.**
- iv. **The student must provide secondary institution permission/approval. Additionally, a minor (under 18 years of age) must provide parental/guardian permission/approval.**

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PRESIDENTS QUARTERLY MEETING

DIRECTORS QUARTERLY MEETING

DATE: Presidents Meeting (August 19, 2014)
Directors Meeting (August 19, 2014)

AGENDA ITEM: Updates to Policies, Procedures and Guidelines for Reverse Transfer

ACTION: Information Item

PRESENTER: Vice Chancellor Tristan Denley

BACKGROUND INFORMATION:

Vice Chancellor Denley will provide an update on the recommended revisions to the policies, procedures and guidelines for reverse transfer. Reverse transfer is a credit review of degree seeking students who transfer from a community college to a four year institution prior to receipt of the associate's degree to determine if and when the students complete the associate's degree requirements and, if so, to award them an associate's degree.

Policy Area

Format:

2= Academic Policies

Number – 2:02:00:02

Name: Reverse Transfer: Policies, Procedures, and Guidelines

Purpose

The purpose of this policy is to serve as a framework for Reverse Transfer across the State of Tennessee and among the three systems of higher education (Tennessee Board of Regents, University of Tennessee, and the Tennessee Independent Colleges and Universities).

Applies To

Universities

Community Colleges

Definitions

- Potential Reverse Transfer Degree candidates are those students who:
 - are currently enrolled at a Tennessee four-year institution and were previously enrolled as degree seeking students at a Tennessee community college or other Tennessee associate degree-granting institution;
 - have earned a minimum of 15 college credits towards an associate degree at the associate degree-granting institution; and
 - have earned a combined minimum of 60 total college-level credits.
- Screening Degree Audit:
 - The screening degree audit will be run on those students who are currently enrolled at a Tennessee four-year institution and were previously enrolled at a Tennessee community college or other Tennessee associate degree-granting institution as degree seeking students, have earned a combined minimum of 60 total college-level credits and have successfully transferred a minimum of 12 college credits towards an associate degree at the associate degree-granting institution.

Policy

I. Introduction

A. On April 4, 2012, Tennessee Governor Bill Haslam signed HB 2827 which amended Tennessee Code Annotated, Title 49 relative to higher education. This amendment added the following language to Section 1 Tennessee Code Annotated, Title 49, Chapter 7, Part 1:

The community colleges of the board of regents system are authorized and encouraged to enter into reverse articulation or reverse transfer agreements with the universities of the board of regents and the University of Tennessee systems and with private institutions of higher education that are accredited by the Southern Association of Colleges and Schools. The universities of the board of regents and the University of Tennessee systems are authorized and encouraged to enter into reverse articulation or reverse transfer agreements with the community colleges of the board of regents system.

B. In July 2012, a taskforce was convened to develop and implement a Reverse Transfer Process across the State of Tennessee. The original taskforce was comprised of members from the Tennessee Higher Education Commission, the Tennessee Board of Regents (TBR), the Tennessee Independent Colleges and Universities Association (TICUA), and the University of Tennessee (UT) systems.

C. The full taskforce defined Reverse Transfer as “a credit review of degree seeking students who transfer from a community college to a four year institution prior to receipt of the associate’s degree to determine if and when the students complete the associate’s degree requirements and, if so, to award them an associate’s degree.” While the remaining courses required for the associate degree are completed at a Tennessee four-year institution, it is the responsibility of the associate degree-granting institution to verify degree completion and to award the two- year degree.

D. Subsequently, workgroups were created and charged to develop components of the overall process. The workgroups included members from THEC, TICUA, TBR, and UT. The Policies/Procedures workgroup was charged with the development of academic policy/procedures that will serve as the framework for Reverse Transfer across the State of Tennessee and among the three systems of higher education (Tennessee Board of Regents, University of Tennessee, and the Tennessee Independent Colleges and Universities).

II. Participation

A. All TBR and UT institutions will participate in Reverse Transfer as encouraged and supported by the State of Tennessee HB 2827. TICUA institutions may choose to participate. Those state institutions that have existing Reverse Transfer agreements with other state institutions must participate in the statewide solution. However, state institutions may develop free-standing reverse transfer agreements with non-participating TICUA institutions.

III. Governance and Compliance

A. The UT-TBR-TICUA Articulation and Transfer Council will have oversight of the Reverse Transfer process and policies and will review the policy and its impact annually. Oversight responsibilities include, but are not limited to, assessment and evaluation of the process, reporting to the Legislature, and modifications in the process/policies as needed.

B. The University of Tennessee Center for Business and Economic Research (CBER) will house and maintain the server and will have primary responsibility for the stored data (demographic and academic) as well as the data extracted for evaluation and reporting purposes. CBER will maintain the confidentiality and integrity of the data and will have primary responsibility for research and reporting related to Reverse Transfer. Data collected for the Reverse Transfer process will not be integrated into or become part of the Tennessee Longitudinal Data System (TLDS) unless approved by the Chancellor/President on each campus. CBER will collaborate with THEC, TBR, TICUA, UT, the Lumina Foundation (Tennessee's grant project founder), and the Office of Community College Leadership and Research (OCCRL) at the University of Illinois Champagne-Urbana campus throughout the evaluation and reporting processes. The "Credit When It's Due" (CWID) founders contracted OCCRL to document a baseline analysis, policy change/implementation and aggregate student outcomes for the CWID project nation-wide. In addition, each campus/system may designate an individual to have access to individual records for their students to conduct additional research and/or to validate the number of students receiving an associate degree and their credit hours reported to THEC.

C. Policies/procedures must be in compliance with the standards of accreditation set forth by the Southern Association of Colleges and Schools (SACSCO).

1. Reverse Transfer candidates must complete "...at least 25 percent of the credit hours required for the degree" at the Tennessee institution awarding the associate's degree. (SACSCO 3.5.2)

2. Reverse Transfer candidates must adhere to the Catalog requirements established by the degree-granting institution. (SACSCO 3.5.3)

D. All student information shared between and among institutions to facilitate Reverse Transfer awards must be in compliance with FERPA guidelines and applicable State of Tennessee statutes.

IV. Policies

A. The Tennessee Higher Education Commission will work to identify and make any necessary modifications to the funding formula to reflect a spirit of full collaboration among Tennessee institutions of higher education and reward participating Tennessee institutions accordingly. Reverse Transfer, an initiative to promote the educational attainment of adult learners through the full cooperation and collaboration among Tennessee institutions of higher education, will result in the generation of student and institutional outcomes where none previously existed.

B. Each institution will be responsible for the accuracy of Equivalency Tables and degree audits. Equivalency tables and degree audits must be reviewed and updated annually, or as new programs are approved.

C. The “last hours” policy shall be waived for Reverse Transfer degree candidates at all Tennessee institutions. Requiring students to complete any number of “last hours” at the community college would potentially place undue hardship on the student and would be counter-intuitive to the intent of Reverse Transfer.

D. To adhere to the FERPA guidelines, the four-year institution must have written permission from the student to send the results of the screening degree audit to the associate degree-granting institution for reverse transfer degree audit purposes. The process to obtain student consent must include a reasonable way to identify the individual and authenticate the identity of the student as the source of the consent to the disclosure of the education records. Schools must obtain written consent (e.g., hard copy, electronic consent) from those students who appear to have the credits for associate degree completion prior to sending the results of the screening degree audit to the associate degree-granting institution. The communication to the student must include the purpose for sending the information, the institution to which the student’s information will be sent, and the option to revoke participation in the reverse transfer process at any time. Additionally, four year institutions may provide a section on the transfer application to allow for the exchange of the screening degree audit results for reverse transfer audit purposes or to opt out of the reverse transfer degree audit.

E. If a Reverse Transfer degree candidate attended more than one associate degree-granting institution prior to transferring to a four-year institution, the

degree confirming institution will be the institution where the student earned the most credits, provided the student earned a minimum of 15 credits at that institution to meet the SACSCO residency requirement (SACSCO 3.5.2) and the student meets the requirements for an associate degree at that institution. In the event the student has earned the same number of credits and meets the residency and degree requirements at two or more institutions, the institution that the student attended most recently will be considered as the degree-granting institution.

1. A four-year institution may not accept all credits earned at the associate degree-granting institution (e.g., grades of "D") that may in fact count towards the associate degree. Therefore, a threshold of "successfully transferred" credits that is less than the minimum residency credits required at the associate degree-granting institution was established to capture and include those students who may have not had all earned degree credits accepted by the four-year institution. Students meeting this threshold are considered to be "close" to degree completion for purposes of the screening degree audit. The associate degree-granting institution will still have responsibility for the official degree audit and degree conferral, if the student is eligible.

F. Students will not be assessed a fee for to have the screening degree audit report sent to the associate degree-granting institutions in the degree audit process of Reverse Transfer.

G. Reverse Transfer degree recipients will not be assessed a graduation fee at the associate degree-granting institution.

H. Each community college and each participating four-year institution will designate a contact person for Reverse Transfer. The contact person will serve as a point of information to students, faculty, and advisors.

I. Students are afforded due process under the appeals process and procedures outlined in the Catalog at the appropriate institution.

J. Once a degree is conferred (baccalaureate or associate), the student will not be considered further for the reverse transfer process.

V. Procedures

A. Initially, Reverse Transfer degree awards will be limited to those degree programs that are currently identified as a Tennessee Transfer Pathway. Community Colleges also have the discretion to award the A.A. and A.S. General

Studies degrees as reverse awards where applicable. All other associate degree programs should be added to the Reverse Transfer process as quickly as feasible.

1. Additionally, all two-year degrees may be considered for and awarded through Reverse Transfer. While it is likely that the majority of Reverse Transfer degrees awarded will be either A.A. or A.S. degrees, it is possible that a student could complete the A.A.S., A.F.A, or A.S.T. degree requirements at a four-year institution, in which case the degree eligibility assessment would be made at the two-year institution.

B. The degree awarding process will be institution-initiated.

1. Reports will be generated each spring and fall semester (for May and December degree awards, respectively) to identify potential degree candidates and sent to the associate degree-granting institution for a degree audit and confirmation of degree. Potential degree candidates will be identified through a match of descriptive attributes which may include full name, permanent address, birth date, or other identifiers.

2. The associate degree-granting institution will send eligible students a letter of degree confirmation, information regarding participation in graduation ceremonies, and then mail diploma. Students will not need to file degree application for the associate degree.

3. A student may decline the degree.

4. Students being awarded a degree and the hours credited for the degree at the community college and four-year school will be recorded in the data set maintained by CBER.

C. The associate degree-granting institution will notify, in writing, those students whose associate degree audit indicates outstanding academic requirements for the Reverse Transfer associate degree and any “holds” the student may have.

1. Students will be notified of their progress toward the Reverse Transfer degree twice a year (spring and fall) to coincide with the reporting schedule identified in Procedure B.2.

2. It is the student’s responsibility to complete any outstanding academic requirements within his/her Catalog time limit in order to be considered for a Reverse Transfer degree.

3. It is the student's responsibility to clear any and all "holds" to be considered for a Reverse Transfer degree.

D. Website information for Reverse Transfer will be developed with input from UT, TBR, and TICUA, and will be located on the Tennessee Transfer Pathway website which is maintained by Tennessee Technological University. Each participating associate-degree granting institution will have a Reverse Transfer page that will include a link to the Reverse Transfer website. The institution's Reverse Transfer contact person's name, email, and telephone number as well as general information about Reverse Transfer will be included on the institution page.

VI. Guidelines

A. The general education assessment requirement may be waived for Reverse Transfer degree candidates at the discretion of the degree-granting institution.

1. The 2010 Tennessee Higher Education Commission's Quality Assurance guidelines concerning General Education Assessment (p. 7) indicate: "Institutions may exclude students from testing for 'good cause.' Good cause exemptions must be supported by documentation from the institution's chief academic officer. Exceptions should not be approved for simple inconvenience. This material should be available for review by Commission staff if needed."

(http://www.tennessee.gov/thec/Divisions/AcademicAffairs/performance_funding/PF%202010-15%20Guidebook%20Mar%2017%202011.pdf)

2. Reverse Transfer degree recipients will then complete the general education assessment as graduating seniors from a Tennessee baccalaureate degree program.

3. Therefore, community colleges will not be penalized under THEC Performance Funding Quality Assurance guidelines for waiving the general education assessment requirement for Reverse Transfer degree recipients (See Policy A in this document).

B. Upper division courses completed at a four-year institution may be considered for lower division course substitution on a case-by-case basis and in accordance with current policy at the associate degree-granting institution.

C. Reverse Transfer degree recipients may participate in the graduation ceremonies at the degree-granting institution. Students who choose to participate in the ceremony will be responsible for cap and gown rental.)

Source

Approved by the Full Reverse Transfer Taskforce: 6/20/14; Revised and Approved by the Articulation and Transfer Council:

PRESIDENTS QUARTERLY MEETING

DIRECTORS QUARTERLY MEETING

DATE: Presidents Meeting (August 19, 2014)
Directors Meeting (August 19, 2014)

AGENDA ITEM: Tennessee Transfer Pathways-Fall Activities

ACTION: Information Item

PRESENTER: Vice Chancellor Tristan Denley

BACKGROUND INFORMATION:

Vice Chancellor Denley will provide an update on the fall activities for the Tennessee Transfer Pathways.

PRESIDENTS QUARTERLY MEETING

DIRECTORS QUARTERLY MEETING

DATE: Presidents Meeting (August 19, 2014)
Directors Meeting (August 19, 2014)

AGENDA ITEM: Completion Academy and Bill and Melinda Gates Foundation
Grant

ACTION: Information Item

PRESENTER: Vice Chancellor Tristan Denley

BACKGROUND INFORMATION:

Vice Chancellor Denley will provide an update on the Tennessee Board of Regents Completion Academy and Bill and Melinda Gates Foundation Grant.

PRESIDENTS QUARTERLY MEETING

DIRECTORS QUARTERLY MEETING

DATE: Presidents Meeting (August 19, 2014)
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AGENDA ITEM: Accessibility to Instructional Materials and Technology Summit

ACTION: Information Item

PRESENTER: Vice Chancellor Tristan Denley

BACKGROUND INFORMATION:

Vice Chancellor Denley will provide information on the Accessibility to Instructional Materials and Technology Summit that is planned to take place at the Nashville Airport Marriott Hotel, September 17-18, 2014.

PRESIDENTS QUARTERLY MEETING

DIRECTORS QUARTERLY MEETING

DATE: Presidents Meeting (August 19, 2014)
Directors Meeting (August 19, 2014)

AGENDA ITEM: Review of New Budget Principles Policy 4:01:00:01

ACTION: Voice Vote

PRESENTER: Dale Sims

BACKGROUND INFORMATION:

Attached for review is the new budget principles policy. The budget principles included in this policy are intended to respond to the expectations of various stakeholders relating to the generation and expenditure of funds.

Policy 4:01:00:01 Budget Principles

Purpose

As a public entity, the System is responsible for the prudent management of resources entrusted to its care by Tennesseans. Ensuring that budgets developed by institutions and considered by the Board are prepared in accordance with sound budget principles is fundamental to good stewardship of System financial resources. The budget principles included in this policy are intended to respond to the expectations of various stakeholders relating to the generation and expenditure of funds. All System and institutional officials responsible for budgeting processes are directed to adhere not only to the specific requirements of this policy, but to also act within the spirit of this policy and in a manner that evidences forthrightness and engenders public trust.

Guiding Principles

Working within the institution's shared governance process, each Chief Executive Officer has the responsibility and full authority to propose a budget to the Chancellor and Board. The Chief Executive Officer will ensure that the process for budget development is open, provides for accountability, includes appropriate constituencies in budget planning, and incorporates clear guidelines and adequate training for those involved.

In the development and submission of budgets, each Chief Executive Officer shall adhere to the following principles.

- 1) Budgetary needs should be prioritized relative to the institution's core mission and consistent with its strategic plan, with resources aligned accordingly. In situations where resources are constrained or limited, resources should be redistributed as needed to ensure that limited resources meet the highest priority needs of the institution.
- 2) Budgets must respect generational neutrality. In general, this to say that the cost of educating the current generation of students should be borne by the current generation and not be deferred to future generations.
- 3) The Budget must be balanced:

- a) In total, such that all planned expenditures do not exceed expected revenues and use of reserves or other non-recurring funds; and
 - b) On a recurring basis, such that planned ongoing expenditures do not exceed expected recurring revenues. Use of non-recurring funds to meet recurring expenditures is discouraged; however, it is acknowledged that circumstances may arise when it is in the best interest of the institution to do so. In the event non-recurring revenues are budgeted to meet recurring expenses, this must be specifically disclosed to the Board as part of the budget consideration process, including justification and the institution's plan for achieving recurring balance.
- 4) A degree of fiscal conservatism must be incorporated in the budget to reduce the risk of year-end deficits by:
- a) Ensuring all costs are fully recognized. Use of anticipated savings as a funding source (e.g., lapsed salaries) for recurring expenses is discouraged. If anticipated savings are used to fund recurring expenses, this must be specifically disclosed to the Board as part of the budget consideration process;
 - b) Using financially conservative, yet reasonable, revenue estimates in light of existing conditions. Estimates of revenues derived from students must be based on analysis of historic enrollment patterns, modified for any recent observable patterns. The basis for student derived revenue estimates must be communicated to the Board as part of the budget consideration process; and
 - c) Maintaining appropriate contingency funds for revenue shortfalls and emergencies for both Education & General and Auxiliary operations, consistent with relevant TBR policies and guidelines.
- 5) Related to the principle on generational neutrality and to ensure the long term viability of the institution, sufficient provision must be made in both Education & General and Auxiliary budgets to annually fund:
- a) Maintenance and facilities renewals to the physical plant and grounds; and

- b) Acquisition, repair and replacement of teaching equipment, computers, and other equipment.
- 6) Opportunities for cost savings arising from shared services and resources between departments and organizations within an institution and among other institutions should be aggressively pursued.

Operational Provisions

Accountability for the effective management of the budget rests with the institution's Chief Executive Officer, who ensures that proper controls and budget management policies are established.

Guidelines may be developed that further direct and clarify application of the above principles in the budget development and administration process. The Chancellor is authorized to issue directives on these matters consistent with the provisions of this policy.

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PRESIDENTS QUARTERLY MEETING

DIRECTORS QUARTERLY MEETING

DATE: Presidents Meeting (August 19, 2014)
Directors Meeting (August 19, 2014)

AGENDA ITEM: Review of New Institutional Financial Performance Policy 4:01:00:02

ACTION: Voice Vote

PRESENTER: Dale Sims

BACKGROUND INFORMATION:

Attached for review is the new Institutional Financial Performance policy. It is the policy of the Board that institutions have a sound financial base and demonstrate financial stability sufficient to support the mission of the institution over the long term. Although missions may vary among institutions, a sound financial base and a pattern of financial stability provide the foundation for accomplishing an institution's mission, regardless of changing economic conditions. Financial and physical resources should be managed in a manner that permits the institution to fulfill its mission long term.

Policy 4:01:00:02 - - Institutional Financial Performance

Policy/Guideline Area

Business & Finance Policies

Applicable Divisions

TCAT's, Community Colleges, Universities, System Office

Purpose

It is the policy of the Board that institutions have a sound financial base and demonstrate financial stability sufficient to support the mission of the institution over the long term. Although missions may vary among institutions, a sound financial base and a pattern of financial stability provide the foundation for accomplishing an institution's mission, regardless of changing economic conditions. Financial and physical resources should be managed in a manner that permits the institution to fulfill its mission long term.

Policy/Guideline

Responsibility: The chief executive officer of each institution is responsible for administering and managing the institution's financial affairs in such a manner as to ensure the institution's current and future financial health. This policy establishes the tools used to assess the financial health of an institution, the reporting process, and actions to be taken if an institution shows signs of financial weakness.

Background: The analytical framework contained within this policy is derived from *Strategic Financial Analysis for Higher Education; Identifying, Measuring & Reporting Financial Risks*; Seventh Edition, published by KPMG; Prager, Sealy & Co., LLC; and ATTAIN. This framework and its primary metric, referred to as the Composite Financial Index ("CFI"), are widely used in the higher education community to understand the financial health of institutions. The methodology, ratios, and related benchmarks contained in this policy are taken from this publication.

To determine an institution's financial performance, four questions are asked:

- Are resources sufficient and flexible enough to support its mission;
- Does financial asset performance support the institution's strategic direction;
- Do operating results indicate the institution is living within its available resources; and
- Is debt managed strategically to advance its mission.

To address these four questions, data from an institution’s unaudited financial report are used to determine four “core” financial ratios that are then combined into a single composite metric of financial condition – the Composite Financial Index.

Calculation of Core Ratios and CFI: All calculations include the financial results of the institution’s component unit (i.e. related foundation(s), noted as “CU”) to present a comprehensive picture of the institution’s overall financial condition. The data source for calculation of each ratio is the institution’s unaudited annual financial report, with all calculations reflecting the results from a single year (i.e. no use of moving averages). The four core financial ratios, including general descriptions, the calculation method, data sources, an expected performance standard, and a performance watch level and a similar description of the calculation and interpretation of the Composite Financial Index value, are as follows.

- **Return on Net Assets**

Description: The return on net assets ratio measures total economic return during the fiscal year. This measure is similar to the return on equity ratio used in examining for profit concerns and answers the questions, “Are they better off financially than they were a year ago” and “Does financial asset performance support the strategic direction of the institution?” While investments in plant, a capital campaign, or a poor stock market can all create year to year volatility in this measure, the trend over time should be positive.

Calculation:

$$\frac{\text{Change in Net Assets} + \text{CU Change in Net Assets}}{\text{Total Net Assets (beginning of year)} + \text{CU Total Net Assets (beginning of year)}}$$

Expected Performance Standard: The return on net assets ratio should be at least 3 percent above the rate of inflation. For example, if the Consumer Price Index (CPI) is at 3 percent, a return on the net assets ratio of 6 percent is desirable.

Watch Level: Consistently below the rate of inflation. Anything below the rate of inflation indicates a reduction of the institution’s asset base in real dollars, thereby eroding the purchasing power of institutional resources for future generations.

- **Net Operating Revenues Ratio**

Description: The net operating revenues ratio indicates an operating surplus or deficit in the given fiscal year. A positive ratio indicates that the institution experienced an operating surplus for the year. This ratio is similar to a profit margin and answers the questions, “Did they balance operating expenses with available revenue” and “Do the operating results

indicate that the institution is living within available resources?" Depreciation expense is included to reflect the use of physical assets in measuring operating performance.

Calculation:

$$\frac{\text{Operating Income (Loss) + Non-operating Revenues (Expenses) + CU Change in Unrestricted Net Assets}}{\text{Operating Revenues + Non-operating Revenues + CU Total Unrestricted Revenue}}$$

Expected Performance Standard: A ratio of 4.0%. This is considered adequate to keep pace with the growth in operating expenses and maintain reserves at acceptable levels.

Watch Level: Consistently below zero. A deficit in a single year does not necessarily indicate a problem, but deficits over several years are a cause for concern and suggest that the institution's mission cannot be sustained and institutional finances should be restructured.

- **Primary Reserve Ratio.**

Description: The primary reserve ratio measures financial strength and flexibility by comparing expendable net assets to total expenses. This measure answers the question, "How long can the institution survive without additional net assets generated by operating revenue?"

Calculation:

$$\frac{\text{Expendable Net Assets + CU Expendable Net Assets}}{\text{Total Expenses + CU Total Expenses}}$$

Expected Performance Standard: A ratio of 0.40 (representing about 5 months of expenses) or higher. At this level an institution has the flexibility to manage minor financial disruptions and other unforeseen events with less need to immediately disrupt ongoing activities. At this level, an institution can be expected to carry on a reasonable level of facilities maintenance activities.

Watch Level: A ratio of 0.133 (represents less than 1.5 months of expenses in ready assets) or less. Institutions at these levels have less operating flexibility to meet unexpected events, generally lack sufficient resources to pursue strategic initiatives, and may struggle to invest in plant maintenance.

- **Viability Ratio**

Description: The viability ratio measures the financial health of the institution by comparing total expendable net assets to total current and non-current liabilities. This ratio is similar to a coverage ratio used in the private sector to indicate the ability of an organization to cover its long term debt from readily available resources and answers the questions, “How much of their debt can the institution pay off with existing resources” and “Is debt managed strategically to advance the institution's mission”. For institutions with no debt, this ratio is ignored in the calculation of the CFI score. A ratio of 1.0 indicates an institution has expendable resources sufficient to satisfy all outstanding plant related debt.

Calculation:

$$\frac{\text{Expendable Net Assets} + \text{CU Expendable Net Assets}}{\text{Plant Related Debt} + \text{CU Plant Related Debt}}$$

Expected Performance Standard: A ratio of 1.25 or higher (the higher the ratio, the stronger the creditworthiness of the institution). At these levels, an institution has increased flexibility to address unexpended events.

Watch Level: A ratio of 0.41 or less. Similar to the primary reserve ratio Watch level, institutions at this level have decreased flexibility to respond to unforeseen events, essentially a reduced “margin of error” in the financial management of the institution. Dropping below a ratio of 0.41 may identify the institution as a credit risk.

Composite Financial Index (CFI): After their calculation, these four ratios are combined to deliver a single measure of the overall financial health of the institution. By blending these four core financial ratios into one metric, a more balanced view of the institution’s finances is provided since weakness in one measure can be offset by strength in another. Additionally, measuring the index over time provides a glimpse as to the progress institutions are making toward achieving financial goals. CFI scores range from a low of -4.0 to a high of 10.0. The CFI is computed using a four-step methodology:

1. Computing the values of the core ratios as outlined above;
2. Calculating strength factors by dividing the core ratios by threshold values;
3. Multiplying the factors by specific weights; and
4. Totaling the resulting scores to obtain the composite financial index.

Universities (Institutions with Outstanding Debt)

<u>Core Ratio Value</u>		<u>Threshold Value</u>		<u>Strength Value</u>		<u>Weight</u>		<u>Score</u>	
Return on Net Assets	/	0.020	=	0.00	X	20%	=	0.00	
Net Operating Revenues	/	0.013	=	0.00	X	10%	=	0.00	
Primary Reserve	/	0.133	=	0.00	X	35%	=	0.00	
Viability	/	0.417	=	0.00	X	35%	=	0.00	
Composite Financial Index Score								=	<u>0.00</u>

Community Colleges (Institutions with No Outstanding Debt)

<u>Core Ratio Value</u>		<u>Threshold Value</u>		<u>Strength Value</u>		<u>Weight</u>		<u>Score</u>	
Return on Net Assets	/	0.020	=	0.00	X	30%	=	0.00	
Net Operating Revenues	/	0.013	=	0.00	X	15%	=	0.00	
Primary Reserve	/	0.133	=	0.00	X	55%	=	0.00	
Viability	/	0.417	=	0.00	X	0%	=	0.00	
Composite Financial Index Score								=	0.00

Expected Performance Standard: A score of at least 3.0. *Strategic Financial Analysis for Higher Education* indicates that at this level an institution is relatively financially healthy in that sufficient liquid resources exist to meeting unforeseen circumstances, net operating revenues are adequate, expendable net assets exceed the level of debt, and the return on net assets is reasonable.

Watch Level: A score of 1.0 or less. Again, *Strategic Financial Analysis for Higher Education* suggest that scores of 1.0 or below call into question the institution’s ability to carry out existing programs and survive.

Review Periods: While important, the Board acknowledges that annual results should be placed in context by reviewing longer terms trends. By focusing on 3 to 5 year trends, the Board believes the long term financial health of an institution may be better ascertained.

Process for Reporting: Within thirty days of submission to the System Office of published financial statements, each institution’s chief business officer shall be responsible for calculation of the institution’s core ratios and CFI score and submitting this information to the System Office. As part of this submission, the chief business officer shall provide a narrative that explains the factors underlying changes in ratio values and CFI scores from the prior year, and whether these factors were planned or unexpected. If Watch Level performance is evidenced on any indicator, the submission shall also address what action the institution plans to take to improve the ratio or score in subsequent years.

The System Office shall review institutional submissions. For any measure that evidences Watch Level performance, the System Office will review with the chief business officer the adequacy of the institution’s plan to address the issue. Concerns regarding the adequacy of such plans, if any, shall be communicated to the Chancellor and the institution’s chief executive officer. If a Watch Level performance issue persists, it will be brought to the attention of the Chancellor and the Board in an exception report.

On an annual basis, the Board shall be advised on the aggregate overall financial performance of the System and its institutions, in summary by sector. The System Office staff shall report to

the Board any institution whose performance meets the Composite Financial Index Watch Level criteria specified in this policy.

Sources

Strategic Financial Analysis for Higher Education; Identifying, Measuring & Reporting Financial Risks; Seventh Edition, published by KPMG; Prager, Sealy & Co., LLC; and ATTAIN.

Contact

PRESIDENTS QUARTERLY MEETING

DIRECTORS QUARTERLY MEETING

DATE: Presidents Meeting (August 19, 2014)
Directors Meeting (August 19, 2014)

AGENDA ITEM: Recommended Revisions to Policy 4:03:02:00 – Motor Vehicles

ACTION: Voice Vote

PRESENTER: Dale Sims

BACKGROUND INFORMATION:

The following revisions are being recommended to Policy 4:03:02:00:

Section II.

The following revision is recommended:

- A. The presidents of the institutions, the Chancellor, Vice Chancellors, Legal Counsel, and TCAT Directors may be assigned motor vehicles for **their** use ~~in performing the official functions of their offices.~~ **The terms of such use shall be set forth in their respective employment agreements or letters.**

Section IV.C.3

The following new language was added:

The spouse and children of employees generally are not considered a guest of the institution unless their attendance is required at the event and they are listed on approved travel authorizations.

Attachment A to the Policy

Section I.A.

“for licensed vehicles” was added for clarification.

Motor Vehicles: 4:03:02:00

Policy/Guideline Area

Business and Finance Policies

Applicable Divisions

TCATs, Community Colleges, Universities, System Office

Purpose

The purpose of this policy is to establish the minimum regulations and procedures concerning the maintenance and operation of motor vehicles by institutions and employees of the institutions within the Tennessee Board of Regents System.

Definitions

- State vehicle or motor vehicle - any motor vehicle owned by the Board or an institution or college of applied technology in the System, or purchased or leased from state funds.
- Institution - any university, or community college, or college of applied technology within the Tennessee Board of Regents System, and the offices of the Board of Regents.
- Employee - any person employed full or part-time by an institution or any person serving as an 'official volunteer' at an institution. An 'official volunteer' is defined as a person whom the institution has properly registered with the Tennessee Board of Claims pursuant to Tenn. Code Ann. § 8-42-101(3)(B).

Policy/Guideline

I. General Provisions

- A. Motor vehicles are maintained at institutions in the System to facilitate the official business of the System. It is the responsibility of all employees who use state vehicles to ensure the efficient and economical utilization of such vehicles.
- B. All state vehicles shall be used in accordance with the provisions of this policy.
- C. All state vehicles shall be marked in accordance with the current TBR Marking Plan as contained in Attachment A.

II. Presidents, Chancellor, Vice Chancellors, Legal Counsel, and TCAT Directors

- A. The presidents of the institutions, the Chancellor, Vice Chancellors, Legal Counsel, and TCAT Directors may be assigned motor vehicles for their use in performing the official functions of their offices. The terms of such use shall be set forth in their respective employment agreements or letters.

III. Motor Pools

- A. Each institution is authorized to maintain a central motor pool from which vehicles may be dispatched by employees for official business.
- B. When motor pool vehicles are maintained, an employee who needs to use a motor vehicle on state business shall use a pool dispatched vehicle if one is available, unless the employee elects and obtains authorization to use a personally-owned vehicle as provided in the Board's General Travel Policies and Procedures (No. 4:03:03:00).
- C. Motor pool vehicles shall be available for either trip assignments or special assignments.
 - 1. Motor pool vehicles available for trip assignments will be centrally controlled by the institution and made available for specific trips and returned to the motor pool upon completion of trips and shall be used only for official business and not for personal use.

2. Special assignment of motor pool vehicles may be made to a division or a person when necessary for use on a regular basis.
3. Motor pool vehicles, including those used for trip assignments and special assignments may not be used for commuting purposes unless the employee:
 - a. Is departing upon or returning from an official trip away from his or her headquarters or the employee needs the vehicle to conduct institution business after regular working hours or before his or her usual working hours on the next day; or
 - b. Has been recommended by the president or director and approved by the Chancellor to be authorized to use the vehicle for commuting purposes.

IV. Authorized Operators and Passengers

- A. Only employees of an institution with proper departmental authorization may be authorized to operate a state vehicle for official business. Authorization to use a state vehicle shall be limited to official use within the scope of employment of the employee.
- B. All employees must have a valid driver's license prior to being authorized to operate a state vehicle.
- C. Passengers in state vehicles shall be limited to the following:
 1. Employees of the institution when within the scope of employment;
 2. Students of the institution engaged in institutional or school sponsored activities; and
 3. Other persons when it is necessary for them to accompany an employee on official business or as guests of the institution. **The spouse and children of employees generally are not considered a guest of the institution unless their attendance is required at the event and they are listed on approved travel authorizations.**

V. Penalties for Misuse of Vehicles

- A. Employees who misuse vehicles will be subject to disciplinary sanctions, depending upon the magnitude of the misuse and the frequency with which it has occurred. Misuse includes any of the following:
1. Utilization of radar detection devices in state vehicles;
 2. Violations of traffic laws; this includes exceeding posted speed limits, reckless driving, and illegal parking;
 3. Careless operation that results in damage to the vehicle or injury to persons or property;
 4. Use of a vehicle for personal business or unauthorized commuting purposes; or
 5. Use of a vehicle contrary to the provisions of this policy.
- B. The president or director of the institution, or the Chancellor should determine the penalty appropriate for each violation; and in addition may require the employee to pay for damages to the vehicle caused by misuse.

VI. Notice of Liability and Penalties for Misuse

- A. A notice of liability and penalties for misuse of motor vehicles (Exhibit 1) shall be posted at the site where vehicles are normally checked out, and be contained in each vehicle for the benefit of drivers.

VII. Exceptions

- A. Any exception to this policy must be approved in writing by the Chancellor.

Attachment A

I. Marking Plan for State Vehicles


A. The provisions of the marking plan [for licensed vehicles](#) are as follows:

1. All institutions will develop and/or affix their own individual decal containing a minimum surface area of sixty square inches to all licensed vehicles.
2. The identifying emblem will be displayed on the passenger and driver's door unless otherwise stated. Some vans will be marked on the side at mid-panel height, and some institutions will further identify the vehicle as security, maintenance, etc.
3. Vehicles assigned to the chancellor, vice chancellors, legal counsel, presidents, and directors will carry regular series license plates and no decal identification.

B. These provisions will remain in full effect until revoked or altered in writing by the Chancellor of the Tennessee Board of Regents.

Source: Memorandum dated February 28, 1986, from Chancellor Thomas J. Garland to the State Commissioners of Finance and Administration and General Services

Exhibits

-  [Exhibit 1 - Notice of Liability and Penalties for Misuse](#) (pdf /11.06 KB)

Sources

TBR Meetings, June 29, 1979; June 27, 1980; September 30, 1983; June 29, 1984; June 27, 1986; June 24, 1988; September 21, 1990; March 18, 2005; June 29, 2007.

PRESIDENTS QUARTERLY MEETING

DIRECTORS QUARTERLY MEETING

DATE: Presidents Meeting (August 19, 2014)
Directors Meeting (August 19, 2014)

AGENDA ITEM: Recommended Revisions to Guideline B-110 – Fixed Assets and Sensitive Minor Equipment

ACTION: Voice Vote

PRESENTER: Dale Sims

BACKGROUND INFORMATION:

The following revisions are being recommended to Guideline B-110:

Section VIII C.7

Delete “periodicals.”

Section IX.B.

Revise as follows:

“Software codes ~~should be~~ **are normally** amortized over a useful life of 10 years.”

Fixed Assets and Sensitive Minor Equipment: B-110

Policy/Guideline Area

Business and Finance Guidelines

Applicable Divisions

TCATs, Community Colleges, Universities

Purpose

The purpose of the following guideline is to outline significant provisions for consistent capitalization procedures for fixed assets at the institutions governed by the Tennessee Board of Regents.

Policy/Guideline

I. Introduction

- A. These guidelines largely represent a consolidation of the existing practices and are intended to serve as a reference document for institutional staff responsible for fixed asset administration.
 - 1. The guideline includes provisions for capitalizing land, land improvements, leasehold improvements, buildings, additions and improvements to buildings, infrastructure, nonexpendable personal property, software, and livestock.
 - a. Additionally, the guideline also includes provisions for the inventory of sensitive items.
- B. Property records should be maintained for all land and capitalized assets.

1. Procedures should ensure the proper recordkeeping of capitalized assets, including the initial recording, movement and eventual disposal of assets and should ensure that these assets are periodically inventoried.
2. Property records for assets acquired with federal funds should conform to OMB Circular A-110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations.

II. Land

- A. Land is generally considered to have an unlimited life and is therefore a non-depreciable asset. Land acquired by the institution should be recorded at its original cost which includes a variety of expenditures related to its acquisition and its preparation for use as intended by the institution.
- B. The following are examples of expenditures that should be capitalized as a part of the cost of land:
 1. The original acquisition price.
 2. Commissions related to the acquisition.
 3. Legal fees related to the acquisition.
 4. Cost of surveys.
 5. Cost of an option to buy the acquired land.
 6. Cost of removing unwanted buildings from the land, less any proceeds from salvage.
 7. Unpaid taxes (to the date of acquisition) assumed by the institution.
 8. Cost of permanent improvements (e.g. landscaping) and improvements that will later be maintained and replaced by other governments (e.g. street lights, sewers).

9. Cost of getting the land in condition for its intended use, such as excavation, grading, filing, draining, and clearing.

C. Land acquired through forfeiture should be capitalized at the total amount of all taxes, liens, and other claims surrendered, plus all other costs incidental to acquiring ownership and perfecting title.

1. Assumption of liens, mortgages, or encumbrances on the property increases the purchase price and should be included in the original cost.

2. A liability should be recognized for the amount of the lien, mortgage, or encumbrance assumed by the institution.

D. Land acquired by donation, or the intent to donate, e.g., for one dollar, should be recorded on the basis of an appraisal of the market value at the date of acquisition.

1. The cost of the appraisal itself, however, is expensed at the time incurred.

2. When costs are incurred but the land is not acquired, the costs should be expensed.

E. Land held for investment purposes should be classified as investments rather than as property.

III. Land Improvements

A. Expenditures for land improvements that have limited lives and exceed \$50,000 should be capitalized in a separate account from the Land and depreciated over their estimated useful lives.

1. Examples of land improvements include, but are not limited to, site improvements such as landscaping that has a limited life (e.g. shrubbery, flowers, trees); retaining walls, parking lots, fencing, sidewalks, sculptures, and art work.

2. Land improvements are normally depreciated over a useful life of 20 years.

B. As assets near the end of their estimated lives, the estimates should be reviewed for accuracy of the original estimate and adjusted to reflect the anticipated number of years of continued use.

1. Any adjustment of estimated lives is a change in accounting estimate and should be applied to current and future depreciation calculations.

IV. Leasehold Improvements

A. Leasehold improvements include improvements to existing or new leased spaces. These improvements should be capitalized if the cost exceeds \$50,000 and the cost is borne by the institution.

B. Leasehold improvements are generally depreciated over the lesser of the original term of the lease or the useful life of the improvements.

C. If the lease contains an option to renew for additional years but renewal is uncertain or the likelihood of renewal is uncertain, the improvements should be depreciated over the original term of the lease or the useful life of the improvement.

V. Buildings

A. The cost of a building includes all necessary expenditures to acquire or construct and prepare the building for its intended use.

1. Buildings consist of relatively permanent structures, including all permanently attached fixtures, machinery and other appurtenance that cannot be removed without damaging the building or the item itself.

B. Buildings are erected for the purpose of sheltering persons or property. Examples include, but are not limited to such items as academic buildings, dormitories, apartments, barns, etc.

1. All buildings costing \$100,000 and above should be capitalized.
 2. Buildings costing less than \$100,000 should be expensed.
 3. Buildings are normally depreciated over a useful life of 40 years.
- C. Buildings acquired by purchase should be capitalized at their original cost. The following major expenditures are capitalized as part of the cost of buildings:
1. The original bargained purchase price of the building.
 2. Cost of renovation necessary to prepare the building for its intended use.
 3. Cost of building permits related to renovation.
 4. Unpaid taxes (to date of acquisition) assumed by the institution.
 5. Legal and closing fees.
- D. Buildings acquired by construction should be capitalized at their original cost. The following major expenditures are capitalized as part of the cost of buildings:
1. Cost of constructing new buildings, including material, labor, and overhead.
 2. Cost of excavating land in preparation for construction.
 3. Cost of plans, blueprints, specifications, and estimates related to construction.
 4. Cost of building permits.
 5. Architectural and engineering fees.
 6. Landscaping and other improvements related to the building construction that cannot be separately identified from the building project (e.g. wiring within the building, shrubbery and sidewalks around the building).

- E. Buildings acquired by donation, or the intent to donate, e.g. for one dollar, should be recorded on the basis of an appraisal of the market value at the date of acquisition.
 - 1. The cost of the appraisal itself, however, should not be capitalized.
 - 2. Removable fixtures, including but not limited to furnishing for the new building, should be distinguished from the cost of the building and capitalized or expensed in the appropriate accounts even if they are acquired as a part of the purchase or the construction project.
 - F. The cost of a building that is acquired but immediately removed to prepare the land for construction of a new building is treated as part of the cost of the land rather than as part of the cost of the new building.
 - G. The cost of removing an old building that you have occupied in the past but that is now deteriorated and must be removed prior to constructing a new building, should be capitalized as a part of the cost of the new building.
 - 1. The precedent supporting this treatment is the requirement to capitalize all normal costs of readying an asset for use, i.e., capitalizing demolition costs of unwanted building(s) with the purchase of land, capitalizing renovation costs when a building is purchased, capitalizing excavating costs in preparation for construction of a new building and, when a building is constructed with plans to expand later any demolition costs are capitalized with the cost of the addition.
 - H. As assets near the end of their estimated lives, the estimates should be reviewed for accuracy of the original estimate and adjusted to reflect the anticipated number of years of continued use. Any adjustment of estimated lives is a change in accounting estimate and should be applied to current and future depreciation calculations.
- VI. Additions and Improvements to Buildings
- A. Additions

1. Additions represent major expenditures that are capital in nature because they increase the service potential of the related building.
2. Additions costing \$50,000 or above should be capitalized.
3. Additions costing less than \$50,000 should be treated as repairs and maintenance even though they have the characteristics of capitalized expenditures. Example:
 - a. A new wing is added to an existing building at a cost of \$700,000. The cost would be capitalized.
 - b. A new wing is added to an existing building at a cost of \$49,999. The cost would be expensed since it does not meet the dollar level established for capitalization.
4. Two major issues are involved with accounting for additions and generally require some professional judgment:
 - a. Useful life: If the estimated useful life of the addition is independent of the building to which it relates, the addition is treated as a separate asset and depreciated over its estimated useful life, regardless of the life of the original asset. If the addition is not independent of the original asset, the useful life must be determined in relation to the original building. In this case, the cost of the addition is depreciated over the shorter of the estimated life of the addition or the remaining life of the original building.
 - b. Capitalized costs: If the original building was constructed with a plan to expand, cost related to the original building incurred when the addition takes places should be capitalized. However, costs that could have been avoided with appropriate planning at an earlier date should be expensed rather than capitalized.

B. Improvements

1. Improvements represent the substitution of a new part of an asset for an existing part.

- a. For example, the roof of a building may be replaced or a new HVAC may replace an old HVAC system.
 - b. If the new part of the asset is similar in nature to the part being eliminated, the substitution is called a replacement.
 - c. If the new part represents an improvement in quality over the part being eliminated, the substitution is called betterment.
2. Both replacements and betterments are subject to capitalization if the cost is \$50,000 or more.
- a. The appropriate accounting treatment is determined by whether the original part of the existing asset is separately identifiable.
 - b. If separate identification is possible, the new expenditure should be substituted for the portion of the book value being replaced or improved.

(1) Example: Roof replacement at cost of \$50,000 (original cost separately identified is \$30,000).

(a) Building (new roof)	\$50,000
(b) Accumulated Depreciated	27,000
(c) Loss on replacement of roof	3,000
(d) Building (old roof)	\$30,000
(e) Cash	50,000

- c. The separately identified asset is depreciated over the shorter of the expected life of the separate asset or the remaining life of the building.

- d. If separate identification is not possible, the cost of replacements and betterments is treated as an increase in the book value of the Building, thereby increasing the basis for depreciation over the remaining life of the Building.
- e. If the replacement or betterment is designed primarily to enhance the quality of the service potential of the building, the cost is charged to the Building asset account.
- f. An appropriate increase in depreciation expense is recognized in future years but the useful life is not increased. Example:

- (1) Building \$70,000
- (2) Cash \$70,000

- g. If the replacement is designed primarily to extend the length of the service life of the asset, the book value is increased by debiting Accumulated Depreciation. The revised book value is then depreciated over the revised useful life. Example:

- (1) Accumulated Depreciation – Building \$70,000

- (2) Cash \$70,000

- (3) Note:

- (a) Alterations that modernize rather than improve the quality of a building should be expensed unless the alteration is so extensive as to increase the estimated life of the building.

- (b) Re-roofing costs that are not replacing a separately identified asset should not be capitalized unless they are part of a major renovation of a building.

- h. Examples:

(1) An old gymnasium is converted to a block of individual rooms at a cost of \$500,000. This is considered a major renovation and would be a building capitalization. This renovation enhances the service quality of the building but does not extend the life of the building.

(a) Debit: Building \$500,000

(b) Credit: Cash \$500,000

(2) A deteriorating roof on an existing building (the original roof costs are not separately identified) is replaced at a cost of \$55,000. These costs should be expensed in the year(s) costs are incurred.

(a) Debit: Maintenance of buildings \$55,000

(b) Credit: Cash \$55,000

(3) A dormitory is completely renovated at a cost of \$1,000,000 including a new roof. It is estimated that the renovation will add an additional 10 years to the life of the building. The entire project costs would be capitalized under buildings.

(a) Debit: Accumulated depreciation \$1,000,000

(b) Credit: Cash \$1,000,000

(c) Note: The life of the building should be changed to reflect the additional 10-years of service. The debit to accumulated depreciation is the accumulated depreciation on the original building.

(4) A parking lot is repaved at a cost of \$20,000 in order to restore to its original condition. This would be considered maintenance and would not be capitalized.

(a) Debit: Paving expense \$20,000

(b) Credit: Cash \$20,000

3. As assets near the end of their estimated lives, the estimates should be reviewed for accuracy of the original estimate and adjusted to reflect the anticipated number of years of continued use.
 - a. Any adjustment of estimated lives is a change in accounting estimate and should be applied to current and future depreciation calculations.

VII. Infrastructure

- A. Infrastructure is defined as improvements related to the skeletal structure and function of the campus.
 1. Examples include, but are not limited to, roads, steam lines, chiller systems, storm sewers, tennis courts, sewer lines, severe weather systems, athletic scoreboards, turfs, lighting, radio and television towers, water lines, signage, all-weather track, telecommunications and computing wiring, and energy management systems.
- B. Improvements valued at or above \$50,000 should be capitalized.
- C. Improvements valued at less than \$50,000 should be expensed.
- D. The same accounting rules that apply to improvements to buildings also apply to improvements to infrastructure. Infrastructure items are normally depreciated over a useful life of 20 years.
- E. As assets near the end of their estimated lives, the estimates should be reviewed for accuracy of the original estimate and adjusted to reflect the anticipated number of years of continued use.
 1. Any adjustment of estimated lives is a change in accounting estimate and should be applied to current and future depreciation calculations.

VIII. Nonexpendable Personal Property

- A. Examples of nonexpendable personal property include machinery, implements, tools, furniture, vehicles and other apparatus with a unit cost of \$5,000 or more and a minimum life expectancy in excess of one year.
- B. The following list includes some of the costs that should be capitalized in the appropriate asset account:
1. The original bargained acquisition price.
 2. Freight, insurance, handling, storage, and other costs related to acquiring the asset.
 3. Cost of installation, including site preparation, assembling, and installing.
 4. Cost of trial runs and other tests required before the asset can be put into full operation.
 5. Cost of reconditioning equipment acquired in a used state.
- C. Nonexpendable personal property acquired by donation, or the intent of donation, e.g. acquisition for one dollar, should be recorded on the basis of an appraisal of the market value at the date of acquisition.
1. Furniture – Movable furniture that is not a structural component of a building. Examples include, but are not limited to, desk, tables, filing cabinets, and safes. Office furniture purchased in components should be capitalized only if the individual components that cannot be separated cost at least \$5,000. Furniture is normally depreciated over a useful life of 20 years.
 2. Office and operational equipment – Office and operational equipment other than computers and peripherals. Examples include, but are not limited to, copiers, sorters, folders, filing system, printing press, shop equipment, athletic equipment, kitchen

equipment, generators, and yard equipment. Office and operational equipment are normally depreciated over a useful life of 10 years.

3. Computers and peripheral – Computers and peripheral equipment are normally depreciated over a useful life of 5 years.
4. Educational and scientific equipment – Classroom or laboratory equipment used to conduct the normal program of education and research activity. Examples include, but are not limited to, audiovisual equipment, classroom demonstration models, electronic instruments, lab equipment, surveying equipment, radio equipment, pianos, and other musical instruments. Educational and scientific equipment are normally depreciated over a useful life of 10 years.
5. Motorized vehicles – Examples include, but are not limited to, cars, mini-vans, vans, boats, and light general-purpose trucks. Motorized vehicles are normally depreciated over a useful life of 5 years.
6. Heavy equipment – Examples include, but are not limited to, buses, heavy general-purpose trucks, forklifts, snowplows, and agricultural equipment. Heavy equipment items are normally depreciated over a useful life of 10 years.
7. Library holdings – Library holdings include library books, music, artistic, and reference materials included in the institution's library collection. Examples include, but are not limited to, books, ~~periodicals, microfilm, microfiche, government documents, films,~~ videocassettes, audiocassettes, phonograph records compact disc - audio, slide set, filmstrip, transparency, maps, multimedia kit, three-dimensional models, non-catalogued pamphlets, computer software manuscripts and archives, photographs, and compact disc. Library holdings are normally depreciated over a useful life of 10 years.

D. The same accounting rules that apply to building improvements apply to improvements to nonexpendable personal property.

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E. As assets near the end of their estimated lives, the estimates should be reviewed for accuracy of the original estimate and adjusted to reflect the anticipated number of years of continued use.

1. Any adjustment of estimated lives is a change in accounting estimate and should be applied to current and future depreciation calculations.

IX. Software

A. Software with a cost of \$100,000 or greater should be capitalized and amortized.

1. Capitalized software costs will include external direct costs of materials and services consumed in developing or obtaining internal-use computer software.
2. Training costs are not internal-use software development costs and should be expensed as incurred.
3. Data conversion often occurs during the application development stage. Data conversion costs should be expensed as incurred.
4. Internal costs incurred for maintenance should be expensed as incurred.

B. Software costs ~~should be~~ are normally amortized over a useful life of 10 years.

C. For each module or component of a software project, amortization should begin when the computer software is ready for its intended use, regardless of whether the software will be placed in service in planned stages that may extend beyond a reporting period.

1. For purposes of this guideline, computer software is ready for its intended use after all substantial testing is completed.

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2. Amortization shall begin the year in which the first module is placed in service. A full year of amortization will be charged the first year regardless of the actual implementation date.

D. Software with a cost less than \$100,000 should be expensed unless the institution determines, and provides justification, for capitalizing.

1. For example, if an institution purchases a separate software package to support the Banner system (example Luminous Premier), it may be appropriate to capitalize the cost even if less than \$100,000 since it is directly related to the Banner system.

2. It should be noted that software licensing agreements that are not perpetual in nature will be expensed, regardless of cost.

E. As assets near the end of their estimated lives, the estimates should be reviewed for accuracy of the original estimate and adjusted to reflect the anticipated number of years of continued use.

1. Any adjustment of estimated lives is a change in accounting estimate and should be applied to current and future depreciation calculations.

X. Livestock

A. Livestock should be expensed.

XI. Works of Art, Historical Treasures and Other Similar Assets

A. Works of art, historical treasures, and other similar assets should be capitalized whether held as individual items or as a collection. These can include, but are not limited to, paintings, works of art on paper, photography, sculptures, maps, manuscripts, recordings, film, artifacts, textiles, and other memorabilia.

- B. These items with a cost (or fair value at the date of donation) in excess of \$5,000 will be capitalized at their historical cost or fair value at the date of donation.
- C. Collections that meet all of the following criteria will not be capitalized:
 - 1. Held for public exhibition, education, or research in furtherance of public service rather than financial gain.
 - 2. Protected, kept unencumbered, cared for, and preserved.
 - 3. Proceeds from the sales of collection items must be used to acquire other items for collections.
- D. Notwithstanding paragraph XI.C. above, any collections already capitalized at June 30, 1999, will remain capitalized and any additions to such collections will be capitalized.
- E. Capitalized collections or items which are exhaustible, such as exhibits whose useful lives are diminished by display or educational or research applications, should be depreciated over their estimated useful lives. Inexhaustible collections or items are items where the economic benefit or service potential is used up so slowly that the estimated useful lives are extraordinarily long. Depreciation is not required for collections which are inexhaustible.
- F. Capitalized collections deemed exhaustible should be depreciated over a useful life of 10 years.

XII. Sensitive Minor Equipment

- A. Sensitive minor equipment items are of a movable nature which is particularly vulnerable to theft and have a cost or fair value (for donated items only) between \$1,500.00 and \$4,999.99, regardless of funding source.
 - 1. The following items are examples of items that may be viewed as sensitive minor equipment: binoculars, boat motors, boat trailers, boats, cameras, camera lenses,

canoes, computers, external computer storage devices, ham radios and receivers, marine band transmitters and receivers, microscopes, musical instruments, scientific equipment, oscilloscopes, PDAs, printers, projectors, radio scanners, external computer scanners, spectrum analyzers, televisions, two-way radio transmitters and receivers, vector scopes, video cameras, video recorders and players, and waveform monitors.

2. All weapons, regardless of cost, should be considered sensitive minor equipment.
- B. Each institution will perform a risk assessment to determine which items should be designated as sensitive minor equipment for that institution.
1. The useful life of sensitive minor equipment is estimated at 3 years, after which the fair value will be considered to be nominal.
- C. Although sensitive minor equipment items are not capitalized, they must be identified and inventoried.
1. Physical inventory of sensitive minor equipment should be conducted annually.
 2. Sampling is an acceptable method of conducting the physical inventory of sensitive minor equipment.

Sources

New Guideline approved at Presidents Meeting, August 17, 2010. Revised at Presidents Meeting, February 4, 2014

PRESIDENTS QUARTERLY MEETING

DIRECTORS QUARTERLY MEETING

DATE: Presidents Meeting (August 19, 2014)
Directors Meeting (August 19, 2014)

AGENDA ITEM: Recommended Revisions to Guideline B-061 – Educational Assistance (State Employees and Dependents of State Employees and Teachers)

ACTION: Voice Vote

PRESENTER: Dale Sims

BACKGROUND INFORMATION:

To incorporate Public Chapter 959 which defines the free class that state employees receive as no more than 4 credit hours or 120 clock hours the following revisions are being recommended:

Section IV. A

“consisting of no more than 4 credit hours or 120 clock hours”

Educational Assistance (State Employees & Dependents of State Employees and Teachers : B-061

Policy/Guideline Area

Business and Finance Guidelines

Applicable Divisions

TCATs, Community Colleges, Universities

Purpose

The purpose of this guideline is to establish the process and procedures for educational assistance to state employees and their dependents and the dependents of public school teachers by institutions governed by the Tennessee Board of Regents.

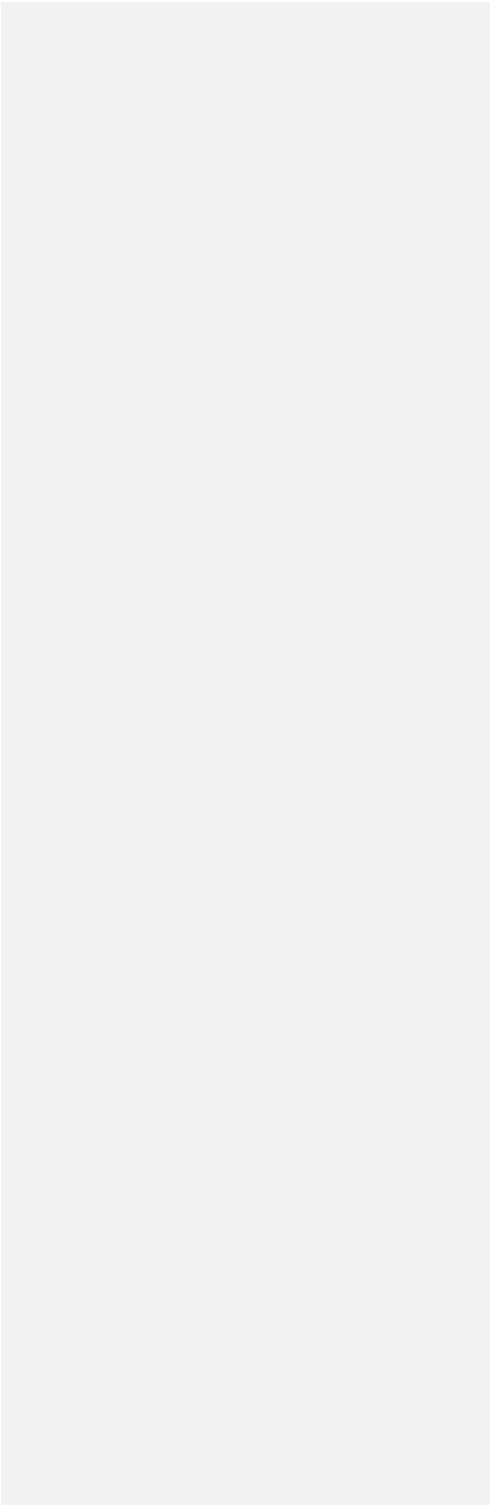
Policy/Guideline

I. B-061 - Support for Educational Assistance

- A. The Tennessee Board of Regents is committed to the need for the continued professional growth and development of employees. Support for educational assistance of personnel and their dependents is an important vehicle for addressing that need. The programs for TBR employees and dependents are available subject to funds being budgeted and available within the institution/college of applied technology/System Office.

- B. The Office of Human Resources is responsible for the administration of the various programs with the exception of the program for dependents of veterans (B-062) and two programs offered to general state employees and the dependents of licensed teachers and State employees (B-061).

C. Exceptions to the provisions of the programs for TBR employees can be made upon



recommendation of the president/director and approval by the Chancellor.

II. Types of Support for Educational Assistance

- A. The guidelines for Educational Assistance (P-130, P-131, B-061, B-062) contain a total of eleven (11) programs.
1. The Programs in P-130 provide benefits to personnel at TBR institutions, Tennessee Colleges of Applied Technology and the Central Office to further their formal education.
 2. The Program in P-131 provides benefits for dependents of TBR employees.
 3. The programs in B-061 provide assistance to state employees and dependents of public school teachers.
 4. The programs in B-062 provide assistance to dependents of veterans and to state employees 65 years of age and older.
- B. The programs are:
1. P-130 – Educational Assistance for TBR Employees
 - a. Faculty or Administrative/Professional Staff Grant-in-Aid Program
 - b. Faculty or Administrative/Professional Staff Tuition or Maintenance Fee Reimbursement Program
 - c. Employee Audit/Non-credit Program
 - d. Clerical and Support Staff Maintenance Fee Payment Program
 - e. Fee Waiver for TBR/UT System Employees Program (PC 191)
 2. P-131 – Educational Assistance for Spouse and Dependents of TBR Employees
 - a. a. Fee Discount for Spouse and/or Dependent Children Program
 3. B-061 – Educational Assistance for State Employees and Dependents of State
 - a. Employees or Public School Teachers
 - (1) Public Higher Education Fee Waiver for State Employees Program

(2) Fee Discount for Dependent Children of Licensed Public School Teachers or

State Employees Program

4. B-062 – Other Educational Assistance Programs

- a. Veterans' Dependents' Post-Secondary Education Program
- b. Age 65 or Above Program

C. Complete eligibility information is contained within each Guideline.

III. Taxation of Educational Assistance Programs

A. Undergraduate and graduate course tuition, up to \$5250 per year, paid by the Tennessee Board of Regents institutions and the University of Tennessee System for their employees is eligible for exclusion from the employees' gross annual income, in accordance with Internal Revenue code (IRC) Section 127.

IV. Public Higher Education Fee Waiver for State Employees Program - This fee waiver program is for general state employees exclusive of TBR and UT system employees.

A. These rules implement the provisions of the T.C.A. § 8-50-1. The Code enables full-time employees of the State of Tennessee to be eligible for enrollment in one course consisting of no more than 4 credit hours or 120 clock hours per term at any State supported college or university or Tennessee College of Applied Technology without paying tuition charges, maintenance fees, debt service fees, student activity fees, technology access fees, RODP on-line course fee, or registration fees.

- 1. Employees are responsible for special course fees, books and supplies, application fees, applied music fees, lab fees, off-campus facilities fees, parking fees and traffic fines.

B. Pursuant to T.C.A. § 10-5-101 et seq., employees of the State's regional library system became employees of the Department of State, effective July 1, 1999. As such, they became eligible to participate in the State's educational assistance programs.

- 1. In addition, effective September 8, 1999, the Tennessee Higher Education Commission determined that Human Resource Agency employees are not State employees as that term is defined in the Commission's rules governing these programs and thus are not

Commented [BS1]: Per Public Chapter 959 effective July 1, 2014.

eligible for fee waivers.

C. Course enrollment will be permitted on a "space available" first-come-first served basis.

1. State employees may register no earlier than four (4) weeks prior to the first day of

classes.

2. No tuition paying student shall be denied enrollment in a course because of state employee enrollments pursuant to this section.

D. State employees must receive credit for the course in which they are enrolled.

1. In addition, changes may not be made from credit to audit during the course of the term.
2. Other guidelines and procedures for administration of this program are printed on the reverse side of the Request for Public Higher Education Fee Waiver for Employees of the State of Tennessee form. These forms are available from the Tennessee Higher Education Commission.

V. Fee Discount for Dependents of Licensed Public School Teachers, Retired Teachers, or State Employees Program

A. These rules implement the provisions of T.C.A. § 49-7-101 et seq. and § 8-50-101 et seq.

1. The Codes enable children under the age of twenty-four (24) to receive a twenty-five percent (25%) discount on tuition at any state operated institution of higher learning if their parent:
 - a. Is employed as a full-time licensed teacher in any public school in Tennessee or as a full-time employee of the state of Tennessee;
 - b. Retired teacher: A certified teacher as defined in THEC Rules 1540-01-05-.01 Definitions, who retires after a minimum of thirty (30) years of full-time creditable service in Tennessee public schools or who receives disability retirement after a minimum of twenty-five (25) years of full-time creditable service in Tennessee public schools.
 - c. Is a retired employee of the state of Tennessee who retired after a minimum of twenty-five (25) years of full-time creditable service;
 - d. Was killed in the line of duty while a full-time employee of the state of Tennessee; or

e. Died while a full-time employee, though not "in the line of duty."

B. Tuition includes undergraduate maintenance fees and college of applied technology

program fees; it does not include application for admission fees, student activity fees, debt service fees, lab fees, applied music fees, books and supplies, dormitory charges or meal plans.

C. Other guidelines and procedures for administration of this program are printed on the reverse side of the Request for Public Higher Education Fee Discount for Dependents of Certified Public School Teachers form. These forms are available from the Tennessee Higher Education Commission at www.state.tn.us/thec.

Sources

Presidents Meeting, February 7, 2006; Presidents Meeting, November 6, 2006; President Meeting, May 15, 2007; Presidents Meeting November 6, 2007; August 16, 2011 presidents meeting. Revised January 17, 2014 per THEC Rule 1540-01-05 promulgated due to the passage of Public Chapter 345 which became effective July 1, 2013.

Related Policies

- [Other Educational Assistance Programs](#)
- [Educational Assistance for TBR System Employees](#)
- [Educational Assistance for Spouse & Dependents of TBR Employees](#)

Contact

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PRESIDENTS QUARTERLY MEETING

DIRECTORS QUARTERLY MEETING

DATE: Presidents Meeting (August 19, 2014)
Directors Meeting (August 19, 2014)

AGENDA ITEM: Proposed Revisions to: TBR Guideline P-130-Educational Assistance for TBR System Employees

ACTION: Requires Vote

PRESENTER: Dale Sims, Vice Chancellor for Business and Finance

BACKGROUND INFORMATION:

The proposed revisions are a result of recently passed legislation. The eligibility for part-time employees to take a class under the fee waiver is effective July 1, 2014.

The waiver being limited to four (4) credits or one hundred and twenty (120) clock hours goes into effect with the fall academic year 2014-2015.

Educational Assistance for TBR System Employees: P-130

Purpose

The purpose of this guideline is to establish the process and procedures regarding educational assistance for TBR System employees.

Definitions

- Institution shall refer to the University, Community College, College of Applied Technology, or the System Office as appropriate.
- Chief Executive shall refer to the President, Director of the Institution, or Chancellor, as applicable.

Policy/Guideline

I. Support for Educational Assistance

- A. The Tennessee Board of Regents is committed to the need for the continued professional growth and development of employees.
1. Support for educational assistance of personnel and their dependents is an important vehicle for addressing that need.
 2. The programs described in this guideline provide benefits to personnel at TBR institutions to further their formal education.
 3. With the exception of the Fee Waiver (formerly referred to as PC-191) which is mandated by the State of Tennessee, the classes and programs for TBR employees and dependents are available subject to funds being budgeted and available within the institution.
 4. The programs are:

- a. Fee Waiver for TBR/UT System Employees Program (formerly PC-191)
 - b. Faculty and Staff Tuition Reimbursement Program
 - c. Employee Audit/Non-Credit Program
 - d. Faculty or Administrative/Professional Staff Grant-in-Aid Program
- B. Campuses may develop and administer educational or professional development programs that are designed to advance the objectives of the institutions diversity plan.
- C. Exceptions to the provisions of the programs for TBR employees can be made upon recommendation of the institution's chief executive and approval by the Chancellor.
- D. For-credit coursework attempted through one of the programs in this guideline must be through an institution accredited by one of the Regional Accrediting Organizations recognized by the Council for Higher Education (www.chea.org).

II. Taxation of Educational Assistance Programs

- A. A portion of undergraduate and graduate course tuition, paid by the Tennessee Board of Regents institutions and the University of Tennessee System for their employees may be eligible for exclusion from the employees' gross annual income, in accordance with Internal Revenue code (IRC). Employees should seek assistance from their personal tax consultants on this issue, however.

III. Fee Waiver for TBR/UT System Employees Program

- A. Full-time regular employees of the TBR and UT systems are eligible to enroll in one credit course per term at any state of Tennessee public postsecondary institution (TBR or UT), with fees waived for the employee.

B. Part-time regular and part-time temporary employees, excluding adjuncts, of community colleges and TN Colleges of Applied Technology (TCATs) are eligible to enroll in one credit course per term at the college in which they work, with fees waived for the employee.

A.C. The waiver is limited to one class, not to exceed 4 credits or 120 clock hours. It may apply for partial payment for classes of more than 4 credit hours or 120 clock hours.

B.D. The enrollment is limited to available space with the intent that tuition-paying students shall not be denied enrollment by a student using a fee waiver.

C.E. If applicable, the fee waiver should be used before other forms of educational assistance that may be offered by the institution.

D.F. Eligibility

1. All full-time employees (faculty, administrators, and support staff) of an institution are eligible to participate.

1.2. Part-time regular and part-time temporary employees, excluding adjuncts, of community colleges and TN Colleges of Applied Technology (TCATs) are eligible to enroll in one credit course per term at the college in which they work, with fees waived for the employee.

2.3. The employment status of an employee on the published first day of classes for each term determines eligibility for participation in this program. Any change in employment status after the first day of classes shall not affect eligibility for that term or the amount of assistance received.

E.G. Fees Paid/Type Course Paid/Number of Hours

1. This waiver applies to one credit course, graduate or undergraduate, which includes maintenance fees, registration fees, tuition, debt service fees, technology access fees, online course fees, RODP fees, and service charges.
 - a. There is a limit of one course per term with a maximum limit of four (4) terms per year.
 - b. Term shall mean any period of time in which a student may receive a grade for the completion of a course.
 - c. Employees are responsible for special course fees, books and supplies, application fees, applied music fees, lab fees, off-campus facility fees, parking fees, traffic fines and similar fees.
 - d. Employees are not eligible for fee waivers at more than one institution per term.
2. This waiver applies to courses that are normally offered for-credit, although auditing a course is allowed.
 - a. Employees must meet the regular academic rules and regulations of the institution offering the course.
 - b. This program does not apply to continuing education or other non-credit courses.
3. Fees will not be waived for programs for which part-time or course-by-course enrollment is prohibited as determined by the institutions, or where costs exceed regular for-credit courses.
 - a. Examples include, but are not limited to, programs of law, medicine, dentistry, pharmacy, and veterinary medicine.

F.H. Payback Provisions

1. Payback provisions do not exist.

G.I. When the Participant May Attend

1. Supervisors/Department Heads who approve Fee Waiver applications should keep in mind that job performance is paramount and must receive priority.
2. Courses should be scheduled at times other than during regularly scheduled work hours unless the use of annual leave or an alternate work arrangement is documented and approved by the supervisor prior to enrolling in the course.

H.J. Accounting/Budgeting Provisions

1. An employee must complete the Fee Waiver section of the Request for Educational Assistance form (Exhibit 6) and receive approval from his/her supervisor prior to registering for a course.
2. If the employee is attending the employer institution, the expenditure is charged to employee benefits.
 - a. If the employee is attending another institution, the institution attended charges the expenditure to scholarships and fellowships.
 - b. The employer institution does not recognize an expenditure when an employee attends another institution.
3. The University of Tennessee and the Tennessee Board of Regents do not exchange funds for employees taking courses between the systems.

IV. Faculty and Staff Tuition Reimbursement Program

- A. This program's general goal is to encourage faculty and staff members to develop their skills and knowledge through participation in educational programs and is intended to serve as a means of job-related career development.
- B. The program is designed to provide assistance for an employee who takes credit courses in a degree program while continuing work responsibilities.
- C. The program should be used in the employee's pursuit of a degree that is judged by the employer in its sole discretion to be beneficial to the institution.

1. Eligibility

- a. Any regular part-time or full-time employee who has been continuously employed by the institution for at least six months, may, upon verification of service, be eligible to participate.
 - 1. Regular part-time employees may receive a pro rata portion of assistance based on percentage of employment.
 - 2. Employees with prior temporary service immediately preceding regular employment shall receive credit for such service if they qualify for leave accrual and longevity adjustments.
- b. TBR employees who retire with at least 10 years of state service maintain eligibility under this program.

2. Fees Paid/Type Course Paid/Number of Hours

- a. This program is designed to provide maintenance or tuition-related fees for a maximum of six (6) credit hours per term, as term is defined by the employing institution, with a maximum of four (4) terms per year.

- b. An employee may enroll in more than one course during the summer as long as the summer terms in which the courses are to be taken do not overlap. Tuition-related fees may include maintenance fees, registration fees, tuition, debt service fees, technology access fees, online course fees, RODP fees, service charges and incidental fees payable at the time of registration.
- c. Employees are responsible for required deposits, special course fees, books and supplies, application fees, applied music fees, lab fees, off-campus facility fees, parking fees, traffic fines and similar fees.
- d. Employees must meet the requirements for admission and the regular academic rules and regulations of the institution offering the course.

3. Payback Provisions

- a. Unless retired, the recipient shall be required, after completion of the course or courses, to be employed for not less than one (1) month of full-time employment for each month of the term of participation in the Staff Tuition Reimbursement Program.
 - 1. Early voluntary separation will, therefore require the employee to reimburse the institution for the remaining balance of this commitment.
- b. In order to receive future reimbursement, participants must satisfactorily complete all course requirements as defined by the academic program in which they enrolled. A grade of Incomplete at the conclusion of the grading period or a withdrawal is not considered as satisfactory completion. The employee must pay for and satisfactorily complete the same number of hours before again being eligible for this program. Exceptions will be made only in cases (1) where a course is failed for

health reasons or (2) where another substantial reason is recognized by the attending institution's academic guidelines.

4. For employees taking courses at other than the home institution, reimbursement applications shall be conditionally approved and held by the office designated by the institution to process these requests until the employee requests reimbursement and documents satisfactory course completion. At that time, the employee will be reimbursed for the prior course(s) and subsequent applications may be conditionally approved.
5. At the institution's discretion, fees may be waived for classes taken at the home institution, but employees will be subject to the provisions of this guideline regarding service time after the class and satisfactory course completion. Successful completion of courses must be documented before being granted approval to take subsequent classes under this program.
6. When the Participant May Attend
 - a. Courses should be scheduled at times other than during the regularly scheduled work hours unless the use of annual leave or an adjusted work schedule has been documented and approved by the supervisor prior to enrolling in the program.
7. Accounting/Budget Provisions
 - a. Requests for approval to participate in the Reimbursement Program shall be submitted via the form which appears in (Exhibit 2).
 1. If the employee is required to pay fees when due, fees may be paid in accordance with the provisions of Deferred Payment Plan Guideline B-070, provided a Deferred Payment Plan has been implemented at the institution the employee is attending.

- b. The employer institution shall account for the chargeback as an employee benefit to indicate the employer institution is paying the cost for the benefit of the employee. The charged institution shall remit the tuition fees to the institution providing instruction as maintenance income.

8. Limits on Tuition Reimbursement Rates

- a. Requests for participants attending public institutions will be reimbursed at the current semester hour rate for that institution.
- b. For individuals who wish to attend other than a Tennessee public institution under this program, reimbursement will not exceed the highest current semester hour rate for a comparable program offered by a Tennessee public institution.
- c. Reimbursement for concentrated programs at public or private institutions will be limited to the prevailing graduate fee rate for a comparable program within a Tennessee public institution.

V. Employee Audit/Non-Credit Program

- A. This program is designed to provide course or maintenance fees only for an employee who takes courses based on one of the following:
 - 1. Audit;
 - 2. Job-related non-credit basis;
 - 3. Any wellness-related courses that are clearly designed to positively affect one's physical well-being as defined by the institution.
- B. Such courses may be taken at the home institution or another Tennessee public institution while continuing work responsibilities at the home institution.

1. Eligibility

- a. Any regular part-time or full-time employee who has been employed by the institution for at least six months may, upon verification of service, be eligible to participate.
 - 1. Employees with prior temporary service immediately preceding regular employment shall receive credit for such service if they qualify for leave accrual and longevity adjustments.
 - 2. Requests for approval to participate shall be submitted on the request form (Exhibit 1). Regular part-time employees may receive a pro rata portion of assistance based on percentage of employment.
- b. TBR employees who retire with at least 10 years of state service immediately preceding retirement maintain eligibility under this program.
- c. With the exception of retirees, as stated above, the employment status of an employee on the published first day of classes for each term determines eligibility for participation in this program. Any change in employment status after the first day of classes shall not affect eligibility for that term or the amount of assistance received.
- d. Retired state employees with 30 or more years of service are eligible to audit courses at state institutions of higher education without charge.

2. Fees Paid/Type Course Paid/Number of Hours

- a. This program is designated to pay maintenance or tuition-related fees for audit, job-related non-credit courses, or wellness courses to a maximum of six credit hours or two job-related non-credit or wellness courses per term.

- b. Tuition-related fees may include maintenance fees, registration fees, tuition, debt service fees, technology access fees, online course fees, ROPD fees, service charges and incidental fees payable at the time of registration.
 - c. Job related courses designed to prepare an individual to sit for specific certification or licensure exams may be eligible for reimbursement under this program, subject to approval by the employing institution.
- 3. Payback Provisions
 - a. Payback provisions do not exist.
- 4. When the Participant May Attend
 - a. Supervisor/Department Heads who approve participation in this program should keep in mind that job performance is paramount and must receive priority.
 - b. Courses should be scheduled at times other than during regularly scheduled work hours unless the use of annual leave or and adjusted work schedule has been documented and approved by the supervisor prior to enrolling in the course.
 - c. Course enrollment will be permitted on a "space available" basis. The enrollment is limited to available space with the intent that tuition-paying students shall not be denied enrollment by a student using the Employee Audit/Non-Credit Program.
 - d. An employee may register only after the formal registration period ends as defined by the institution.
- 5. Accounting/Budgeting

- a. Requests for TBR employees shall be submitted to Human Resources on a Request for Educational Assistance form at least two weeks prior to enrollment in the course or courses.
 - 1. State retirees shall submit forms developed by the Tennessee Higher Education Commission available at <http://state.tn.us/thec/Divisions/LRA/FeeWaverandDiscount/FeeWaiverandDiscount.html>.
 - b. The institution where the person is an employee shall account for the chargeback as an employee benefit to indicate the employer is paying the cost for the benefit of the employee.
 - 1. The charged institution shall remit the tuition fees to the institution providing instruction as maintenance income.
 - c. Forms for state retirees shall be processed by the institution in the same manner as fee waivers for state employees.
6. Where the Participant May Attend
- a. All such audit/non-credit courses must be accomplished at the institution where the person is/was employed or another Tennessee public institution.
 - b. Employees requesting the program must meet the requirements for admission and are subject to institutional regulations and academic procedures.

VI. Faculty or Administrative/Professional Staff Grant-in-Aid (GIA) Program

- A. The grant-in-aid is intended to serve as a means of job related career development as well as individual professional development. GIA shall be

available to eligible employees when the employing institution in its sole discretion determines that the proposed courses of study will enhance the value of the employee to the home institution. This program is dependent upon the availability of funds at the home institution.

1. Eligibility

- a. Any regular full-time faculty member or administrative/professional staff member at a TBR institution who has been employed by the institution for two or more years may be eligible for receipt of a grant-in-aid award.
 1. Employees with temporary service immediately preceding regular employment shall receive credit for such service if they qualify for leave accrual and longevity adjustments.
 2. Requests for grant-in-aid shall be submitted on a TBR GIA Recommendation Form. (Exhibit 3)
- b. The grant-in-aid shall be awarded on the basis of demonstrated need for further academic development which will ultimately benefit the institution; written justification must be submitted to and approved by the chief executive of the institution.
- c. Grant-in-aid normally will be limited to employees working toward the doctorate, or other terminal degree.
 1. However, requests for aid to pursue degrees below the doctoral level in technical/professional disciplines, and for the training or retraining of administrative/professional staff may be considered.

- d. Grant recipients must be placed on an approved leave of absence and enroll as full-time students in credit courses, except where less than full-time status is needed to complete the program.
 - e. No grant-in-aid shall be awarded for a period longer than twelve (12) months.
 - 1. In general, a full-time grant-in-aid will be awarded on a one-time basis.
 - 2. If the program objectives are not achieved by the end of the designated period, the institution may grant a leave of absence for a maximum of an additional twelve-month period.
 - 3. A second grant-in-aid may only be awarded after the recipient has fulfilled the return employment commitment of the first award.
 - f. The status of an employee on the published first day of classes for each term determines eligibility for participation in this program. Any change in status after the first day of classes shall not affect eligibility for that term or the amount of assistance received.
2. Fees Paid/Type Course Paid/Number of Hours
- a. This program is designed to provide an individual with institutional funds for tuition or maintenance fees and/or living allowances in accordance with the following provisions:
 - 1. Reimbursement of tuition-related fees may not exceed actual maintenance fees or tuition. Tuition-related fees may include maintenance fees, tuition, debt service fees, online course fees, RODP fees, service charges and incidental fees payable at the time of registration, but shall not include room, board, and supplies.

2. Monthly living allowances may not exceed 50% of the grantee's monthly salary. Academic year salaries are to be divided by twelve to derive an equated monthly salary rate.

3. Payback Provisions

- a. A contract form, (Exhibit 2.4), shall be executed between the institution and the recipient of the grant-in-aid stating the conditions under which the grant-in-aid is awarded. The conditions of a grant-in-aid shall comply with the following minimum requirements:

1. The recipient shall be required to return and be employed by the institution for not less than three months of full-time employment for each month of grant-in-aid awarded. Repayment of time shall commence immediately after completion of the period of study or withdrawal from program. In exchange for reimbursement of allowable expenses, a participant will commit to work for the sponsoring institution or, if no appropriate employment is available, at one of the other Tennessee Board of Regents institutions or within the University of Tennessee system.
2. Failure on the part of the recipient to remain employed for the period of time agreed upon in the contract shall result in a financial obligation to the institution based upon the terms of the contract. The contract, (Exhibit 4), specifies that if employment is voluntarily terminated prior to fulfillment of the employment obligation, the final paycheck and check representing the amount of accrued, but unused annual leave may be withheld as repayment of the financial obligation. If such amounts are insufficient to recoup the amount owed by the employee,

the institution has the option of pursuing one of two methods to achieve repayment as stated below:

- a. The amount or balance owed shall become an account receivable and the institution shall follow the procedure outlined in Guideline B-010, Accounts Receivable - Employee Receivables. If payment in full is not obtained, the debt shall be assigned to a collection agency; or
 - b. The employee will be required to execute a promissory note acknowledging receipt of the grant-in-aid and containing repayment terms and conditions consistent with the grant-in-aid contract prior to the employee leaving the institution should he/she fail to fully complete the employment requirements of the contract.
3. The institution may terminate the employee prior to the commencement of or during the employment service period provided herein. In the event of such termination by the institution, the employee shall be relieved of repayment of the Grant in Aid.
 4. Summer or short-term employment shall be considered part-time employment in cases where the employee holds an academic year appointment. No part-time employment shall be creditable toward the fulfillment of the contract.
4. When the Participant May Attend
 - a. After approval by the chief executive, the institution may issue and execute the contract stating to the recipient the conditions under which the grant-in-aid is awarded, including when the participant may attend.
5. Accounting/Budgeting Provisions

- a. The number of grants-in-aid of each institution shall not exceed three percent (3%) of the number of full-time faculty and administrative/professional staff at the institution at the time the awards are requested. At institutions where the number of full-time faculty and administrative/professional staff totals less than one hundred (100), three (3) such grants may be awarded.
- b. Requests for grants-in-aid shall be submitted using the form (Exhibit 3) to the chief executive for approval prior to the beginning of the semester. After approval, the institution may issue and execute the contract.
- c. Complete materials supporting each grant-in-aid request shall be maintained by Human Resources. Also, each grant recipient shall be required to provide the official grade reports during and upon completion of the grant period. Continual participation is dependent on the recipient's satisfactory progress toward completion of a course of study.

6. Where the Participant May Attend

- a. Participants may attend public and private institutions of higher education. Requests for participants attending Tennessee public institutions will be reimbursed at the current semester hour rate for that institution.
- b. For individuals who wish to attend other than a Tennessee public institution under this program, reimbursement will not exceed the highest current semester hour rate for a comparable program offered by a Tennessee public institution.

- c. Reimbursement for concentrated programs at public or private institutions will be limited to the prevailing graduate fee rate for a comparable program within a Tennessee public institution.

Educational Assistance for TBR System Employees: P-130

Purpose

The purpose of this guideline is to establish the process and procedures regarding educational assistance for TBR System employees.

Definitions

- Institution shall refer to the University, Community College, College of Applied Technology, or the System Office as appropriate.
- Chief Executive shall refer to the President, Director of the Institution, or Chancellor, as applicable.

Policy/Guideline

I. Support for Educational Assistance

- A. The Tennessee Board of Regents is committed to the need for the continued professional growth and development of employees.
1. Support for educational assistance of personnel and their dependents is an important vehicle for addressing that need.
 2. The programs described in this guideline provide benefits to personnel at TBR institutions to further their formal education.
 3. With the exception of the Fee Waiver (formerly referred to as PC-191) which is mandated by the State of Tennessee, the classes and programs for TBR employees and dependents are available subject to funds being budgeted and available within the institution.
 4. The programs are:

- a. Fee Waiver for TBR/UT System Employees Program (formerly PC-191)
 - b. Faculty and Staff Tuition Reimbursement Program
 - c. Employee Audit/Non-Credit Program
 - d. Faculty or Administrative/Professional Staff Grant-in-Aid Program
- B. Campuses may develop and administer educational or professional development programs that are designed to advance the objectives of the institutions diversity plan.
- C. Exceptions to the provisions of the programs for TBR employees can be made upon recommendation of the institution's chief executive and approval by the Chancellor.
- D. For-credit coursework attempted through one of the programs in this guideline must be through an institution accredited by one of the Regional Accrediting Organizations recognized by the Council for Higher Education (www.chea.org).

II. Taxation of Educational Assistance Programs

- A. A portion of undergraduate and graduate course tuition, paid by the Tennessee Board of Regents institutions and the University of Tennessee System for their employees may be eligible for exclusion from the employees' gross annual income, in accordance with Internal Revenue code (IRC). Employees should seek assistance from their personal tax consultants on this issue, however.

III. Fee Waiver for TBR/UT System Employees Program

- A. Full-time regular employees of the TBR and UT systems are eligible to enroll in one credit course per term at any state of Tennessee public postsecondary institution (TBR or UT), with fees waived for the employee.

- B. Part-time regular and part-time temporary employees, excluding adjuncts, of community colleges and TN Colleges of Applied Technology (TCATs) are eligible to enroll in one credit course per term at the college in which they work, with fees waived for the employee.
- C. The waiver is limited to one class, not to exceed 4 credits or 120 clock hours. It may apply for partial payment for classes of more than 4 credit hours or 120 clock hours.
- D. The enrollment is limited to available space with the intent that tuition-paying students shall not be denied enrollment by a student using a fee waiver.
- E. If applicable, the fee waiver should be used before other forms of educational assistance that may be offered by the institution.
- F. Eligibility
 - 1. All full-time employees (faculty, administrators, and support staff) of an institution are eligible to participate.
 - 2. Part-time regular and part-time temporary employees, excluding adjuncts, of community colleges and TN Colleges of Applied Technology (TCATs) are eligible to enroll in one credit course per term at the college in which they work, with fees waived for the employee.
 - 3. The employment status of an employee on the published first day of classes for each term determines eligibility for participation in this program. Any change in employment status after the first day of classes shall not affect eligibility for that term or the amount of assistance received.
- G. Fees Paid/Type Course Paid/Number of Hours

1. This waiver applies to one credit course, graduate or undergraduate, which includes maintenance fees, registration fees, tuition, debt service fees, technology access fees, online course fees, RODP fees, and service charges.
 - a. There is a limit of one course per term with a maximum limit of four (4) terms per year.
 - b. Term shall mean any period of time in which a student may receive a grade for the completion of a course.
 - c. Employees are responsible for special course fees, books and supplies, application fees, applied music fees, lab fees, off-campus facility fees, parking fees, traffic fines and similar fees.
 - d. Employees are not eligible for fee waivers at more than one institution per term.
2. This waiver applies to courses that are normally offered for-credit, although auditing a course is allowed.
 - a. Employees must meet the regular academic rules and regulations of the institution offering the course.
 - b. This program does not apply to continuing education or other non-credit courses.
3. Fees will not be waived for programs for which part-time or course-by-course enrollment is prohibited as determined by the institutions, or where costs exceed regular for-credit courses.
 - a. Examples include, but are not limited to, programs of law, medicine, dentistry, pharmacy, and veterinary medicine.

H. Payback Provisions

1. Payback provisions do not exist.

I. When the Participant May Attend

1. Supervisors/Department Heads who approve Fee Waiver applications should keep in mind that job performance is paramount and must receive priority.
2. Courses should be scheduled at times other than during regularly scheduled work hours unless the use of annual leave or an alternate work arrangement is documented and approved by the supervisor prior to enrolling in the course.

J. Accounting/Budgeting Provisions

1. An employee must complete the Fee Waiver section of the Request for Educational Assistance form (Exhibit 6) and receive approval from his/her supervisor prior to registering for a course.
2. If the employee is attending the employer institution, the expenditure is charged to employee benefits.
 - a. If the employee is attending another institution, the institution attended charges the expenditure to scholarships and fellowships.
 - b. The employer institution does not recognize an expenditure when an employee attends another institution.
3. The University of Tennessee and the Tennessee Board of Regents do not exchange funds for employees taking courses between the systems.

IV. Faculty and Staff Tuition Reimbursement Program

- A. This program's general goal is to encourage faculty and staff members to develop their skills and knowledge through participation in educational programs and is intended to serve as a means of job-related career development.
- B. The program is designed to provide assistance for an employee who takes credit courses in a degree program while continuing work responsibilities.
- C. The program should be used in the employee's pursuit of a degree that is judged by the employer in its sole discretion to be beneficial to the institution.

1. Eligibility

- a. Any regular part-time or full-time employee who has been continuously employed by the institution for at least six months, may, upon verification of service, be eligible to participate.
 - 1. Regular part-time employees may receive a pro rata portion of assistance based on percentage of employment.
 - 2. Employees with prior temporary service immediately preceding regular employment shall receive credit for such service if they qualify for leave accrual and longevity adjustments.
- b. TBR employees who retire with at least 10 years of state service maintain eligibility under this program.

2. Fees Paid/Type Course Paid/Number of Hours

- a. This program is designed to provide maintenance or tuition-related fees for a maximum of six (6) credit hours per term, as term is defined by the employing institution, with a maximum of four (4) terms per year.

- b. An employee may enroll in more than one course during the summer as long as the summer terms in which the courses are to be taken do not overlap. Tuition-related fees may include maintenance fees, registration fees, tuition, debt service fees, technology access fees, online course fees, RODP fees, service charges and incidental fees payable at the time of registration.
- c. Employees are responsible for required deposits, special course fees, books and supplies, application fees, applied music fees, lab fees, off-campus facility fees, parking fees, traffic fines and similar fees.
- d. Employees must meet the requirements for admission and the regular academic rules and regulations of the institution offering the course.

3. Payback Provisions

- a. Unless retired, the recipient shall be required, after completion of the course or courses, to be employed for not less than one (1) month of full-time employment for each month of the term of participation in the Staff Tuition Reimbursement Program.
 - 1. Early voluntary separation will, therefore require the employee to reimburse the institution for the remaining balance of this commitment.
- b. In order to receive future reimbursement, participants must satisfactorily complete all course requirements as defined by the academic program in which they enrolled. A grade of Incomplete at the conclusion of the grading period or a withdrawal is not considered as satisfactory completion. The employee must pay for and satisfactorily complete the same number of hours before again being eligible for this program. Exceptions will be made only in cases (1) where a course is failed for

health reasons or (2) where another substantial reason is recognized by the attending institution's academic guidelines.

4. For employees taking courses at other than the home institution, reimbursement applications shall be conditionally approved and held by the office designated by the institution to process these requests until the employee requests reimbursement and documents satisfactory course completion. At that time, the employee will be reimbursed for the prior course(s) and subsequent applications may be conditionally approved.
5. At the institution's discretion, fees may be waived for classes taken at the home institution, but employees will be subject to the provisions of this guideline regarding service time after the class and satisfactory course completion. Successful completion of courses must be documented before being granted approval to take subsequent classes under this program.
6. When the Participant May Attend
 - a. Courses should be scheduled at times other than during the regularly scheduled work hours unless the use of annual leave or an adjusted work schedule has been documented and approved by the supervisor prior to enrolling in the program.
7. Accounting/Budget Provisions
 - a. Requests for approval to participate in the Reimbursement Program shall be submitted via the form which appears in (Exhibit 2).
 1. If the employee is required to pay fees when due, fees may be paid in accordance with the provisions of Deferred Payment Plan Guideline B-070, provided a Deferred Payment Plan has been implemented at the institution the employee is attending.

- b. The employer institution shall account for the chargeback as an employee benefit to indicate the employer institution is paying the cost for the benefit of the employee. The charged institution shall remit the tuition fees to the institution providing instruction as maintenance income.

8. Limits on Tuition Reimbursement Rates

- a. Requests for participants attending public institutions will be reimbursed at the current semester hour rate for that institution.
- b. For individuals who wish to attend other than a Tennessee public institution under this program, reimbursement will not exceed the highest current semester hour rate for a comparable program offered by a Tennessee public institution.
- c. Reimbursement for concentrated programs at public or private institutions will be limited to the prevailing graduate fee rate for a comparable program within a Tennessee public institution.

V. Employee Audit/Non-Credit Program

- A. This program is designed to provide course or maintenance fees only for an employee who takes courses based on one of the following:
 - 1. Audit;
 - 2. Job-related non-credit basis;
 - 3. Any wellness-related courses that are clearly designed to positively affect one's physical well-being as defined by the institution.
- B. Such courses may be taken at the home institution or another Tennessee public institution while continuing work responsibilities at the home institution.

1. Eligibility

- a. Any regular part-time or full-time employee who has been employed by the institution for at least six months may, upon verification of service, be eligible to participate.
 - 1. Employees with prior temporary service immediately preceding regular employment shall receive credit for such service if they qualify for leave accrual and longevity adjustments.
 - 2. Requests for approval to participate shall be submitted on the request form (Exhibit 1). Regular part-time employees may receive a pro rata portion of assistance based on percentage of employment.
- b. TBR employees who retire with at least 10 years of state service immediately preceding retirement maintain eligibility under this program.
- c. With the exception of retirees, as stated above, the employment status of an employee on the published first day of classes for each term determines eligibility for participation in this program. Any change in employment status after the first day of classes shall not affect eligibility for that term or the amount of assistance received.
- d. Retired state employees with 30 or more years of service are eligible to audit courses at state institutions of higher education without charge.

2. Fees Paid/Type Course Paid/Number of Hours

- a. This program is designated to pay maintenance or tuition-related fees for audit, job-related non-credit courses, or wellness courses to a maximum of six credit hours or two job-related non-credit or wellness courses per term.

- b. Tuition-related fees may include maintenance fees, registration fees, tuition, debt service fees, technology access fees, online course fees, ROPD fees, service charges and incidental fees payable at the time of registration.
 - c. Job related courses designed to prepare an individual to sit for specific certification or licensure exams may be eligible for reimbursement under this program, subject to approval by the employing institution.
- 3. Payback Provisions
 - a. Payback provisions do not exist.
- 4. When the Participant May Attend
 - a. Supervisor/Department Heads who approve participation in this program should keep in mind that job performance is paramount and must receive priority.
 - b. Courses should be scheduled at times other than during regularly scheduled work hours unless the use of annual leave or and adjusted work schedule has been documented and approved by the supervisor prior to enrolling in the course.
 - c. Course enrollment will be permitted on a "space available" basis. The enrollment is limited to available space with the intent that tuition-paying students shall not be denied enrollment by a student using the Employee Audit/Non-Credit Program.
 - d. An employee may register only after the formal registration period ends as defined by the institution.
- 5. Accounting/Budgeting

- a. Requests for TBR employees shall be submitted to Human Resources on a Request for Educational Assistance form at least two weeks prior to enrollment in the course or courses.
 - 1. State retirees shall submit forms developed by the Tennessee Higher Education Commission available at <http://state.tn.us/thec/Divisions/LRA/FeeWaverandDiscount/FeeWaiverandDiscount.html>.
 - b. The institution where the person is an employee shall account for the chargeback as an employee benefit to indicate the employer is paying the cost for the benefit of the employee.
 - 1. The charged institution shall remit the tuition fees to the institution providing instruction as maintenance income.
 - c. Forms for state retirees shall be processed by the institution in the same manner as fee waivers for state employees.
6. Where the Participant May Attend
- a. All such audit/non-credit courses must be accomplished at the institution where the person is/was employed or another Tennessee public institution.
 - b. Employees requesting the program must meet the requirements for admission and are subject to institutional regulations and academic procedures.

VI. Faculty or Administrative/Professional Staff Grant-in-Aid (GIA) Program

- A. The grant-in-aid is intended to serve as a means of job related career development as well as individual professional development. GIA shall be

available to eligible employees when the employing institution in its sole discretion determines that the proposed courses of study will enhance the value of the employee to the home institution. This program is dependent upon the availability of funds at the home institution.

1. Eligibility

- a. Any regular full-time faculty member or administrative/professional staff member at a TBR institution who has been employed by the institution for two or more years may be eligible for receipt of a grant-in-aid award.
 1. Employees with temporary service immediately preceding regular employment shall receive credit for such service if they qualify for leave accrual and longevity adjustments.
 2. Requests for grant-in-aid shall be submitted on a TBR GIA Recommendation Form. (Exhibit 3)
- b. The grant-in-aid shall be awarded on the basis of demonstrated need for further academic development which will ultimately benefit the institution; written justification must be submitted to and approved by the chief executive of the institution.
- c. Grant-in-aid normally will be limited to employees working toward the doctorate, or other terminal degree.
 1. However, requests for aid to pursue degrees below the doctoral level in technical/professional disciplines, and for the training or retraining of administrative/professional staff may be considered.

- d. Grant recipients must be placed on an approved leave of absence and enroll as full-time students in credit courses, except where less than full-time status is needed to complete the program.
 - e. No grant-in-aid shall be awarded for a period longer than twelve (12) months.
 - 1. In general, a full-time grant-in-aid will be awarded on a one-time basis.
 - 2. If the program objectives are not achieved by the end of the designated period, the institution may grant a leave of absence for a maximum of an additional twelve-month period.
 - 3. A second grant-in-aid may only be awarded after the recipient has fulfilled the return employment commitment of the first award.
 - f. The status of an employee on the published first day of classes for each term determines eligibility for participation in this program. Any change in status after the first day of classes shall not affect eligibility for that term or the amount of assistance received.
2. Fees Paid/Type Course Paid/Number of Hours
- a. This program is designed to provide an individual with institutional funds for tuition or maintenance fees and/or living allowances in accordance with the following provisions:
 - 1. Reimbursement of tuition-related fees may not exceed actual maintenance fees or tuition. Tuition-related fees may include maintenance fees, tuition, debt service fees, online course fees, RODP fees, service charges and incidental fees payable at the time of registration, but shall not include room, board, and supplies.

2. Monthly living allowances may not exceed 50% of the grantee's monthly salary. Academic year salaries are to be divided by twelve to derive an equated monthly salary rate.
3. Payback Provisions
 - a. A contract form, (Exhibit 4), shall be executed between the institution and the recipient of the grant-in-aid stating the conditions under which the grant-in-aid is awarded. The conditions of a grant-in-aid shall comply with the following minimum requirements:
 1. The recipient shall be required to return and be employed by the institution for not less than three months of full-time employment for each month of grant-in-aid awarded. Repayment of time shall commence immediately after completion of the period of study or withdrawal from program. In exchange for reimbursement of allowable expenses, a participant will commit to work for the sponsoring institution or, if no appropriate employment is available, at one of the other Tennessee Board of Regents institutions or within the University of Tennessee system.
 2. Failure on the part of the recipient to remain employed for the period of time agreed upon in the contract shall result in a financial obligation to the institution based upon the terms of the contract. The contract, (Exhibit 4), specifies that if employment is voluntarily terminated prior to fulfillment of the employment obligation, the final paycheck and check representing the amount of accrued, but unused annual leave may be withheld as repayment of the financial obligation. If such amounts are insufficient to recoup the amount owed by the employee,

the institution has the option of pursuing one of two methods to achieve repayment as stated below:

- a. The amount or balance owed shall become an account receivable and the institution shall follow the procedure outlined in Guideline B-010, Accounts Receivable - Employee Receivables. If payment in full is not obtained, the debt shall be assigned to a collection agency; or
 - b. The employee will be required to execute a promissory note acknowledging receipt of the grant-in-aid and containing repayment terms and conditions consistent with the grant-in-aid contract prior to the employee leaving the institution should he/she fail to fully complete the employment requirements of the contract.
3. The institution may terminate the employee prior to the commencement of or during the employment service period provided herein. In the event of such termination by the institution, the employee shall be relieved of repayment of the Grant in Aid.
 4. Summer or short-term employment shall be considered part-time employment in cases where the employee holds an academic year appointment. No part-time employment shall be creditable toward the fulfillment of the contract.
4. When the Participant May Attend
 - a. After approval by the chief executive, the institution may issue and execute the contract stating to the recipient the conditions under which the grant-in-aid is awarded, including when the participant may attend.
5. Accounting/Budgeting Provisions

- a. The number of grants-in-aid of each institution shall not exceed three percent (3%) of the number of full-time faculty and administrative/professional staff at the institution at the time the awards are requested. At institutions where the number of full-time faculty and administrative/professional staff totals less than one hundred (100), three (3) such grants may be awarded.
- b. Requests for grants-in-aid shall be submitted using the form (Exhibit 3) to the chief executive for approval prior to the beginning of the semester. After approval, the institution may issue and execute the contract.
- c. Complete materials supporting each grant-in-aid request shall be maintained by Human Resources. Also, each grant recipient shall be required to provide the official grade reports during and upon completion of the grant period. Continual participation is dependent on the recipient's satisfactory progress toward completion of a course of study.

6. Where the Participant May Attend

- a. Participants may attend public and private institutions of higher education. Requests for participants attending Tennessee public institutions will be reimbursed at the current semester hour rate for that institution.
- b. For individuals who wish to attend other than a Tennessee public institution under this program, reimbursement will not exceed the highest current semester hour rate for a comparable program offered by a Tennessee public institution.

- c. Reimbursement for concentrated programs at public or private institutions will be limited to the prevailing graduate fee rate for a comparable program within a Tennessee public institution.

PRESIDENTS QUARTERLY MEETING

DIRECTORS QUARTERLY MEETING

DATE: Presidents Meeting (August 19, 2014)
Directors Meeting (August 19, 2014)

AGENDA ITEM: Proposed Revisions to: TBR Guideline P-045-Deferred
Compensation

ACTION: Requires Vote

PRESENTER: Dale Sims, Vice Chancellor for Business and Finance

BACKGROUND INFORMATION:

The proposed revisions are to include all employees as eligible to participate in a deferred compensation plan. This change comes a result of recent IRS audit.

In addition, the guideline was reorganized to include similar benefits and information together under a general section, rather than listing each program out individually and repeating information.

Deferred Compensation Plans: P-045

Policy/Guideline Area

Personnel Guidelines

Applicable Divisions

TCATs, Community Colleges, Universities, System Office

Purpose

The purpose of this guideline is to provide guidance to those institutions which enter into agreements to establish deferred compensation plans or programs for the benefit of their employees. Such plans or programs are permitted by Internal Revenue Code sections 403(b), 401(k), and 457. [The following provisions apply:](#)

[Section 403\(b\): Pre-Tax](#)

[Section 401\(k\): Pre-Tax](#)

[Section 457: Pre-Tax](#)

[Roth 401\(k\): After-Tax](#)

Policy/Guideline

I. ~~[Tax-Deferred Annuity, Section 403\(b\)](#)~~

A. ~~Institutions governed by the Tennessee Board of Regents and employees of such institutions may enter into agreements to participate in tax-deferred annuity plans or programs consistent with Section 403(b) of the Internal Revenue Code and related provisions of the Internal Revenue Code, regulations, rulings, etc., and subject to the provisions of this guideline and the Tennessee Board of Regents 403(b) Retirement Plan Document.~~

~~B. Vendors~~

~~1. The Tennessee Board of Regents may enter into an agreement with an approved company, financial institution, or other party (vendor) which offers a program qualifying as a Section 403(b) program.~~

~~a. Such agreement shall be as prescribed by the Chancellor.~~

~~b. This provision shall not cause any individual agreement in force on the date of the adoption of this guideline to be terminated, but no new contributions or individual participation agreements shall be executed with an unapproved vendor after December 31, 2008.~~

~~C. Plan Period~~

~~1. Where a "plan year" or other official period is needed, the plan year for the institution shall be the calendar year.~~

~~D. Internal Revenue Service Requirements~~

~~1. It is intended that all provisions of this guideline be consistent with provisions of the Internal Revenue Code, regulations, and other authoritative issuances of the Internal Revenue Service with respect to plans permitted by Internal Revenue Code Section 403(b) as amended from time to time.~~

~~a. a. Any provision of this guideline is invalid to the extent such provision is not consistent with Internal Revenue Service provisions.~~

~~2. Unless otherwise provided in this guideline, it is intended that Internal Revenue Service provisions be controlling on such matters as limitations on contributions, withdrawal of contributions, payment of benefits, rollovers, and similar matters.~~

~~3. Notwithstanding D.1 and D.2 above, the Chancellor shall be empowered to establish reasonable requirements for the administration of the guideline, so long as such requirements do not conflict with any Internal Revenue Service provisions.~~

~~4. It is the intention of the Tennessee Board of Regents that an "excess contribution" as defined by Internal Revenue Service provision be returned to the participant as soon as administratively possible.~~

~~a. a. Returned excess contributions would be reported as taxable income.~~

~~E. 403 (b) Eligibility~~

~~1. All employees of an institution or the System Office, except students scheduled to work less than twenty (20) hours per week, shall be eligible to participate in Section 403(b) programs.~~

~~F. Limitations and Contributions~~

~~1. The maximum contributions to a Section 403(b) program should be consistent with Internal Revenue Service provisions.~~

~~2. The minimum contribution should be at a rate of two hundred dollars (\$200.00) per year.~~

~~3. Participants are required to report to the institution contribution information from participants who also participate in other qualified plans sponsored by an employer in which the participant has a controlling ownership interest (this includes employee and employer contributions to 401(k), 401(a), 403(b), simplified employee pension (SEPs) and Keogh plans).~~

~~a. The contributions amounts to those other plans must be combined with the Tennessee Board of Regents 403(b) Retirement Plan contributions to determine whether the 415(c) limit has been reached. This is in accordance with Internal Revenue Service regulations.~~

~~4.—An institution may decline to enter into any agreement that could, in the institution's opinion, cause the employee to exceed permissible contribution levels.~~

~~G.—Employer~~

~~1.—For the purposes of a Section 403(b) program, the employer shall be the Tennessee Board of Regents.~~

~~H.—Selection of Vendor, Contract Ownership~~

~~1.—All contributions under a participation agreement shall be paid to an approved vendor or vendors as selected by the employee.~~

~~a.—The institution will not recommend or endorse a vendor or vendor's program and will make no guarantee or assurances regarding the vendor.~~

~~b.—All responsibility for vendor selection and subsequent investment performance shall be between the employee and the approved vendor.~~

~~2.—All contracts purchased under participation agreements shall be the sole property of the participant.~~

~~I.—Participation Agreements~~

~~1.—Each employee desiring to participate in a deferred compensation plan shall execute a written participation agreement on a form and in a manner designated by the Chancellor or his/her designee.~~

~~J.—Approval of Participation Agreements~~

~~1.—The Participation Agreement must be approved by the President or his/her designee.~~

~~K.—Changes in Deferral Agreements~~

1. — ~~Changes in the amount of deferral may be made by submitting a new Participation Agreement form to the Human Resources Office within the timeframe established by the institution System Office.~~

~~L. — Termination~~

1. — ~~An employee wishing to terminate his/her participation in a 403(b) plan must sign a notice of termination.~~

~~M. — Miscellaneous Provisions~~

~~1. — Incidental Life Insurance~~

- a. — ~~No agreements will be entered into which provide for any part of the contribution to purchase "incidental life insurance," notwithstanding that such purchase may be permissible under the Internal Revenue Code or regulations.~~

- b. — ~~Any employee participation agreements in effect when this Plan was adopted which includes incidental life insurance may be continued and/or revised for such employee.~~

~~2. — Institutional Endorsement~~

- a. — ~~The administration of an institution will not endorse or recommend in a positive or negative manner any vendor or vendor program.~~

- b. — ~~An institution may make available information which could be useful in a selection decision by an employee.~~

- c. — ~~This provision does not prohibit recommendation or evaluation by groups of employees or representatives of groups of employees.~~

~~3. For purposes of this guideline, "normal retirement" will be the age used by the Tennessee Consolidated Retirement System.~~

~~a. Once an employee reaches or passes the normal retirement age, for purposes of calculating limitations on contributions for purposes of this Plan, such computation should be made assuming retirement at the end of the year for which the calculation is being made.~~

~~4. Withdrawals & Loans~~

~~a. Early in service withdrawals and loans shall not be permitted consistent with the Tennessee Board of Regents 403 (b) Retirement Plan Document and Internal Revenue Service provisions.~~

I. General

A. Internal Revenue Service Requirements

1. It is intended that all provisions of this guideline be consistent with provisions of the Internal Revenue Code, regulations, and other authoritative issuances of the Internal Revenue Service with respect to plans permitted by Internal Revenue Code Sections 403(b), 401(k)-Traditional and Roth, and 457 as amended from time to time.

a. Any provision of this Plan is invalid to the extent such provision is not consistent with Internal Revenue Service provisions.

2. Unless otherwise provided in this guideline, it is intended that Internal Revenue Service provisions be controlling on such matters as limitations on contributions, withdrawal of contributions, payment of benefits, rollovers, and similar matters.

3. Notwithstanding A.1 and A.2, the Chancellor shall be empowered to establish reasonable requirements for the administration of the guideline, so long as such requirements do not conflict with any Internal Revenue Service provisions.

4. It is the intention of the Tennessee Board of Regents that an "excess contribution" as defined by the Internal Revenue Service provisions be returned to the participant as soon as administratively possible.

a. Returned excess contributions would be reported as taxable income.

B. Third Party Administrators

1. The Tennessee Board of Regents, State of Tennessee, and/or University of Tennessee may enter into an agreement with an approved company, financial institution, or other party which offers a program qualifying as a Section 403(b), 401(k), 457, and/or Roth 401(k) plan, hereinafter referred to as Third Party Administrators (TPA's).

2. All participant contributions shall be paid to the approved TPA or TPA's as selected by the employee.

3. The Institution/System Office will not recommend or endorse a TPA or TPA's program and will make no guarantee or assurances regarding the vendor.

C. Investment Options

1. Investment Options providing participants a range of diversified funding options will be maintained by the TPA or TPA's.

2. All responsibility for investment performance shall be between the employee and TPA.

D. Plan Period

1. Where a "plan year" or other official period is needed, the plan year for the institution shall be the calendar year.

E. Participation Agreements

1. Each employee desiring to participate in a deferred compensation plan shall complete the appropriate Participation Agreement and applicable enrollment process.
2. All 401(k), 457 and Roth 401(k) deferral increases, decreases, or cancellations shall be performed by the participant directly with the TPA's website or customer service call center.
3. All 403(b) deferral increases, decreases, or cancellations shall be submitted on the appropriate form to the Human Resources Office.
4. All forms containing changes (e.g., address, beneficiary, etc.) should be transmitted to the TPA directly.

F. Minimum and Maximum Deferral Calculations

1. Minimum deferral amounts:
 - a. 403(b) Plan - \$200.00 per year
 - b. 401(k) Plan - \$20.00 per month
 - c. 457 Plan - \$20.00 per month
2. Maximum deferrals for 403(b), 401(k), and 457 plans are subject to applicable Internal Revenue Service (IRS) Limits.

G. Limitations and Contributions

1. Participants who also participate in other qualified plans sponsored by an employer in which the participant has a controlling ownership interest (this includes employee and employer contributions to 401(k), 401(a), 403(b), simplified employee pension (SEPs), and Keogh plans) are required to report to the institution contribution information.

- a. The contribution amounts to other plans must be combined with the Tennessee Board of Regents Retirement Plan contributions to determine whether the 415(c) limit has been reached. This is in accordance with Internal Revenue Service regulations.
2. All 403(b), 401(k), and 457 contributions must be coordinated so that excess contributions are not made.
3. Contributions (deferrals) for employees who also participate in the Optional Retirement Plan (ORP) are subject to additional limitations/restrictions.
4. Deferrals for 403(b), 401(k) and 457 plans may be deducted from regular or longevity pay (see Section H for information regarding longevity deferrals). "Advance" deferrals are not permitted (e.g., deferrals cannot be made before the money is earned).
5. An institution may decline to enter into any agreement that could, in the institution's opinion, cause the employee to exceed permissible contribution levels.

H. Longevity Deferrals

1. Participants may elect to defer regular pay and/or a portion of their longevity bonus paycheck.
 - a. A deferral from the longevity paycheck may be directed to the 403(b), 401(k), and 457 plan; however, it may not be divided among the plans.
 - b. Due to the required deduction of the applicable Social Security taxes, the full longevity amount may not be deferred.
 - c. A participant who elects to defer any portion of the longevity paycheck will be required to complete a Participation Agreement specifically for longevity each year.

I. Changing Deferrals

1. Changes in the amount of regular paycheck deferrals may be made by submitting a new Participation Agreement within the timeframe established by the TPA and Institution/System Office.

J. Changing Investment Options

1. Changing the Investment of Future Deferrals

- a. Participants may change the investment options of future deferrals at any time by calling the TPA's customer service department or completing the transaction on the TPA's website.
- b. The investment of money on deposit (already in account) is not affected by initiating a future change.
- c. Employees will need to complete a separate transaction for the 403(b), 401(k), and 457 if they participate in more than one plan.

2. Transferring Money on Deposit

- a. Participants may change the investment options of money on deposit (already in account) at any time by calling the TPA's customer service department or completing the transaction on the TPA's website. Transfers are processed by the investment companies.
- b. The investment of future deferrals is not affected by transferring money already on deposit.
- d. Employees will need to complete a separate transaction for the 403(b), 401(k), and 457 if they participate in more than one plan.

3. All responsibility for investment performance shall be between the employee and the vendor.

K. Effect of a Leave of Absence on Deferrals

1. The deferred compensation program requires payroll deductions (reductions); therefore, participants may not pay contributions directly to the TPA or Institution/System Office in order to receive matching funds that may be available.
2. When a participant returns from an unpaid leave of absence, deferrals can restart with the paycheck following his/her return to work.
3. The deferred compensation program does not contain a catch-up provision for employees who have been returned to a paid status retroactively.
 - a. Therefore, double deductions are not permitted. Example: An employee on unpaid leave returns to work, but notification is not provided to Human Resources and/or Payroll for the affected pay period. When the next paycheck is processed, it will reflect a deferral and match (if funded) for only the current pay period.

L. Termination/Cancellation of Deferrals

1. An employee wishing to terminate his/her participation in a 401(k), 457 and Roth 401(k) shall complete the cancellation directly with the TPA's customer service call center or website.
2. All 403(b) cancellations shall be submitted on the appropriate form to the Human Resources Office.
3. Following cancellation of participation in deferred compensation plan, administrative fees will continue to be charged for each month in which the principle is sufficient to cover the fee. Insufficient principal will result in final termination of participation in the plan.
4. Previous deferrals may not be withdrawn unless the employee meets one of the conditions for withdrawal (see Sections II. ~~ED~~. and III. ~~ED~~.).

M. Institutional Endorsement

1. The administration of an Institution/System Office will not endorse or recommend in a positive or negative manner any TPA or TPA program.
2. The Institution/System Office may make available information which could be useful in a selection decision by an employee.
3. This provision does not prohibit recommendation or evaluation by groups of employees or representatives of groups of employees.

N. Retirement Age

1. For purposes of this guideline, "normal retirement" will be the age used by the Tennessee Consolidated Retirement System (TCRS).
2. Once an employee reaches or passes the normal retirement age, for purposes of calculating limitations on contributions for purposes of this Plan, such computation should be made assuming retirement at the end of the year for which the calculation is being made.

~~II. Tax Deferred Annuity, Sections 401 (k) and 457~~

~~A. Effective July 1, 1995, employees within the Tennessee Board of Regents system became eligible to participate in the State's 401 (k) and 457 deferred compensation program.~~

~~B. The Chancellor of the Tennessee Board of Regents is empowered to set appropriate administrative guidelines and procedures necessary to coordinate administration with the State of Tennessee.~~

~~C. Third Party Administrators and Vendors~~

- ~~1. Great West, hereinafter referred to as the "Company" is the third party administrator. The vendors are the companies selected by the State.~~

~~D. Plan Period~~

1. ~~Where a "plan year" or other official period is needed, the plan year for the institution shall be the calendar year.~~

~~E. Internal Revenue Service Requirements~~

1. ~~It is intended that all provisions of this guideline be consistent with provisions of the Internal Revenue Code, regulations, and other authoritative issuances of the Internal Revenue Service, the Tax Reform Act of 1986, and the Employee Retirement Income Security Act of 1974 (ERISA) with respect to plans permitted by Internal Revenue Code Section 401(k) as amended from time to time.~~
 - a. ~~a. Any provision of this Plan is invalid to the extent such provision is not consistent with Internal Revenue Service provisions.~~
2. ~~Unless otherwise provided in this guideline, it is intended that Internal Revenue Service provisions be controlling on such matters as limitations on contributions, withdrawal of contributions, payment of benefits, rollovers, and similar matters.~~
3. ~~Notwithstanding E.1 and E.2, the Chancellor shall be empowered to establish reasonable requirements for the administration of the guideline, so long as such requirements do not conflict with any Internal Revenue Service provisions.~~
4. ~~It is the intention of the Tennessee Board of Regents that an "excess contribution" as defined by the Internal Revenue Service provisions be returned to the participant as soon as administratively possible. Returned excess contributions would be reported as taxable income.~~

~~F. 401(k) and 457 Eligibility~~

1. ~~All employees of an institution/System Office, except students scheduled to work less than twenty (20) hours per week, are eligible to participate in the 401 (k) and 457 plans.~~

- ~~2.—Contingent upon appropriate funding each fiscal year, the employer may match an amount in addition to the employee's 401(k) contributions.~~
- ~~3.—However, only regular full-time and regular part-time employees are eligible to receive matching funds.~~

~~G.—Participation Agreements~~

- ~~1.—Each employee desiring to participate in a 401 (k) and/or 457 plan shall complete the appropriate Participation Agreement form.~~
- ~~2.—A Participation Agreement form must be received by the Human Resources Office by the last working day of a month prior to the effective date of the first deferral and before the end of the first working day of a month for any subsequent payroll change, e.g., increase, decrease or cancellation.~~
- ~~3.—Initial enrollment forms must be completed entirely; however, forms to restart deferrals do not require completion of the investment option section.~~
- ~~4.—All forms containing changes (e.g., address, beneficiary, etc.) should be transmitted to the Company via the Human Resources Office.~~

~~H.—Approval of Participation Agreements~~

- ~~1.—The Participation Agreement must be approved (i.e., certified that the deferral amount has not exceeded the maximum allowed) by the President/Director/Chancellor or his/her designee.~~
- ~~2.—The President/Director/Chancellor or his/her designee may decline to enter into an agreement that could, in his/her opinion, cause the employee to exceed permissible contribution levels.~~

~~I.—Minimum and Maximum Deferral Calculations~~

- ~~1. 401(k), 457, and 403 (b) contributions must be coordinated so that excess contributions are not made.~~
- ~~2. Contributions (deferrals) for employees who also participate in the Optional Retirement Plan (ORP) are subject to additional limitations/restrictions. See the Deferred Compensation Manual for additional information.~~
- ~~3. Deferrals for 403 (b), 401 (k) and 457 plans may be deducted from regular or longevity pay. (See Section I for information regarding longevity deferrals.) "Advance" deferrals are not permitted (e.g., deferrals cannot be made before the money is earned).~~
 - ~~a. Minimum deferral amounts per month~~
 - ~~1. 457 Plan - \$20.00~~
 - ~~2. 401 (k) Plan - \$20.00~~
 - ~~b. Maximum deferrals for 457 and 401(k) Plans subject to applicable Internal Revenue Service (IRS) Limits.~~

~~J. Longevity Deferrals~~

- ~~1. Effective January 1 1998, a participant may elect to defer regular pay and/or any portion of their longevity bonus paycheck.~~
 - ~~a. A deferral from the longevity paycheck may be directed to the 403 (b), 457 or 401 (k) plan; however, it may not be divided among the plans. Due to the required deduction of the applicable Social Security taxes, the full amount may not be deferred.~~
 - ~~b. A participant who elects to defer any portion or all of the longevity paycheck will be required to complete a Participation Agreement form specifically for longevity each year.~~

~~K.—Changing Deferrals~~

- ~~1.—Changes in the amount of regular paycheck deferrals may be made by submitting a new Participation Agreement form to the Human Resources Office within the timeframe established by the institution/System Office.~~

~~L.—Changing the Investment of Future Deferrals~~

- ~~1.—Employees may change the way future deferrals are invested by completing an Investment Option Allocation form or by submitting a new Participation Agreement. Investment option changes do not require dollar amounts, only percentages.~~
- ~~2.—Money on deposit is not affected by initiating a future change.~~
- ~~3.—Employees will need to complete a separate form for the 457, 401(k), and 403(b) if they participate in more than one plan.~~

~~M.—Transferring Money on Deposit~~

- ~~1.—Employees will need to complete a separate form for the 457, 401(k) and 403 (b) if they participate in more than one plan.~~
- ~~2.—Transfers are processed by the investment companies.~~
- ~~3.—The investment of future deferrals is not affected by transferring money already on deposit.~~

~~N.—Effect of a Leave of Absence on Deferrals~~

- ~~1.—The deferred compensation program requires payroll deductions (reductions); therefore, participants may not pay contributions directly in order to receive matching funds that may be available.~~

~~2.—When a participant returns from an unpaid leave of absence, deferrals can restart with the paycheck following his/her return to work.~~

~~3.—The deferred compensation program does not contain a catch-up provision for employees who have been returned to a paid status retroactively.~~

~~a.—Therefore, double deductions are not permitted. Example: An employee on unpaid leave returns to work, but notification is not provided to Human Resources and/or Payroll for the affected pay period. When the next paycheck is processed, it will reflect a deferral and match (if funded) for only the current pay period.~~

~~O.—Termination/Cancellation of Deferrals~~

~~1.—An employee wishing to terminate his/her participation in a 401(k) or 457 plan must complete a Participation Agreement form in accordance with the provisions of Section II, G and indicate that a cancellation is being authorized.~~

~~a.—Following cancellation of participation in the plan, administrative fees will continue to be charged for each month in which the principle is sufficient to cover the fee.~~

~~b.—Insufficient principle will result in final termination of participation in the plan.~~

~~2.—Previous deferrals may not be withdrawn unless the employee meets one of the conditions for withdrawal. (See Section II, Q.)~~

~~P.—Withdrawals~~

~~1.—Withdrawals shall be permitted by this Plan for the following reasons:~~

~~a.—Retirement~~

~~b.—Termination of employment~~

~~c.—Death~~

d. ~~Disability~~

e. ~~Financial hardship (as defined by the plan)~~

f. ~~Age 59 ½ not available for 457 deferrals.~~

2. ~~To make a withdrawal, the participants should contact the Company to obtain instructions and a withdrawal form.~~

a. ~~If the withdrawal is approved and it is for reasons other than retirement, termination of employment, death, or attainment of age 59 1/2, the Company will notify the institution/System Office to stop deferrals.~~

3. ~~A request for withdrawal will be reviewed by a committee consisting of State employees (usually five members). Consideration for a hardship withdrawal will be based on the following definitions:~~

a. ~~457 Plan Hardship Definition – A severe financial hardship resulting from:~~

1. ~~Sudden and unexpected illness or accident of the participant or a dependent;~~

2. ~~Loss of the participant's property due to uninsured casualty; or~~

3. ~~Other similar or extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant.~~

b. ~~Examples of non-qualifying circumstances:~~

1. ~~Purchase of a home or car;~~

2. ~~Educational expenses;~~

3. ~~Payment of child support or alimony;~~

4. ~~Bankruptcy or wage garnishment;~~

~~5. Past due credit card bills; or~~

~~6. Payment of taxes or tax penalties.~~

~~c. 401 (k) Plan Hardship Definition~~

~~1. An immediate and heavy financial need caused by one or more of the following:~~

~~1. Unreimbursed medical expenses incurred by the participant or a dependent of the participant,~~

~~2. Purchase of the participant's primary residence,~~

~~3. Payment of college tuition for the next year for the participant or a dependent of the participant,~~

~~4. Funeral expenses for an immediate family member of the participant which exceed life insurance coverage, or~~

~~5. Official notification of implementation of eviction or foreclosure proceedings regarding the participant's primary residence.~~

~~4. Withdrawals may not include employer contributions or earnings accrued on your account after December 31, 1988.~~

~~a. Federal regulations require that all deferrals be canceled for the remainder of the current year and for one calendar year thereafter.~~

~~b. An employee who qualifies for a loan in the 401 (k) plan may be required to apply for such loan before applying for a hardship withdrawal from the plan.~~

~~5. Hardship withdrawals are subject to regular income tax and may be subject to the 10% early distribution tax penalty. Such distributions are not eligible for forward income averaging tax treatment or rollover.~~

~~6. Withdrawals Following Termination of Employment~~

~~a. Accounts smaller than \$3,500 – A lump sum withdrawal or rollover to another tax deferred plan (if employee qualifies) is permitted for such smaller amounts.~~

~~b. Accounts larger than \$3,500 – Employee may leave account in the State's plan.~~

~~7. Withdrawals Required Due to Age~~

~~a. Per IRS regulations, employees must begin drawing benefits no later than April 1 of the year following the age of 70 ½ or retirement.~~

~~b. If the employee does not meet the required distribution provisions, a penalty tax is imposed equal to 50% of the amount that the employee should have withdrawn that year.~~

~~8. Charges on Withdrawals~~

~~a. Participants should contact the Company to determine if there are any surrender charges on their current investment options.~~

~~Q. 401 (k) Loans~~

~~1. Active employees who have accumulated \$4,000 or more in the plan may borrow up to half of the account balance.~~

~~a. The minimum loan is \$2,000; the maximum, \$50,000.~~

~~b. Employees are required to sign documents stipulating repayment via payroll deductions, normally in 5 or less years.~~

~~c. Both the principal and interest go back into the employee's 401 (k) account.~~

~~Employees should contact the Company for information on loan limitations and fees or for a copy of the loan brochure.~~

~~R. — Applying for Benefits~~

~~1. — Benefits may be distributed in one of three ways:~~

~~a. — lump sum~~

~~b. — periodic payments, or~~

~~c. — in an annuity.~~

~~2. — Employees may not change the method of payment selected.~~

~~a. — Withdrawal application forms may be obtained from the Company.~~

~~b. — Annuity payment estimates and materials describing payment options are available on request.~~

~~3. — Employees should obtain current information before selecting a payment schedule due to the fact that the provisions of this guideline may be revised by Congress.~~

~~S. — Payment Options~~

~~1. — Lump Sum Payment~~

~~a. — Used to withdraw entire account balance.~~

~~b. — May be only option available to participants with less than \$3,500 in plan.~~

~~c. — May be most beneficial option for participants who have more than 5 years in the plan and qualify for forward income averaging.~~

~~2. — Periodic Payments~~

~~a. — May be withdrawn in equal annual or monthly payments for a specified number of years.~~

~~b. — Withdrawal period limited to life expectancy.~~

~~c. — May be directly deposited into checking or savings accounts.~~

~~3. — Annuity Payments~~

~~a. — Investments risks for future years assumed by insurance company.~~

~~b. — Payments made to participant or beneficiary regardless of investment returns.~~

~~c. — Currently available through Aetna or Great West.~~

~~4. — Types of annuity options:~~

~~a. — Designated Period Annuity — Certain amount paid for specified period (e.g. 5, 10, 15 years).~~

~~b. — Life Annuity — A certain amount paid to the participant for his/her lifetime. No payments made to beneficiary.~~

~~c. — Life Annuity with Period Certain Feature — A certain amount paid to the participant's as long as he/she lives and also payments paid to a beneficiary for the "period certain" should participant's death occur prior to the end of the period.~~

~~d. — Life Annuity with Joint & Survivor Feature — A certain amount paid to the participant for as long as he/she lives and continued payments to beneficiary after participant's death at 100% or 50% of original payment, depending on option elected.~~

~~T. — Taxes on Withdrawals~~

~~1. — Basic information~~

~~a. — Must be reported when payments or withdrawals are received as income in the year(s) received.~~

b. ~~Income from plan reported to both participant and IRS on appropriate tax form for each year payments are received.~~

2. ~~Withholding taxes~~

a. ~~Normally applied as payments are received. Amount of withdrawal and amount of taxes reported on W-2 statement for 457 plan; 1099-R form, 401 (k) plan.~~

b. ~~Rate of taxation~~

1. ~~457 plan – flat 28% rate~~

2. ~~401 (k) plan – 20% on lump sum distributions and any other type of distribution received from plan which would be eligible for rollover.~~

3. ~~Withdrawals not subject to flat withholding tax – calculated as if recipient were married with 3 dependents unless a withholding certificate has been filed for a different amount. W-4 form used for 457 payments; W-4P, for 401 (k) payments.~~

c. ~~Early distribution tax penalty~~

1. ~~A 10% tax penalty is assessed on 401(k) withdrawals made before 59 ½ except when distributions meet IRS exceptions.~~

2. ~~It is the participant's responsibility to make the determination and payment of the early distribution tax penalty.~~

U. ~~Five Year or Ten Year Forward Averaging~~

1. ~~Eligibility is contingent upon a participant receiving a qualifying lump sum distribution from a 401 (k) plan after age 59 ½ and having 5 or more years in the plan. Participants born on or before 12/31/35 may be eligible for ten year averaging. Questions should be addressed to the Company.~~

2. Tax calculated as if money was received over 5 years and is calculated separately from tax on any other income.

~~V. Rollovers from Other Plans~~

1. Employees who previously participated in another government's Section 457 plan may apply to have the assets of the prior plan transferred to the State's 457 plan.
2. Employees who participated in another 401 (k) plan may apply to have their distribution from that plan transferred to the 401 (k) plan; however, the employee must be enrolled in the State of Tennessee Plan prior to applying for the transfer.

~~W. Plan to Plan Transfers and Rollovers to Other Plans~~

1. Upon separation from employment, a participant may move deferred compensation into another plan under the following provisions:
 - a. 457 Plan
 1. The other plan accepts such transfers.
 - b. 401 (k) Plan
 1. If a participant is eligible to withdraw accumulations, these may be moved to an IRA or a qualified retirement plan.
 2. A distribution is eligible for transfer unless it is:
 1. Part of a series of substantially equal periodic payments made for the participant's life or life expectancy or for the life expectancy of a the participant and his/her beneficiary,
 2. Part of a series of substantially equal periodic payments made for a specified period of 10 or more years,

3. ~~A withdrawal a participant is required to take due to age.~~
- c. ~~Money may be transferred directly to the new plan or the participant may receive a check from the 401 (k) plan and make a rollover to the new plan.~~
- d. ~~Participants must arrange direct transfers when an application is submitted for withdrawal from the plan.~~
- e. ~~The plan must apply 20% withholding to any distribution which would have been eligible for direct transfer.~~
- f. ~~Prior service in TCRS may be purchased with a rollover from the 401 (k) plan when the participant becomes eligible to make a withdrawal from the 401 (k) plan. Excess amounts may be rolled into an IRA or reported as taxable income. TCRS should be contacted for additional information.~~
- g. ~~Participants who move their 401 (k) accounts into IRAs may want to set up special "conduit accounts" in the event they later become eligible to roll funds back into a qualified retirement account. (Withdrawals from IRAs are not eligible for income averaging.) Additional information on rollover and transfer rules may be obtained from the IRS.~~

X. ~~Non-Assignability of Benefits~~

1. ~~457 Plan~~

- a. ~~Deferrals are assets of the State of Tennessee until paid to the participant or beneficiary.~~
- b. ~~Amounts cannot be assigned or attached to satisfy debts or obligations of an individual.~~

2. ~~401 (k) Plan~~

~~a. Accumulations are part of a qualified pension plan.~~

~~b. Assets are exempt from execution, attachment, garnishment, or other process, other than levies issued by the IRS.~~

~~c. Benefits cannot be given to an ex-spouse as marital property or as alimony.~~

II. Section 403(b)

A. Institutions governed by the Tennessee Board of Regents and employees thereof may enter into agreements to participate in tax-deferred annuity plans or programs consistent with Section 403(b) of the Internal Revenue Code and related provisions of the Internal Revenue Code, regulations, rulings, etc., and subject to the provisions of this guideline and the Tennessee Board of Regents 403(b) Retirement Plan Document.

B. 403(b) Eligibility

1. All employees within the Tennessee Board of Regents system are eligible to participate in Section 403(b) programs.

C. Employer

1. For the purposes of a Section 403(b) program, the employer shall be the Tennessee Board of Regents.

D. Withdrawals & Loans

1. Early in service withdrawals and loans shall not be permitted consistent with the Tennessee Board of Regents 403(b) Retirement Plan Document and Internal Revenue Service provisions.

~~III. II. III. Miscellaneous~~

~~A. For the purpose of a Section 401(k) program, the employer shall be the Tennessee Board of Regents and/or any of its institutions, the State of Tennessee, and the University of Tennessee System.~~

~~B. All responsibility for investment performance shall be between the employee and the vendor.~~

III. Sections 401(k), 457, and Roth 401(k)

A. Institutions governed by the Tennessee Board of Regents and employees of such institutions may enter into agreements to participate in tax-deferred annuity plans or programs consistent with Section 401(k) and 457 of the Internal Revenue Code, regulations, and other authoritative issuances of the Internal Revenue Service, the Tax Reform Act of 1986, and the Employee Retirement Income Security Act of 1974 (ERISA) with respect to plans permitted by Internal Revenue Code Section 401(k) and 457 as amended from time to time.

B. 401(k), 457, and Roth 401(k) Eligibility

1. All employees within the Tennessee Board of Regents system are eligible to participate in the State's 401(k), 457, and Roth 401(k) deferred compensation programs.

2. Contingent upon eligibility and appropriate funding each fiscal year, only regular full-time and regular part-time employees may be eligible to receive matching funds in addition to the employee's 401(k) contributions. The match for eligible Roth 401(k) participants will be directed to the 401(k) account.

C. Employer

1. For purposes of the 401(k), 457, and Roth 401(k), the employer shall be the Tennessee Board of Regents and/or any of its institutions, the State of Tennessee, and the University of Tennessee System.

2. The Chancellor of the Tennessee Board of Regents is empowered to set appropriate administrative guidelines and procedures necessary to coordinate administration with the State of Tennessee.

D. Withdrawals

1. To make a withdrawal, the participant should contact the TPA or access his/her online account to obtain instructions and the applicable withdrawal form.
2. A request for withdrawal will be reviewed by the Human Resources Office.
3. If the withdrawal is approved and it is for reasons other than retirement, termination of employment, death, or attainment of age 59 ½, the TPA will notify the Institution/System Office to stop deferrals.
4. Withdrawals shall be permitted for the following reasons:
 - a. Retirement
 - b. Death
 - c. Disability
 - d. Age 59 ½ - not available for 457 deferrals
 - e. Termination of employment
 - f. Financial hardship (as defined by the plan)
5. Financial Hardship:
 - a. Consideration for a hardship withdrawal will be based on the following definitions:
 - (1) 401(k) Plan Hardship Definition - An immediate and heavy financial need caused by one or more of the following:
 - (a) Unreimbursed medical expenses incurred by the participant or a dependent of the participant.
 - (b) Purchase of the participant's primary residence.

(c) Payment of college tuition for the next year for the participant or a dependent of the participant,

(d) Funeral expenses for an immediate family member of the participant which exceed life insurance coverage, or

(e) Official notification of implementation of eviction or foreclosure proceedings regarding the participant's primary residence.

(2) 457 Plan Hardship Definition - A severe financial hardship resulting from:

(a) Sudden and unexpected illness or accident of the participant or a dependent;

(b) Loss of the participant's property due to uninsured casualty; or

(c) Other similar or extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant.

(d) Examples of non-qualifying circumstances shall include but not be limited to the following:

(i) Purchase of a home or car;

(ii) Educational expenses;

(iii) Payment of child support or alimony;

(iv) Bankruptcy or wage garnishment;

(v) Past due credit card bills; or

(vi) Payment of taxes or tax penalties.

6. Withdrawals may not include employer contributions or earnings accrued on the account.

a. Federal regulations require that all deferrals be cancelled for the remainder of the current year and for one calendar year thereafter.

b. An employee who qualifies for a loan in the 401(k) plan may be required to apply for such loan before applying for a hardship withdrawal from the plan.

7. Hardship withdrawals are subject to regular income tax and may be subject to the 10% early distribution tax penalty. Such distributions are not eligible for forward income averaging tax treatment or rollover.

8. Withdrawals Required Due to Age

a. Per IRS regulations, employees must begin drawing benefits no later than April 1 of the year following the age of 70 ½ or retirement.

b. If the employee does not meet the required distribution provisions, a penalty tax is imposed equal to 50% of the amount that the employee should have withdrawn that year.

9. Withdrawals Following Termination of Employment

a. Accounts smaller than \$3,500 - A lump sum withdrawal or rollover to another tax deferred plan (if employee qualifies) is permitted for such smaller amounts.

b. Accounts larger than \$3,500 - Employee may leave account in the State's plan.

10. Charges on Withdrawals

a. Participants should contact the TPA to determine if there are any surrender charges on their current investment options.

11. Taxes on Withdrawals

a. Basic information

- (1) Must be reported when payments or withdrawals are received as income in the year(s) received.
- (2) Income from plan reported to both participant and IRS on appropriate tax form for each year payments are received.

b. Withholding taxes

- (1) Normally applied as payments are received. Amount of withdrawal and amount of taxes reported on W-2 statement for 457 plan and on a 1099-R form for 401(k) plan.

(2) Rate of taxation

(a) 457 plan - flat 28% rate

(b) 401(k) plan - 20% on lump sum distributions and any other type of distribution received from plan which would be eligible for rollover.

(c) Withdrawals not subject to flat withholding tax - calculated as if recipient were married with 3 dependents unless a withholding certificate has been filed for a different amount. W-4 form is used for 457 payments and W-4P form is used for 401(k) payments.

(3) Early distribution tax penalty

(a) A 10% tax penalty is assessed on 401(k) withdrawals made before age 59 ½ except when distributions meet IRS exceptions.

(b) It is the participant's responsibility to make the determination and payment of the early distribution tax penalty.

10. 401(k) Loans

- a. Active employees who have accumulated \$4,000 or more in the plan may borrow up to half of the account balance.
- b. Loans may not include employer contributions or matches.
- c. The minimum loan is \$2,000; the maximum, \$50,000.
- d. Employees are required to sign documents stipulating repayment via payroll deductions, normally in 5 or less years.
- e. Both the principal and interest go back into the employee's 401(k) account. Employees should contact the Company for information on loan limitations and fees or for a copy of the loan brochure.

11. Applying for Benefits

- a. Benefits may be distributed in one of three ways:
 - (1) lump sum
 - (2) periodic payments, or
 - (3) in an annuity.
- b. Employees may not change the method of payment selected.
 - (1) Withdrawal application forms may be obtained from the TPA.
 - (2) Annuity payment estimates and materials describing payment options are available on request.
- c. Employees should obtain current information before selecting a payment schedule due to the fact that the provisions of this guideline may be revised by Congress.
- d. Payment Options

(1) Lump Sum Payment

(a) Used to withdraw entire account balance.

(b) May be only option available to participants with less than \$3,500 in plan.

(c) May be most beneficial option for participants who have more than 5 years in the plan and qualify for forward income averaging.

(2) Periodic Payments

(a) May be withdrawn in equal annual or monthly payments for a specified number of years.

(b) Withdrawal period limited to life expectancy.

(c) May be directly deposited into checking or savings accounts.

(3) Annuity Payments

(a) Investments risks for future years assumed by insurance company.

(b) Payments made to participant or beneficiary regardless of investment returns.

(c) Types of annuity options:

(i) Designated Period Annuity - Certain amount paid for specified period (e.g. 5, 10, 15 years).

(ii) Life Annuity - A certain amount paid to the participant for his/her lifetime. No payments made to beneficiary.

(iii) Life Annuity with Period Certain Feature - A certain amount paid to the participant's as long as he/she lives and also payments paid to a

beneficiary for the "period certain" should participant's death occur prior to the end of the period.

(iv) Life Annuity with Joint & Survivor Feature - A certain amount paid to the participant for as long as he/she lives and continued payments to beneficiary after participant's death at 100% or 50% of original payment, depending on option elected.

12. Five Year or Ten Year Forward Averaging

- a. Eligibility is contingent upon a participant receiving a qualifying lump sum distribution from a 401(k) plan after age 59 ½ and having 5 or more years in the plan. Participants born on or before 12/31/35 may be eligible for ten year averaging. Questions should be addressed to the TPA.
- b. Tax calculated as if money was received over 5 years and is calculated separately from tax on any other income.

13. Rollovers from Other Plans

- a. Employees who previously participated in another government's Section 457 plan may apply to have the assets of the prior plan transferred to the State's 457 plan.
- b. Employees who participated in another 401(k) plan may apply to have their distribution from that plan transferred to the 401(k) plan; however, the employee must be enrolled in the State of Tennessee Plan prior to applying for the transfer.

14. Plan to Plan Transfers and Rollovers to Other Plans

- a. Upon separation from employment, a participant may move deferred compensation into another plan under the following provisions:

(1) 457 Plan

- (a) The other plan accepts such transfers.

(2) 401(k) Plan

(a) If a participant is eligible to withdraw accumulations, these may be moved to an IRA or a qualified retirement plan.

(3) A distribution is eligible for transfer unless it is:

(a) Part of a series of substantially equal periodic payments made for the participant's life or life expectancy of the participant and his/her beneficiary.

(b) Part of a series of substantially equal periodic payments made for a specified period of 10 or more years.

(c) A withdrawal a participant is required to take due to age.

b. Money may be transferred directly to the new plan or the participant may receive a check from the 401(k) plan and make a rollover to the new plan.

c. Participants must arrange direct transfers when an application is submitted for withdrawal from the plan.

d. The plan must apply 20% withholding to any distribution which would have been eligible for direct transfer.

e. Prior service in Tennessee Consolidated Retirement System (TCRS) may be purchased with a rollover from the 401(k) plan when the participant becomes eligible to make a withdrawal from the 401(k) plan. Excess amounts may be rolled into an IRA or reported as taxable income. TCRS should be contacted for additional information.

f. Participants who move their 401(k) accounts into IRAs may want to set up special "conduit accounts" in the event they later become eligible to roll funds back into a qualified retirement account. (Withdrawals from IRAs are not eligible for income averaging.) Additional information on rollover and transfer rules may be obtained from the IRS.

15. Non-Assignability of Benefits

a. 457 Plan

(1) Deferrals are assets of the State of Tennessee until paid to the participant or beneficiary.

(2) Amounts cannot be assigned or attached to satisfy debts or obligations of an individual.

b. 401(k) Plan

(1) Accumulations are part of a qualified pension plan.

(2) Assets are exempt from execution, attachment, garnishment, or other process, other than levies issued by the IRS.

(3) Benefits cannot be given to an ex-spouse as marital property or as alimony.

Sources

TBR Presidents Meeting: November 13, 1990; November 9, 1993; November 8, 1995; August 13, 1996; November 12, 1996; February 5, 1997; May 6, 1997; February 17, 1998, August 10, 1999; November 5, 2008; February 17, 2009.

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Deferred Compensation Plans: P-045

Policy/Guideline Area

Personnel Guidelines

Applicable Divisions

TCATs, Community Colleges, Universities, System Office

Purpose

The purpose of this guideline is to provide guidance to those institutions which enter into agreements to establish deferred compensation plans or programs for the benefit of their employees. Such plans or programs are permitted by Internal Revenue Code sections 403(b), 401(k), and 457. The following provisions apply:

Section 403(b): Pre-Tax

Section 401(k): Pre-Tax

Section 457: Pre-Tax

Roth 401(k): After-Tax

Policy/Guideline

I. General

A. Internal Revenue Service Requirements

1. It is intended that all provisions of this guideline be consistent with provisions of the Internal Revenue Code, regulations, and other authoritative issuances of the Internal Revenue Service with respect to plans permitted by Internal Revenue Code Sections 403(b), 401(k)-Traditional and Roth, and 457 as amended from time to time.
 - a. Any provision of this Plan is invalid to the extent such provision is not consistent with Internal Revenue Service provisions.

2. Unless otherwise provided in this guideline, it is intended that Internal Revenue Service provisions be controlling on such matters as limitations on contributions, withdrawal of contributions, payment of benefits, rollovers, and similar matters.
3. Notwithstanding A.1 and A.2, the Chancellor shall be empowered to establish reasonable requirements for the administration of the guideline, so long as such requirements do not conflict with any Internal Revenue Service provisions.
4. It is the intention of the Tennessee Board of Regents that an "excess contribution" as defined by the Internal Revenue Service provisions be returned to the participant as soon as administratively possible.
 - a. Returned excess contributions would be reported as taxable income.

B. Third Party Administrators

1. The Tennessee Board of Regents, State of Tennessee, and/or University of Tennessee may enter into an agreement with an approved company, financial institution, or other party which offers a program qualifying as a Section 403(b), 401(k), 457, and/or Roth 401(k) plan, hereinafter referred to as Third Party Administrators (TPA's).
2. All participant contributions shall be paid to the approved TPA or TPA's as selected by the employee.
3. The Institution/System Office will not recommend or endorse a TPA or TPA's program and will make no guarantee or assurances regarding the vendor.

C. Investment Options

1. Investment Options providing participants a range of diversified funding options will be maintained by the TPA or TPA's.
2. All responsibility for investment performance shall be between the employee and TPA.

D. Plan Period

1. Where a "plan year" or other official period is needed, the plan year for the institution shall be the calendar year.

E. Participation Agreements

1. Each employee desiring to participate in a deferred compensation plan shall complete the appropriate Participation Agreement and applicable enrollment process.
2. All 401(k), 457 and Roth 401(k) deferral increases, decreases, or cancellations shall be performed by the participant directly with the TPA's website or customer service call center.
3. All 403(b) deferral increases, decreases, or cancellations shall be submitted on the appropriate form to the Human Resources Office.
4. All forms containing changes (e.g., address, beneficiary, etc.) should be transmitted to the TPA directly.

F. Minimum and Maximum Deferral Calculations

1. Minimum deferral amounts:
 - a. 403(b) Plan - \$200.00 per year
 - b. 401(k) Plan - \$20.00 per month
 - c. 457 Plan - \$20.00 per month
2. Maximum deferrals for 403(b), 401(k), and 457 plans are subject to applicable Internal Revenue Service (IRS) Limits.

G. Limitations and Contributions

1. Participants who also participate in other qualified plans sponsored by an employer in which the participant has a controlling ownership interest (this includes employee and employer contributions to 401(k), 401(a), 403(b), simplified employee pension (SEPs), and Keogh plans) are required to report to the institution contribution information.
 - a. The contribution amounts to other plans must be combined with the Tennessee Board of Regents Retirement Plan contributions to determine whether the 415(c) limit has been reached. This is in accordance with Internal Revenue Service regulations.
2. All 403(b), 401(k), and 457 contributions must be coordinated so that excess contributions are not made.
3. Contributions (deferrals) for employees who also participate in the Optional Retirement Plan (ORP) are subject to additional limitations/restrictions.
4. Deferrals for 403(b), 401(k) and 457 plans may be deducted from regular or longevity pay (see Section H for information regarding longevity deferrals). "Advance" deferrals are not permitted (e.g., deferrals cannot be made before the money is earned).
5. An institution may decline to enter into any agreement that could, in the institution's opinion, cause the employee to exceed permissible contribution levels.

H. Longevity Deferrals

1. Participants may elect to defer regular pay and/or a portion of their longevity bonus paycheck.
 - a. A deferral from the longevity paycheck may be directed to the 403(b), 401(k), and 457 plan; however, it may not be divided among the plans.
 - b. Due to the required deduction of the applicable Social Security taxes, the full longevity amount may not be deferred.

- c. A participant who elects to defer any portion of the longevity paycheck will be required to complete a Participation Agreement specifically for longevity each year.

I. Changing Deferrals

- 1. Changes in the amount of regular paycheck deferrals may be made by submitting a new Participation Agreement within the timeframe established by the TPA and Institution/System Office.

J. Changing Investment Options

1. Changing the Investment of Future Deferrals

- a. Participants may change the investment options of future deferrals at any time by calling the TPA's customer service department or completing the transaction on the TPA's website.
- b. The investment of money on deposit (already in account) is not affected by initiating a future change.
- c. Employees will need to complete a separate transaction for the 403(b), 401(k), and 457 if they participate in more than one plan.

2. Transferring Money on Deposit

- a. Participants may change the investment options of money on deposit (already in account) at any time by calling the TPA's customer service department or completing the transaction on the TPA's website. Transfers are processed by the investment companies.
- b. The investment of future deferrals is not affected by transferring money already on deposit.

- d. Employees will need to complete a separate transaction for the 403(b), 401(k), and 457 if they participate in more than one plan.
3. All responsibility for investment performance shall be between the employee and the vendor.

K. Effect of a Leave of Absence on Deferrals

1. The deferred compensation program requires payroll deductions (reductions); therefore, participants may not pay contributions directly to the TPA or Institution/System Office in order to receive matching funds that may be available.
2. When a participant returns from an unpaid leave of absence, deferrals can restart with the paycheck following his/her return to work.
3. The deferred compensation program does not contain a catch-up provision for employees who have been returned to a paid status retroactively.
 - a. Therefore, double deductions are not permitted. Example: An employee on unpaid leave returns to work, but notification is not provided to Human Resources and/or Payroll for the affected pay period. When the next paycheck is processed, it will reflect a deferral and match (if funded) for only the current pay period.

L. Termination/Cancellation of Deferrals

1. An employee wishing to terminate his/her participation in a 401(k), 457 and Roth 401(k) shall complete the cancellation directly with the TPA's customer service call center or website.
2. All 403(b) cancellations shall be submitted on the appropriate form to the Human Resources Office.
3. Following cancellation of participation in deferred compensation plan, administrative fees will continue to be charged for each month in which the principle is sufficient to

cover the fee. Insufficient principal will result in final termination of participation in the plan.

4. Previous deferrals may not be withdrawn unless the employee meets one of the conditions for withdrawal (see Sections II. D. and III. D.).

M. Institutional Endorsement

1. The administration of an Institution/System Office will not endorse or recommend in a positive or negative manner any TPA or TPA program.
2. The Institution/System Office may make available information which could be useful in a selection decision by an employee.
3. This provision does not prohibit recommendation or evaluation by groups of employees or representatives of groups of employees.

N. Retirement Age

1. For purposes of this guideline, "normal retirement" will be the age used by the Tennessee Consolidated Retirement System (TCRS).
2. Once an employee reaches or passes the normal retirement age, for purposes of calculating limitations on contributions for purposes of this Plan, such computation should be made assuming retirement at the end of the year for which the calculation is being made.

II. Section 403(b)

- A. Institutions governed by the Tennessee Board of Regents and employees thereof may enter into agreements to participate in tax-deferred annuity plans or programs consistent with Section 403(b) of the Internal Revenue Code and related provisions of the Internal Revenue Code, regulations, rulings, etc., and subject to the provisions of this guideline and the Tennessee Board of Regents 403(b) Retirement Plan Document.

B. 403(b) Eligibility

1. All employees within the Tennessee Board of Regents system are eligible to participate in Section 403(b) programs.

C. Employer

1. For the purposes of a Section 403(b) program, the employer shall be the Tennessee Board of Regents.

D. Withdrawals & Loans

1. Early in service withdrawals and loans shall not be permitted consistent with the Tennessee Board of Regents 403(b) Retirement Plan Document and Internal Revenue Service provisions.

III. Sections 401(k), 457, and Roth 401(k)

- A. Institutions governed by the Tennessee Board of Regents and employees of such institutions may enter into agreements to participate in tax-deferred annuity plans or programs consistent with Section 401(k) and 457 of the Internal Revenue Code, regulations, and other authoritative issuances of the Internal Revenue Service, the Tax Reform Act of 1986, and the Employee Retirement Income Security Act of 1974 (ERISA) with respect to plans permitted by Internal Revenue Code Section 401(k) and 457 as amended from time to time.

B. 401(k), 457, and Roth 401(k) Eligibility

1. All employees within the Tennessee Board of Regents system are eligible to participate in the State's 401(k), 457, and Roth 401(k) deferred compensation programs.
2. Contingent upon eligibility and appropriate funding each fiscal year, only regular full-time and regular part-time employees may be eligible to receive matching funds in addition to the employee's 401(k) contributions. The match for eligible Roth 401(k) participants will be directed to the 401(k) account.

C. Employer

1. For purposes of the 401(k), 457, and Roth 401(k), the employer shall be the Tennessee Board of Regents and/or any of its institutions, the State of Tennessee, and the University of Tennessee System.
2. The Chancellor of the Tennessee Board of Regents is empowered to set appropriate administrative guidelines and procedures necessary to coordinate administration with the State of Tennessee.

D. Withdrawals

1. To make a withdrawal, the participant should contact the TPA or access his/her online account to obtain instructions and the applicable withdrawal form.
2. A request for withdrawal will be reviewed by the Human Resources Office.
3. If the withdrawal is approved and it is for reasons other than retirement, termination of employment, death, or attainment of age 59 ½, the TPA will notify the Institution/System Office to stop deferrals.
4. Withdrawals shall be permitted for the following reasons:
 - a. Retirement
 - b. Death
 - c. Disability
 - d. Age 59 ½ - not available for 457 deferrals
 - e. Termination of employment
 - f. Financial hardship (as defined by the plan)
5. Financial Hardship:

a. Consideration for a hardship withdrawal will be based on the following definitions:

(1) 401(k) Plan Hardship Definition - An immediate and heavy financial need caused by one or more of the following:

- (a) Unreimbursed medical expenses incurred by the participant or a dependent of the participant,
- (b) Purchase of the participant's primary residence,
- (c) Payment of college tuition for the next year for the participant or a dependent of the participant,
- (d) Funeral expenses for an immediate family member of the participant which exceed life insurance coverage, or
- (e) Official notification of implementation of eviction or foreclosure proceedings regarding the participant's primary residence.

(2) 457 Plan Hardship Definition - A severe financial hardship resulting from:

- (a) Sudden and unexpected illness or accident of the participant or a dependent;
- (b) Loss of the participant's property due to uninsured casualty; or
- (c) Other similar or extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant.
- (d) Examples of non-qualifying circumstances shall include but not be limited to the following:
 - (i) Purchase of a home or car;
 - (ii) Educational expenses;

(iii) Payment of child support or alimony;

(iv) Bankruptcy or wage garnishment;

(v) Past due credit card bills; or

(vi) Payment of taxes or tax penalties.

6. Withdrawals may not include employer contributions or earnings accrued on the account.
 - a. Federal regulations require that all deferrals be cancelled for the remainder of the current year and for one calendar year thereafter.
 - b. An employee who qualifies for a loan in the 401(k) plan may be required to apply for such loan before applying for a hardship withdrawal from the plan.
7. Hardship withdrawals are subject to regular income tax and may be subject to the 10% early distribution tax penalty. Such distributions are not eligible for forward income averaging tax treatment or rollover.
8. Withdrawals Required Due to Age
 - a. Per IRS regulations, employees must begin drawing benefits no later than April 1 of the year following the age of 70 ½ or retirement.
 - b. If the employee does not meet the required distribution provisions, a penalty tax is imposed equal to 50% of the amount that the employee should have withdrawn that year.
9. Withdrawals Following Termination of Employment

- a. Accounts smaller than \$3,500 - A lump sum withdrawal or rollover to another tax deferred plan (if employee qualifies) is permitted for such smaller amounts.
- b. Accounts larger than \$3,500 - Employee may leave account in the State's plan.

10. Charges on Withdrawals

- a. Participants should contact the TPA to determine if there are any surrender charges on their current investment options.

11. Taxes on Withdrawals

a. Basic information

- (1) Must be reported when payments or withdrawals are received as income in the year(s) received.
- (2) Income from plan reported to both participant and IRS on appropriate tax form for each year payments are received.

b. Withholding taxes

- (1) Normally applied as payments are received. Amount of withdrawal and amount of taxes reported on W-2 statement for 457 plan and on a 1099-R form for 401(k) plan.

(2) Rate of taxation

- (a) 457 plan - flat 28% rate
- (b) 401(k) plan - 20% on lump sum distributions and any other type of distribution received from plan which would be eligible for rollover.
- (c) Withdrawals not subject to flat withholding tax - calculated as if recipient were married with 3 dependents unless a withholding certificate has

been filed for a different amount. W-4 form is used for 457 payments and W-4P form is used for 401(k) payments.

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(a) A 10% tax penalty is assessed on 401(k) withdrawals made before age 59 ½ except when distributions meet IRS exceptions.

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a. Active employees who have accumulated \$4,000 or more in the plan may borrow up to half of the account balance.

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c. The minimum loan is \$2,000; the maximum, \$50,000.

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e. Both the principal and interest go back into the employee's 401(k) account. Employees should contact the Company for information on loan limitations and fees or for a copy of the loan brochure.

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a. Benefits may be distributed in one of three ways:

(1) lump sum

(2) periodic payments, or

(3) in an annuity.

- b. Employees may not change the method of payment selected.
 - (1) Withdrawal application forms may be obtained from the TPA.
 - (2) Annuity payment estimates and materials describing payment options are available on request.
- c. Employees should obtain current information before selecting a payment schedule due to the fact that the provisions of this guideline may be revised by Congress.
- d. Payment Options
 - (1) Lump Sum Payment
 - (a) Used to withdraw entire account balance.
 - (b) May be only option available to participants with less than \$3,500 in plan.
 - (c) May be most beneficial option for participants who have more than 5 years in the plan and qualify for forward income averaging.
 - (2) Periodic Payments
 - (a) May be withdrawn in equal annual or monthly payments for a specified number of years.
 - (b) Withdrawal period limited to life expectancy.
 - (c) May be directly deposited into checking or savings accounts.
 - (3) Annuity Payments
 - (a) Investments risks for future years assumed by insurance company.

(b) Payments made to participant or beneficiary regardless of investment returns.

(c) Types of annuity options:

(i) Designated Period Annuity - Certain amount paid for specified period (e.g. 5, 10, 15 years).

(ii) Life Annuity - A certain amount paid to the participant for his/her lifetime. No payments made to beneficiary.

(iii) Life Annuity with Period Certain Feature - A certain amount paid to the participant's as long as he/she lives and also payments paid to a beneficiary for the "period certain" should participant's death occur prior to the end of the period.

(iv) Life Annuity with Joint & Survivor Feature - A certain amount paid to the participant for as long as he/she lives and continued payments to beneficiary after participant's death at 100% or 50% of original payment, depending on option elected.

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- a. Eligibility is contingent upon a participant receiving a qualifying lump sum distribution from a 401(k) plan after age 59 ½ and having 5 or more years in the plan. Participants born on or before 12/31/35 may be eligible for ten year averaging. Questions should be addressed to the TPA.
- b. Tax calculated as if money was received over 5 years and is calculated separately from tax on any other income.

13. Rollovers from Other Plans

- a. Employees who previously participated in another government's Section 457 plan may apply to have the assets of the prior plan transferred to the State's 457 plan.

- b. Employees who participated in another 401(k) plan may apply to have their distribution from that plan transferred to the 401(k) plan; however, the employee must be enrolled in the State of Tennessee Plan prior to applying for the transfer.

14. Plan to Plan Transfers and Rollovers to Other Plans

- a. Upon separation from employment, a participant may move deferred compensation into another plan under the following provisions:
 - (1) 457 Plan
 - (a) The other plan accepts such transfers.
 - (2) 401(k) Plan
 - (a) If a participant is eligible to withdraw accumulations, these may be moved to an IRA or a qualified retirement plan.
 - (3) A distribution is eligible for transfer unless it is:
 - (a) Part of a series of substantially equal periodic payments made for the participant's life or life expectancy of the participant and his/her beneficiary,
 - (b) Part of a series of substantially equal periodic payments made for a specified period of 10 or more years,
 - (c) A withdrawal a participant is required to take due to age.
- b. Money may be transferred directly to the new plan or the participant may receive a check from the 401(k) plan and make a rollover to the new plan.
- c. Participants must arrange direct transfers when an application is submitted for withdrawal from the plan.

- d. The plan must apply 20% withholding to any distribution which would have been eligible for direct transfer.
- e. Prior service in Tennessee Consolidated Retirement System (TCRS) may be purchased with a rollover from the 401(k) plan when the participant becomes eligible to make a withdrawal from the 401(k) plan. Excess amounts may be rolled into an IRA or reported as taxable income. TCRS should be contacted for additional information.
- f. Participants who move their 401(k) accounts into IRAs may want to set up special "conduit accounts" in the event they later become eligible to roll funds back into a qualified retirement account. (Withdrawals from IRAs are not eligible for income averaging.) Additional information on rollover and transfer rules may be obtained from the IRS.

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a. 457 Plan

- (1) Deferrals are assets of the State of Tennessee until paid to the participant or beneficiary.
- (2) Amounts cannot be assigned or attached to satisfy debts or obligations of an individual.

b. 401(k) Plan

- (1) Accumulations are part of a qualified pension plan.
- (2) Assets are exempt from execution, attachment, garnishment, or other process, other than levies issued by the IRS.
- (3) Benefits cannot be given to an ex-spouse as marital property or as alimony.

Sources

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PRESIDENTS QUARTERLY MEETING

DIRECTORS QUARTERLY MEETING

DATE: Presidents Meeting (August 19, 2014)
Directors Meeting (August 19, 2014)

AGENDA ITEM: Proposed Revisions to: TBR Policy 5:01:01:07-Sick Leave

ACTION: Requires Vote

PRESENTER: Dale Sims, Vice Chancellor for Business and Finance

BACKGROUND INFORMATION:

Revisions to TBR Policy 5:01:01:07 – Sick Leave. Changes are needed in the Sick leave policy to clarify that members of the family who reside within the home of the employee are eligible to receive up to two additional days of sick leave (after Bereavement Leave), if approved by the supervisor. Currently, other members of the family who reside within the home is listed under both definitions of immediate family and other relatives. This change will be consistent with the definition and benefit offered in the Bereavement Policy.

In addition, it is proposed to clarify that employees who work an 8 hour shift, rather than the typical 7.5 hours, accrue 8 hours (1 day) of sick leave. It is still capped at 12 days, but for a 40 hour/wk. employee that is 96 hours, rather than 90 hours. This brings policy in line with practice.

Sick Leave: 5:01:01:07

Purpose

It is the policy of the Tennessee Board of Regents to protect all regular full-time and part-time employees against loss of earnings due to illness, injury, or incapacity to work including illness or incapacity to work due to pregnancy, and to provide the time off to employees in the event of illness or death of certain family members.

Definitions

The body of the policy defines terms.

Policy/Guideline

- I. Eligibility to Accrue Sick Leave
 - A. Regular full-time employees and academic personnel, regardless of probationary status, shall be eligible to accrue sick leave. All eligible employees (regular full-time and regular part-time) will accrue sick leave after working more than 50% of the month.
 - B. Regular part-time employees, including academic personnel scheduled to carry less than a full teaching load or its equivalent, regardless of probationary status, shall be eligible to accrue sick leave on a prorated basis equal to the percentage of their employment to full-time employment.
 - C. Temporary employees shall not be eligible to accrue sick leave. Temporary employees who are subsequently appointed as regular employees with no break in service between the temporary assignment and the regular position shall become eligible to accrue sick leave and shall receive sick leave balances accrued retroactively from the date of employment.

- D. All full-time and part-time employees who are employed pursuant to funds available to the institution through grants or contracts are not eligible to accrue sick leave unless the grant or contract involved provides sufficient funds to cover the costs of such leave, or unless eligibility to accrue sick leave is approved by the president or director of the institution.
- E. Student employees shall not be eligible to accrue sick leave.

II. Eligibility for and Rate of Accrual of Sick Leave

- A. Regular full-time personnel and full-time academic personnel, whether employed on a twelve-month or nine-month service basis, shall accrue sick leave at the rate of 7.5 hours (1 day) for each month of actual service. ~~Under no circumstances may a~~ A regular full-time employee working 37.5 hours per week, earns more than 90 hours (12 days) of sick leave per year. An employee on a 40 hour per week schedule, shall accrue 8 hours (1 day) for each month of actual service or 96 hours of sick leave per year.
- B. Regular part-time personnel and part-time academic personnel, whether employed on a twelve-month or nine-month service basis shall accrue sick leave on a prorated basis equal to the percentage of their employment compared to full-time employment.
- C. Accrued days of sick leave shall be cumulative for all days not used.
- D. Eligible employees shall accrue sick leave from the date of employment. (See Section I, item C, providing for retroactive credit for temporary employees who subsequently become eligible to accrue sick leave.)
- E. Eligible employees earn and accrue sick leave for each month upon completion of service for a major fraction thereof.

- F. All modified fiscal year (MODFY) employees who are employed during the period which would normally be the non-duty period of their appointment shall accrue sick leave at the rate of 7.5 hours for each month of full-time employment. For part-time employment during that period, MODFY employees shall accrue sick leave on a prorated basis in accordance with item B of this section.
- G. Notwithstanding any other provision herein which might be construed to the contrary, regular nine-month academic personnel shall accrue 67.5 hours (9 days) of sick leave for full-time employment for a full academic year and up to 22.5 hours (3 days) of sick leave for full-time employment throughout summer sessions based on hours worked during the summer.
- H. Employees otherwise eligible to earn sick leave do not earn or accrue sick leave while on an unpaid leave of absence.

III. Use of Sick Leave

- A. Sick leave and Family and Medical Leave (FMLA) shall run concurrently in accordance with the provisions of TBR Policy 5:01:01:14. (Note: Unless an employee is on a reduced or intermittent work schedule, periods of less than three days shall not be designated as FMLA leave.)
- B. Sick leave is generally applicable to absences due to illness or injury to an employee, including illness or incapacity to work due to pregnancy, medical examinations and dental appointments. In addition, sick leave may be used for parental leave. Refer to TBR Policy 5:01:01:08.
- C. Where an employee must be absent because of illness in the immediate family, sick leave may be granted by the appropriate approving authority.
 - 1. For purposes of this section, "immediate family" shall be deemed to include:

- a. spouse;
 - b. child, step-child, foster child;
 - c. parent, step-parent, foster parent and parent-in-law;
 - d. sibling; and
 - e. other members of the family who reside within the home of the employee.
- D. Sick leave, if available, may be granted at the discretion of the appropriate approving authority in instances of death of a member of the family as follows:
- 1. Immediate family member as defined in Policy No. 5:01:01:09 - Bereavement Leave, may be granted for a maximum of two (2) days after the three (3) day bereavement leave has been used for a maximum of five (5) consecutive or non-consecutive regularly scheduled work days.
 - 2. In instances of death of one of the following relatives, sick leave may be granted for a maximum of 22.5 hours (3 days):
 - a. sons-in-law and daughters-in-law;
 - b. brothers-in-law and sisters-in-law;
 - c. foster brothers and foster sisters; and
 - ~~d. other members of the family who reside within the home.~~
- E. Abuse of sick leave by an employee will result in the withholding of payment of the sick leave and possible additional disciplinary action. Sick leave may not be taken until earned and available and may not be advanced.

- F. Sick leave may not be used by nine-month academic personnel for absences due to illness or injury during a summer or other inter-session unless the employee has been physically present and actually commenced employment for the term in question.
- G. Upon prior approval of the Chancellor, an employee who is injured in the line of duty as a result of the commission of an assault upon him or her which disables the employee from performing his or her regular duties, may be retained on the regular payroll for a period not to exceed twenty-eight (28) calendar days without being required to use any accrued sick leave. The length of time for such retention on the payroll shall be based upon a written statement from the attending physician that the employee is unable to perform his or her regular duties.
- H. Subject to the conditions outlined in Transfer of Sick Leave between Employees Policy 5:01:01:15, sick leave may be transferred to members of the institution/school's Sick Leave Bank(s).

IV. Physician's Statement or Other Certification

- A. An employee may be required to present evidence in the form of personal affidavits, physician's certificates, or other testimonials in support of the reason for sick leave upon request of his or her supervisor or an appropriate approving authority.
- B. Sick leave may not be denied where an employee furnishes an acceptable statement from a licensed physician or accredited Christian Science practitioner or other healthcare provider, provided that the supervisor or approving authority may require additional documentation or statements from other physicians or accredited practitioners.

V. Return to Work

- A. An employee may be required to present a written release to return to work, including any restrictions that may apply, from a licensed physician or other accredited practitioner prior to resuming employment.
- B. An employee will be allowed to return to work if the release certifies that he/she is able to perform the essential functions of the position with or without a reasonable accommodation.

VI. Exhaustion of Sick Leave

- A. When the illness, injury, or disability of an employee continues beyond the period of accumulated sick leave, the employee shall use any accumulated annual leave for continued absence.
- B. However, in cases of workers' compensation, an employee may choose to be placed on an unpaid leave of absence and retain sick and/or annual leave.
- C. When an employee has exhausted all accumulated sick and annual leave, he or she may be placed on leave of absence, if requested and found to be justifiable. (See TBR Policy No. 5:01:01:03.)

VII. Separation of Employees with Accrued Sick Leave

- A. Upon termination of employment, accumulated sick leave shall not be used as terminal leave, and the employee shall not be entitled to any lump sum payment for accumulated sick leave.
- B. If an employee is transferring to another state agency, his or her accumulated sick leave shall be transferred according to Leave Transfer between TBR Institutions and State Agencies. (See TBR Policy No. 5:01:01:06.)

C. If an employee leaves the System or any other state service in good standing after having worked on a full-time continuous basis for at least one ~~year~~ (1) full year and thereafter returns to service with the System on a full-time basis, the employee shall immediately be credited with all sick leave to which he or she was entitled at the time of the previous termination, ~~;~~ **provided**

1. ~~€~~ Certification of such entitlement ~~is~~ **must be** received from the previous employer if other than the new employer;

1.2. ~~provided further that if~~ if the employee has had interim employment with the System or any other agency of the State of Tennessee of less than one (1) year, he or she shall not be disqualified from receiving credit for sick leave to which he or she is otherwise entitled ~~because of his or her prior employment with the state.~~

C.D. Notwithstanding the above paragraph, if any state employee or teacher employed by a local school board in Tennessee leaves the employment of the state or of that board in good standing and becomes a full-time employee within six (6) months of the date of termination, the employee shall immediately be credited with all sick leave to which he or she was entitled at the time of the previous termination.

D.E. TCRS member employees who terminate due to retirement shall have all unused accumulated sick leave credited toward retirement. ORP member employees who terminate due to retirement shall have all unused accumulated sick leave credited toward retirement service for insurance purposes.

VIII. Death of Employees with Accrued Sick Leave

- A. The estate or designated beneficiary of any employee, upon the employee's death, shall be paid for the employee's unused and accrued sick leave in the same manner as the estates of deceased employees are paid for annual leave.
-

Sick Leave: 5:01:01:07

Purpose

It is the policy of the Tennessee Board of Regents to protect all regular full-time and part-time employees against loss of earnings due to illness, injury, or incapacity to work including illness or incapacity to work due to pregnancy, and to provide the time off to employees in the event of illness or death of certain family members.

Definitions

The body of the policy defines terms.

Policy/Guideline

- I. Eligibility to Accrue Sick Leave
 - A. Regular full-time employees and academic personnel, regardless of probationary status, shall be eligible to accrue sick leave. All eligible employees (regular full-time and regular part-time) will accrue sick leave after working more than 50% of the month.
 - B. Regular part-time employees, including academic personnel scheduled to carry less than a full teaching load or its equivalent, regardless of probationary status, shall be eligible to accrue sick leave on a prorated basis equal to the percentage of their employment to full-time employment.
 - C. Temporary employees shall not be eligible to accrue sick leave. Temporary employees who are subsequently appointed as regular employees with no break in service between the temporary assignment and the regular position shall become eligible to accrue sick leave and shall receive sick leave balances accrued retroactively from the date of employment.

- D. All full-time and part-time employees who are employed pursuant to funds available to the institution through grants or contracts are not eligible to accrue sick leave unless the grant or contract involved provides sufficient funds to cover the costs of such leave, or unless eligibility to accrue sick leave is approved by the president or director of the institution.
- E. Student employees shall not be eligible to accrue sick leave.

II. Eligibility for and Rate of Accrual of Sick Leave

- A. Regular full-time personnel and full-time academic personnel, whether employed on a twelve-month or nine-month service basis, shall accrue sick leave at the rate of 7.5 hours (1 day) for each month of actual service. A regular full-time employee working 37.5 hours per week, earns 90 hours (12 days) of sick leave per year. An employee on a 40 hour per week schedule, shall accrue 8 hours (1 day) for each month of actual service or 96 hours of sick leave per year.
- B. Regular part-time personnel and part-time academic personnel, whether employed on a twelve-month or nine-month service basis shall accrue sick leave on a prorated basis equal to the percentage of their employment compared to full-time employment.
- C. Accrued days of sick leave shall be cumulative for all days not used.
- D. Eligible employees shall accrue sick leave from the date of employment. (See Section I, item C, providing for retroactive credit for temporary employees who subsequently become eligible to accrue sick leave.)
- E. Eligible employees earn and accrue sick leave for each month upon completion of service for a major fraction thereof.

- F. All modified fiscal year (MODFY) employees who are employed during the period which would normally be the non-duty period of their appointment shall accrue sick leave at the rate of 7.5 hours for each month of full-time employment. For part-time employment during that period, MODFY employees shall accrue sick leave on a prorated basis in accordance with item B of this section.
- G. Notwithstanding any other provision herein which might be construed to the contrary, regular nine-month academic personnel shall accrue 67.5 hours (9 days) of sick leave for full-time employment for a full academic year and up to 22.5 hours (3 days) of sick leave for full-time employment throughout summer sessions based on hours worked during the summer.
- H. Employees otherwise eligible to earn sick leave do not earn or accrue sick leave while on an unpaid leave of absence.

III. Use of Sick Leave

- A. Sick leave and Family and Medical Leave (FMLA) shall run concurrently in accordance with the provisions of TBR Policy 5:01:01:14. (Note: Unless an employee is on a reduced or intermittent work schedule, periods of less than three days shall not be designated as FMLA leave.)
- B. Sick leave is generally applicable to absences due to illness or injury to an employee, including illness or incapacity to work due to pregnancy, medical examinations and dental appointments. In addition, sick leave may be used for parental leave. Refer to TBR Policy 5:01:01:08.
- C. Where an employee must be absent because of illness in the immediate family, sick leave may be granted by the appropriate approving authority.
 - 1. For purposes of this section, "immediate family" shall be deemed to include:

- a. spouse;
 - b. child, step-child, foster child;
 - c. parent, step-parent, foster parent and parent-in-law;
 - d. sibling; and
 - e. other members of the family who reside within the home of the employee.
- D. Sick leave, if available, may be granted at the discretion of the appropriate approving authority in instances of death of a member of the family as follows:
- 1. Immediate family member as defined in Policy No. 5:01:01:09 - Bereavement Leave, may be granted for a maximum of two (2) days after the three (3) day bereavement leave has been used for a maximum of five (5) consecutive or non-consecutive regularly scheduled work days.
 - 2. In instances of death of one of the following relatives, sick leave may be granted for a maximum of 22.5 hours (3 days):
 - a. sons-in-law and daughters-in-law;
 - b. brothers-in-law and sisters-in-law;
 - c. foster brothers and foster sisters; and
- E. Abuse of sick leave by an employee will result in the withholding of payment of the sick leave and possible additional disciplinary action. Sick leave may not be taken until earned and available and may not be advanced.
- F. Sick leave may not be used by nine-month academic personnel for absences due to illness or injury during a summer or other inter-session unless the

employee has been physically present and actually commenced employment for the term in question.

- G. Upon prior approval of the Chancellor, an employee who is injured in the line of duty as a result of the commission of an assault upon him or her which disables the employee from performing his or her regular duties, may be retained on the regular payroll for a period not to exceed twenty-eight (28) calendar days without being required to use any accrued sick leave. The length of time for such retention on the payroll shall be based upon a written statement from the attending physician that the employee is unable to perform his or her regular duties.
- H. Subject to the conditions outlined in Transfer of Sick Leave between Employees Policy 5:01:01:15, sick leave may be transferred to members of the institution/school's Sick Leave Bank(s).

IV. Physician's Statement or Other Certification

- A. An employee may be required to present evidence in the form of personal affidavits, physician's certificates, or other testimonials in support of the reason for sick leave upon request of his or her supervisor or an appropriate approving authority.
- B. Sick leave may not be denied where an employee furnishes an acceptable statement from a licensed physician or accredited Christian Science practitioner or other healthcare provider, provided that the supervisor or approving authority may require additional documentation or statements from other physicians or accredited practitioners.

V. Return to Work

- A. An employee may be required to present a written release to return to work, including any restrictions that may apply, from a licensed physician or other accredited practitioner prior to resuming employment.
- B. An employee will be allowed to return to work if the release certifies that he/she is able to perform the essential functions of the position with or without a reasonable accommodation.

VI. Exhaustion of Sick Leave

- A. When the illness, injury, or disability of an employee continues beyond the period of accumulated sick leave, the employee shall use any accumulated annual leave for continued absence.
- B. However, in cases of workers' compensation, an employee may choose to be placed on an unpaid leave of absence and retain sick and/or annual leave.
- C. When an employee has exhausted all accumulated sick and annual leave, he or she may be placed on leave of absence, if requested and found to be justifiable. (See TBR Policy No. 5:01:01:03.)

VII. Separation of Employees with Accrued Sick Leave

- A. Upon termination of employment, accumulated sick leave shall not be used as terminal leave, and the employee shall not be entitled to any lump sum payment for accumulated sick leave.
- B. If an employee is transferring to another state agency, his or her accumulated sick leave shall be transferred according to Leave Transfer between TBR Institutions and State Agencies. (See TBR Policy No. 5:01:01:06.)
- C. If an employee leaves the System or any other state service in good standing after having worked on a full-time continuous basis for at least one (1) full year

and thereafter returns to service with the System on a full-time basis, the employee shall immediately be credited with all sick leave to which he or she was entitled at the time of the previous termination.

1. Certification of such entitlement must be received from the previous employer if other than the new employer;
2. If the employee has had interim employment with the System or any other agency of the State of Tennessee of less than one (1) year, he or she shall not be disqualified from receiving credit for sick leave to which he or she is otherwise entitled.

D. Notwithstanding the above paragraph, if any state employee or teacher employed by a local school board in Tennessee leaves the employment of the state or of that board in good standing and becomes a full-time employee within six (6) months of the date of termination, the employee shall immediately be credited with all sick leave to which he or she was entitled at the time of the previous termination.

E. TCRS member employees who terminate due to retirement shall have all unused accumulated sick leave credited toward retirement. ORP member employees who terminate due to retirement shall have all unused accumulated sick leave credited toward retirement service for insurance purposes.

VIII. Death of Employees with Accrued Sick Leave

A. The estate or designated beneficiary of any employee, upon the employee's death, shall be paid for the employee's unused and accrued sick leave in the same manner as the estates of deceased employees are paid for annual leave.





TENNESSEE BOARD OF REGENTS

MEETING: Presidents Quarterly Meeting
Directors Quarterly Meeting

SUBJECT: Information Technology Resources Policy 1:08:00:00 and
Accompanying Guidelines

DATE: August 19, 2014

PRESENTER: Thomas Danford

ACTION REQUIRED: Voice Vote

STAFF'S RECOMMENDATION: Approve

BACKGROUND INFORMATION:

The existing Information Technology Resources Policy 1:08:00:00 is being revised to establish the parameters for guidelines that will provide for creation and maintenance of a secure systems infrastructure, protect the confidentiality and integrity of electronic information and the privacy of system users, and ensure compliance with applicable state and federal laws. It is accompanied by 5 guidelines covering the following areas:

- Personally Identifiable Information (PII)
- Access Control
- Password Management
- Enterprise Information Systems Updates

Information Technology Resources:

1:08:00:00

Policy Area

Governance, Organization and General Policies

Applicable Divisions

TCATS, Community Colleges, Universities, System Office, Board Members

Purpose

The purpose of this policy is to establish the parameters for guidelines that will provide for creation and maintenance of a secure systems infrastructure, protect the confidentiality and integrity of electronic information and the privacy of system users, and ensure compliance with applicable state and federal laws.

Policy

I. General Policy

A. The Board of Regents shall rely on the Chief Executive Officers of the System and its institutions and the System and institutional chief information officers to develop, adapt, and administer the information technology resources of the System utilizing methods and procedures that promote operational efficiency and the advancement of learning.

B. Guidelines shall be developed that articulate system-wide standards, procedures, and practices for key information technology processes.

1. The System shall review industry best practices and, to the degree appropriate and applicable, incorporate best practice into information technology guidelines.

a. It is the Board's expectation that information technology guidelines shall address, but not be limited to, protection of personally identifiable information, acceptable use of system information technology resources, password requirements, timeliness of system maintenance activities, and access controls.

b. Leadership in the development of system wide information technology guidelines shall be the responsibility of the System's chief information officer.

II. Supplementary Institutional Policies and Regulations

A. TBR Institutions are authorized and encouraged to develop institution-specific policies and regulations relating to the use of information technology resources, provided such policies and regulations are consistent with Federal and State law and with this and other policies and guidelines of the Tennessee Board of Regents.

1. In particular, institutions may develop policies and guidelines that are more stringent, but not less stringent, than the system policies and guidelines (e.g. required password character length may be longer than that stated in the system-level guideline but not less).

III. Conformance with State Policies

A. TBR policies and guidelines regarding information technology are intended to conform to best practices for institutions of higher education.

B. To the extent practicable, the policies and guidelines should also align with the State of Tennessee's information technology policies and guidelines established by the Office of Information Resources.

IV. Applicability

A. Unless otherwise specified therein, this policy and associated guidelines shall apply to all persons and organizations accessing or using the information technology facilities and resources, including databases, owned, leased or administered by the TBR, including, but not limited to, all employees and contractors of the Tennessee Board of Regents and its constituent Institutions, and to all students enrolled at TBR Institutions.

Source

Related Policy

G-050, G-051, G-052, G-053

Information Technology Resources: 1:08:00:00 REDLINE

Policy/Guideline Area

Governance, Organization, and General Policies

Applicable Divisions

TCATs, Community Colleges, Universities, System Office, Board Members

Purpose

The objectives of this policy include: 1) to articulate the rights and responsibilities of persons using information technology resources owned, leased, or administered by the Tennessee Board of Regents (TBR); 2) to protect the interests of users and the TBR; and 3) to facilitate the efficient operation of TBR information technology systems.

Definitions

- ~~Information technology resources or IT resources include computers and computer time, data processing or storage functions, computer systems and services, servers, networks, printers and other input/output and connecting devices, and related computer records, programs, software, and documentation.~~
- ~~Institutions shall mean the TBR Universities, Community Colleges, and Colleges of Applied Technology.~~
- ~~Personal or private for profit use shall mean a use of TBR information technology resources which has as a primary objective financial gain of the user. Activities by a student which are typical of the student job search process (e.g. use of campus e-mail to contact potential employers or posting of one's resume on the Institution's website, if allowed under Institutional policies and procedures) are not to be considered personal or private for profit uses.~~
- ~~Public record means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics made or received pursuant to law or ordinance or in~~

connection with the transaction of official business by any governmental agency. T.C.A. § 10-7-301(6)

Policy/Guideline

1. ~~Supplementary Institutional Policies and Regulations~~

- ~~1. As each Institution may deem necessary and appropriate, TBR Institutions are authorized and encouraged to develop additional Institution-specific policies and regulations relating to the use of information technology resources, provided such policies and regulations are consistent with Federal and State law and with this and other policies of the Tennessee Board of Regents.~~
- ~~2. In particular, Institutions and the TBR System Office may develop policies and regulations regarding installation of non-standard software (including shareware, freeware, or software developed or purchased by the user) onto TBR IT resources.~~

2. ~~Conformance with State Policies~~

- ~~1. This policy is intended to be fully consistent with the State of Tennessee Internet Acceptable Use Policy and the State of Tennessee Electronic Mail Acceptable Use Policy, as they currently exist or as they may be amended in the future, as well as with any other applicable policies regarding information technology systems which may be promulgated in the future by the State of Tennessee Department of Finance Office of Information Resources (OIR).~~
- ~~2. To the extent that a discrepancy exists between this policy and State policy, State policy shall take precedence.~~

3. ~~Applicability~~

- ~~1. This policy shall apply to all persons and organizations using the information technology facilities and resources owned, leased or administered by the TBR, including all persons employed (either as full-time, part-time or temporary employees or as independent contractors) by the Tennessee Board of Regents and its constituent Institutions, and to all students enrolled at TBR Institutions.~~

~~2. Those provisions contained herein which apply solely to employees and independent contractors are so identified individually.~~

~~3. Unless so identified, provisions contained herein apply equally to all persons and organizations covered by this policy.~~

~~4. User Responsibilities~~

~~1. The following lists of user responsibilities are intended to be illustrative, and not exhaustive.~~

~~2. Subject to conformance with Federal and State of Tennessee law and with State of Tennessee and Tennessee Board of Regents policies, individual TBR Institutions are authorized to supplement the user responsibilities contained herein.~~

~~1. Access~~

~~1. Users shall obtain proper authorization before using TBR information technology resources.~~

~~2. Users shall not use TBR information technology resources for purposes beyond those for which they are authorized.~~

~~3. Users shall not share access privileges (account numbers and passwords) with persons who are not authorized to use them.~~

~~4. Users shall not use TBR information technology resources in an attempt to access or to actually access computers external to the TBR system when that access is not authorized by the computer's owner (no "hacking" allowed).~~

~~2. Respect for others~~

~~1. A user shall not attempt to obstruct usage or deny access to other users.~~

~~2. Users shall not transmit or distribute material that would be in violation of existing TBR policies or guidelines using TBR information technology resources.~~

~~3. Users shall respect the privacy of other users, and specifically shall not read, delete, copy, or modify another user's data, information, files, e-mail or programs (collectively, "electronic files") without the other user's permission. Users should note that there should be no expectation of privacy in electronic files stored on the~~

resident memory of a computer available for general public access, and such files are subject to unannounced deletion.

4. Users shall not intentionally introduce any program or data intended to disrupt normal operations (e.g. a computer "virus" or "worm") into TBR information technology resources.

5. Forgery or attempted forgery of e-mail messages is prohibited.

6. Sending or attempts to send unsolicited junk mail or chain letters is prohibited.

7. Flooding or attempts to flood a user's mailbox is prohibited.

3. ~~Respect for State-owned property~~

1. A user shall not intentionally, recklessly, or negligently misuse, damage or vandalize TBR information technology resources.

2. A user shall not attempt to modify TBR information technology resources without authorization.

3. A user shall not circumvent or attempt to circumvent normal resource limits, logon procedures, or security regulations.

4. A user shall not use TBR information technology resources for purposes other than those for which they were intended or authorized.

5. A user shall not use TBR information technology resources for any private or personal for-profit activity.

6. Except for those not-for-profit business activities which are directly related to an employee's job responsibilities or which are directly related to an organization which is affiliated with the Institution, a user shall not use TBR information technology resources for any not-for-profit business activities, unless authorized by the President or Director (or his/her designee).

7. Users shall at all times endeavor to use TBR information technology resources in an efficient and productive manner, and shall specifically avoid excessive game playing, printing excessive copies of documents, files, data, or programs; or attempting to crash or tie-up computer resources.

~~4. Additional Responsibilities of Employees and Independent Contractors~~

- ~~1. Users who are Employees and Independent Contractors shall not make use of TBR information technology resources for purposes which do not conform to the purpose, goals, and mission of the TBR and to the users job duties and responsibilities.~~
- ~~2. Users shall not use TBR information technology resources for solicitation for religious or political causes.~~

~~5. Digital/Electronic Signatures and Transactions~~

- ~~1. The Tennessee Board of Regents and its institutions must comply with the Tennessee Uniform Electronic Transactions Act (T.C.A. §47-10-101 et seq.) This Act permits the use of electronic signatures and electronic transactions under certain circumstances.~~
 - ~~1. In order to be legally enforceable, an electronic signature must meet the following two criteria.~~
 - ~~1. An electronic signature must be attributable (or traceable) to a person who has the intent to sign the record or contract with the use of adequate security and authentication measures that are contained in the method of capturing the electronic transaction (e.g., use of personal identification number or personal log-in identification username and password) (T.C.A. §47-10-109) (If Public Key Infrastructure technology ("PKI") is to be used in the creation of the digital signature, contact TBR Chief Information Officer prior to implementation.)~~
 - ~~2. The recipient of the transaction must be able to print or store the electronic record of the transaction at the time of receipt. (T.C.A. §47-10-109)~~
 - ~~2. The use of electronic/digital signatures in compliance with state and federal laws is permitted.~~

~~6. No Unlawful Uses Permitted~~

- ~~1. Users shall not engage in unlawful uses of the information technology system resources of the TBR.~~
- ~~2. Unlawful activities are violative of this policy and may also subject persons engaging in these activities to civil and/or criminal penalties.~~

~~3. This list of unlawful activities is illustrative and not intended to be exhaustive.~~

~~1. Obscene Materials~~

~~1. The distribution and display of obscene materials is prohibited by the laws of Tennessee (see T.C.A. § 39-17-902). Obscene materials are defined under Tennessee law (see T.C.A. § 39-17-901(10)) as those materials which:~~

- ~~1. The average person applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest;~~
- ~~2. The average person applying contemporary community standards would find that the work depicts or describes, in a patently offensive way, sexual conduct;~~
~~and~~
- ~~3. The work, taken as a whole, lacks serious literary, artistic, political, or scientific value.~~

~~2. Federal law (18 U.S.C. 2252) prohibits the distribution across state lines of child pornography.~~

~~2. Defamation~~

~~1. Defamation is a civil tort which occurs when one, without privilege, publishes a false and defamatory statement which damages the reputation of another.~~

~~3. Violation of Copyright~~

~~1. Federal law gives the holder of copyright five exclusive rights, including the right to exclude others from reproducing the copyrighted work.~~

~~2. Sanctions for violation of copyright can be very substantial. Beyond the threat of legally imposed sanctions, violation of copyright is an unethical appropriation of the fruits of another's labor.~~

~~3. Pursuant to the Digital Millennium Copyright Act of 1998, the TBR designated agent for receipt of complaints of copyright infringement occurring with the use of TBR information technology resources is the TBR Assistant Vice Chancellor for Information Technology.~~

~~4.—The TBR agent shall develop and maintain a policy regarding receipt and disposition of complaints of copyright infringement.~~

~~5.—The Institutions are authorized to designate agents to serve their specific campus, however the Assistant Vice Chancellor for Information Technology shall be promptly informed of all complaints received by such Institutional agents.~~

~~4.—Gambling~~

~~1.—Gambling, including that performed with the aid of the Internet, is prohibited under Tennessee state law (see T.C.A. § 39-17-502).~~

~~7.—World Wide Web Home Pages~~

~~1.—The principles of use articulated above in Sections IV. and V. are generally applicable to World Wide Web home pages.~~

~~1.—For example, use of TBR information technology resources to post a web page for personal or private for-profit use is prohibited under Section IV.B.3.e. Illegal content in web pages stored on TBR IT resources is prohibited under Section IV.B.2.b. Obscene content is prohibited under Section VI.C.1. Incorporation of copyrighted material, without either permission of the copyright holder or under a lawful exemption, is prohibited under Section VI.C.3.~~

~~2.—In addition to the principles of use outlined in Sections IV. and V., users may not incorporate into web pages or other electronic documents the trademarks or logos of others without express, written permission.~~

~~3.—Persons who are not employees of an Institution may not make use of Institutional trademarks or logos without express, written permission.~~

~~4.—Institutions are authorized to develop policies and regulations regarding use of Institutional trademarks on the Institution's website by employees.~~

~~5.—The Institution Presidents and Directors are authorized to designate persons (e.g. campus webmaster) who may approve a proposed use of the Institution's trademarks and logos by employees on Institutional web pages.~~

~~8.—Advertising~~

1. ~~Use of TBR information technology resources to promote or advertise activities or entities which are not related to the Institution is prohibited, unless such use is consistent with the mission of the Institution and results in substantial benefit to the Institution.~~
2. ~~The President or Director of each TBR Institution is authorized to determine whether a given use is consistent with the mission of the Institution and results in substantial benefit to the Institution, consistent with other TBR Policies (in particular, TBR Policy 1:03:02:50).~~
3. ~~Sale of advertising in web-based versions of Institution-affiliated student publications is specifically permitted.~~

9. TBR Monitoring and Inspection of Electronic Records

1. ~~Electronic records sent, received, or stored on computers owned, leased, or administered by the TBR is the property of the Tennessee Board of Regents.~~
2. ~~As the property of the TBR, the content of such records, including electronic mail, is subject to inspection by TBR personnel.~~
3. ~~While the TBR does not routinely do so, the TBR is able and reserves the right to monitor and/or log all network activity of users without notice, including all e-mail and Internet communications.~~
4. ~~Users should have no reasonable expectation of privacy in the use of these resources.~~

10. Disclosure of Electronic Records

1. ~~Pursuant to T.C.A. § 10-7-101 et seq., and subject to exemptions contained therein, electronic files (including e-mail correspondence) which are;
 1. ~~Generated or received by TBR employees and~~
 2. ~~Either owned or controlled by the State or~~
 3. ~~Maintained using TBR IT resources,~~may be subject to public inspection upon request by a citizen of the State of Tennessee.~~
2. ~~TBR personnel receiving such a request for public inspection should refer the request to the President or Director of their Institution (or to the President's or Director's designee).~~
3. ~~Institutions may charge reasonable fees for making copies of such records, pursuant to T.C.A. § 10-7-506.~~

~~4. While disclosure under T.C.A. § 10-7-101 et seq. applies to employees, disclosure of the electronic records of all users which are maintained using TBR IT resources may be made pursuant to a valid subpoena or court order, when otherwise required by federal, state or local law, or when authorized by the President or Director of the Institution.~~

11. Retention of Electronic Records

~~1. Electronic records needed to support Institutional functions must be retained, managed, and made accessible in record-keeping or filing systems in accordance with established records disposition authorizations approved by the Public Records Commission and in accordance with TBR Guideline G-070, "Disposal of Records".~~

~~2. Each employee of the TBR, with the assistance of his or her supervisor as needed, is responsible for ascertaining the disposition requirements for those electronic records in his or her custody.~~

~~3. The system administrator is not responsible for meeting the record retention requirements established under T.C.A. § 10-7-101 et seq., and the TBR, as owner of electronic records stored on TBR computers, reserves the right to periodically purge electronic records, including e-mail messages.~~

~~4. Users who are either required to retain an electronic record, or who otherwise wish to maintain an electronic record should either:~~

~~1. Print and store a paper copy of the record in the relevant subject matter file; or~~

~~2. Electronically store the record on a storage medium or in an electronic storage location not subject to unannounced deletion.~~

12. Violation of this Policy

~~1. Reporting allegations of violations~~

~~1. Persons who have reason to suspect a violation of this policy, or who have direct knowledge of behavior in violation of this policy should report that allegation of violation to the Institution President or Director or his/her designee.~~

~~2. Disciplinary procedures~~

- ~~1. Allegations of violation of this policy shall be referred by the designee of the President (typically, the Computer Center Director) or of the Director to the appropriate person(s) for disciplinary action.~~
- ~~2. If a student, the policy violation will be referred to the judicial officer of the institution under TBR Policy 3:02:00:01.~~
- ~~3. If an employee, the policy violation will be referred to the immediate supervisor.~~
- ~~4. If there is a policy violation, which the designee believes rises to the level of a serious violation of this or any other TBR policy; the designee is authorized to temporarily revoke access privileges. In those cases, the revocation of access must be reviewed by the appropriate disciplinary authority for review and final determination of access privileges. In such cases the authorization of the designee carries with it the authorization to make subjective judgments, such as whether material or statements violate TBR Policy.~~

~~3. Sanctions~~

- ~~1. Persons violating this policy are subject to revocation or suspension of access privileges to TBR IT resources.~~
- ~~2. Additionally other penalties, as outlined in TBR Policy 3:02:00:01 may be imposed upon student users.~~
- ~~3. Sanctions for violation of this policy by employees may extend to termination of employment. Violations of law may be referred for criminal or civil action.~~

~~4. Appeals~~

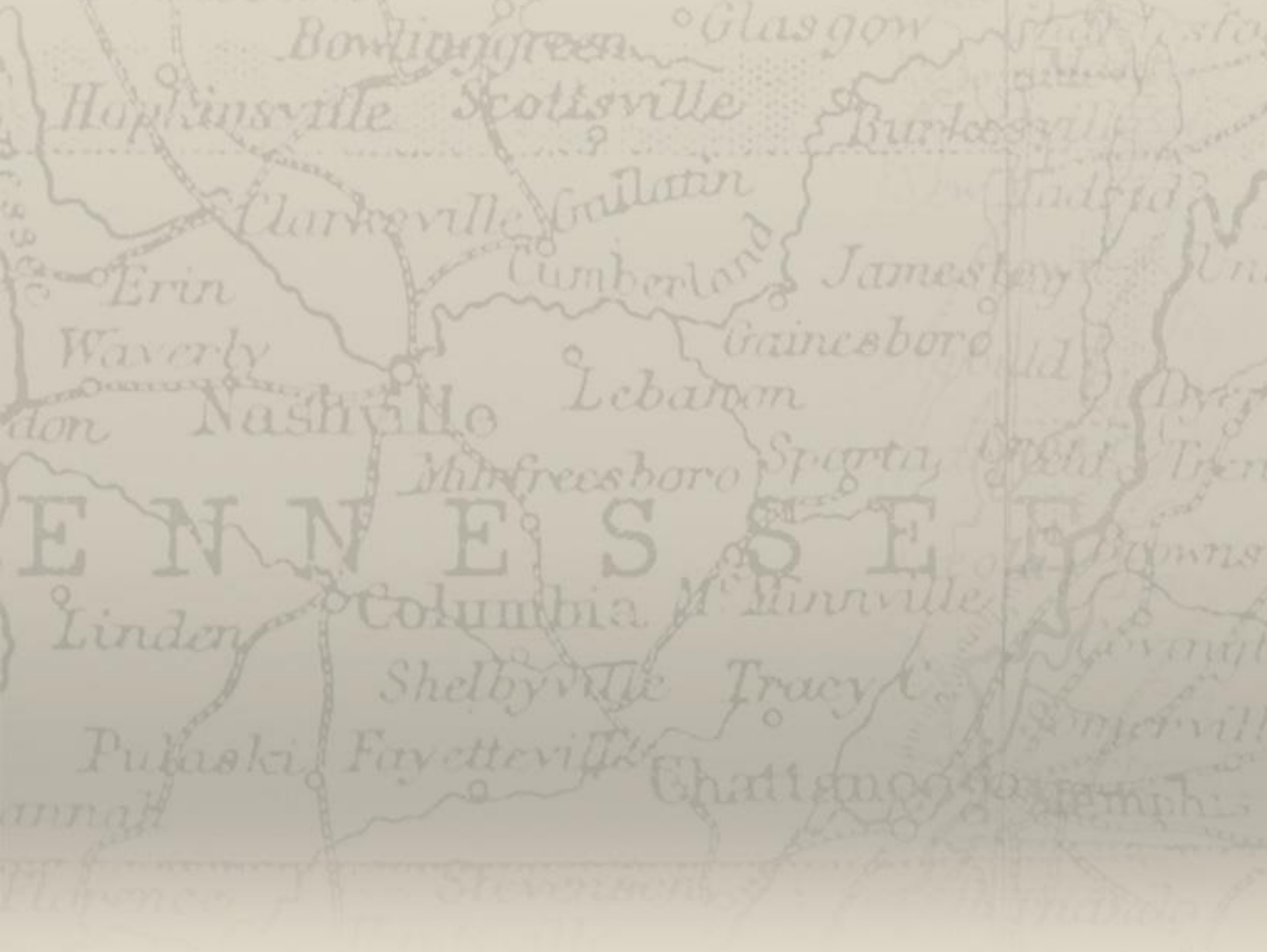
- ~~1. Sanctions imposed upon students at a TBR University or Community College and imposed at the discretion of the Computer Center Director (or other designee of the President) may be appealed to the Chief Student Affairs Officer.~~
- ~~2. Other sanctions may be appealed under established Institution procedure.~~

Sources

TBR Board Meeting June 28, 2002; March 30, 2007

Related Policies

- Access to and Use of Campus Property and Facilities
- General Regulations on Student Conduct & Disciplinary Sanctions



Policy Area

Format: G – General Guidelines

Number – G-050

Name: Enterprise Information Systems Updates

Purpose

The purpose of this policy is to establish minimum standards of expectations related to maintaining appropriate software versions and upgrades within the institutional infrastructure.

Applies To

All

Definitions

None

Policy

I. Policy

A. Enterprise information systems and components used at Tennessee Board of Regents' institutions should maintain appropriate and timely updates/patches/maintenance to ensure that systems, data, and personal identifiable information (PII) are adequately protected.

B. Maintaining proper oversight and implementation of this policy will help to:

1. Reduce system vulnerability,
2. Provide consistent system-wide support,
3. Ensure compatibility with other systems, and
4. Enhance application functionality.

C. It is important that institutional executive and oversight leadership support the necessary functions and processes required in order to ensure that systems and data are protected and secure.

II. Scope

A. This policy applies to all enterprise information systems, software, and components.

1. This would include, but not be limited to web systems, end-user applications, infrastructure and end-user information systems, and all other software and hardware not specifically noted.

B. Enterprise Information Systems Update Priorities:

1. The following are the priorities and timeframes within which updates must be applied:

a. Develop institutional approval and sign-off procedures based on the update requirements.

b. Schedule to not be subject to change except in the most extreme circumstances.

c. Be communicated to students, faculty and staff in a timely manner.

d. Critical updates/fixes should be applied as soon as is possible in accordance with institutional approval and sign-off procedures.

C. Enterprise Information Systems Covered By This Policy:

1. ERP Quarterly Updates should be installed in their entirety and in a timely manner. The institution should not be more than one version behind the current release.

2. Oracle CPU Updates should be installed in a timely manner and the institution should not be more than one version behind the current release.

3. External application and system hosting will conform to institutional requirements with written exceptions being made as necessary based on the abilities and contractual obligations between the institution and the hosting vendor.

4. Operating System (OS) updates for servers, workstations, and other end user equipment should be installed in a timely manner in accordance to institutional needs and requirements in order to minimize and avoid unduly exposing the institution to risks.

5. End-user applications regular and critical updates should be installed in a timely manner in accordance to institutional needs and requirements in order to minimize and avoid unduly exposing the institution to risks.

6. Network infrastructure and systems regular and critical updates should be installed in a timely manner in accordance with institutional needs and requirements in order to minimize and avoid unduly exposing the institution to risks.

7. All other enterprise information systems and components regular and critical updates should be installed in a timely manner in accordance to institutional needs and requirements, and to minimize and avoid unduly exposing the institution to risks.

III. Exceptions:

A. Exceptions to items 1. and 2. under Enterprise Information Systems Covered by this policy must be approved by the President/CEO at the institution and filed with the Chancellor and System CIO.

B. Other exceptions to this policy may be approved by the CIO or most senior information technology (IT) official at the institution.

C. Each exception must be documented in detail and retained for future review.

Source

Date of approval

Related

N/A

Exhibits

N/A

Policy Area

Format: G – General Guidelines

Number – G-051

Name: Password Management

Purpose

The purpose of this guideline is to establish a minimum expectation with respect to password construct in order to protect data stored on computer systems throughout the system.

Applies To

All

Definitions

None

Policy

I. Policy

A. A combination of a personal user login ID for identification and a unique password for authentication will be required of all users before they are allowed access institutional networks and systems.

B. Passwords will be used for authentication of access to all institutional network and systems except where stronger authentication methods (such as biometric authentication or two-factor authentication) are deemed necessary.

C. The effectiveness of passwords to protect access to the institution's information directly depends on strong construction and handling practices.

II. Password Construction

A. All users must construct strong passwords for access to all institution networks and systems, using the following criteria where technically feasible:

1. Must be a minimum of 8 characters in length.
2. Must be composed of a combination of at least three of the following four types of characters:

- a. Upper case alphabetic character;
- b. Lower case alphabetic character;
- c. Numeric character;
- d. Non-alphanumeric character

3. Or, as an alternative:

- a. A passphrase of a minimum of 14 characters.

III. Password Management

A. The following requirements apply to end-user password management.

1. Storage and Visibility

- a. Passwords must not be stored in a manner which allows unauthorized access.
- b. Passwords will not be stored in a clear text file.
- c. Passwords will not be sent via unencrypted e-mail.

2. Changing Passwords

- a. Users must change their passwords at least every 365 days.

(1) Student accounts are excepted from this requirement.

- b. Users who process or access restricted data (such as protected health information, student FERPA data, and Social Security Numbers or other personally identifiable information) should change their passwords at least every 120 days.

- c. Users with privileged accounts (such as those with root or administrator level access) must change their passwords at least every 120 days.

- d. Passwords must be changed immediately if any of the following events occur:

(1) Unauthorized password discovery or usage by another person;

(2) System compromise (unauthorized access to a system or account);

(3) Insecure transmission of a password;

(4) Accidental disclosure of a password to an unauthorized person; or

(5) Status changes for personnel with access to privileged and/or system accounts.

IV. Password Protection – System Accounts

A. System Accounts can be defined as:

1. Accounts used for automated processes without user interaction.

2. Accounts used for device management.

B. System Accounts are not required to expire but must meet the password construction requirements above.

C. Vendor provided passwords must be changed upon installation using the password construction requirements above.

V. Compliance and Enforcement

A. The policy applies to all users of information resources including students, faculty, staff, temporary workers, vendors, and any other authorized users.

B. Persons in violation of this policy are subject to a range of sanctions determined and enforced by the individual institutions.

C. Justifications for exceptions to this policy must be documented by the institution.

Source

Date of approval

Related

Access Control

Exhibits

N/A

Policy Area

Format: G – General Guidelines

Number – G-052

Name: Access Control

Purpose

The purpose of this guideline is to establish a minimum expectation with respect to access controls in order to protect data stored on computer systems throughout the system.

Applies To

All

Definitions

None

Policy

I. Policy

A. Tennessee Board of Regents institutions will control user access to information assets based on requirements of individual accountability, need to know, and least privilege.

B. Access to institutional information assets must be authorized and managed securely in compliance with appropriate industry practice and with numerous applicable legal and regulatory requirements (e.g., the Health Insurance Portability and Accountability Act, Family Educational Rights and Privacy Act, the Open Records Act of Tennessee, Gramm Leach Bliley Act, and identity theft laws).

C. Institutional information assets include data, hardware and software technologies, and the infrastructure used to process, transmit, and store information.

1. Any computer, laptop, printer or device that an authorized user connects to the campus network is subject to this policy.

2. Guest, unauthenticated access may be provisioned commensurate with usage and risk.

3. Authorized users accessing institutional computing resources and network with their own personal equipment are responsible for ensuring the security and integrity of the systems they are using to establish access.

II. Access Controls

A. Access to information assets must be restricted to authorized users and must be protected by appropriate physical, administrative, and logical authentication and authorization controls.

B. Protection for information assets must be commensurate with the classification level assigned to the information.

C. Each computer system shall have an automated access control process that identifies and authenticates users and then permits access based on defined requirements or permissions for the user or user type.

D. All users of secure systems must be accurately identified, a positive identification must be maintained throughout the login session, and actions must be linked to specific users.

E. Access control mechanisms may include user IDs, access control lists, constrained user interfaces, encryption, port protection devices, secure gateways/firewalls, and host-based authentication.

III. User Identification, Authentication, and Accountability

A. User IDs:

1. The access control process must identify each user through a unique user identifier (user ID) account.

2. User IDs are assigned by the campus office of information technology and application support personnel.

3. Users must provide their user ID at logon to a computer system, application, or network.

B. Individual Accountability:

1. Individual accountability must be maintained.

2. Each and every user ID must be associated with an individual person who is responsible for its use.

C. Authentication:

1. Authentication is the means of ensuring the validity of the user identification.
2. All user access must be authenticated.
 - a. The minimum means of authentication is a personal secret password that the user must provide with each system and/or application logon.
 - b. All passwords used to access information assets must conform to certain requirements relating to password composition, length, expiration, and confidentiality. Please refer to G-051, Password Management for additional requirements.

IV. Access Privileges

- A. Each user's access privileges shall be authorized on a need-to-know basis as dictated by the user's specific and authorized role.
- B. Authorized access will be based on least privilege.
 1. This means that only the minimum privileges required to fulfill the user's role will be permitted.
 2. Access privileges must be defined so as to maintain appropriate segregation of duties to reduce the risk of misuse of information assets.
 3. Any access that is granted to data must be authorized by the appropriate data trustee.
- C. Access privileges should be controlled based on the following criteria, as appropriate:
 1. Identity (user ID);
 2. Role or function;
 3. Physical or logical locations;
 4. Time of day/week/month;
 5. Transaction based access;
 6. Access modes such as read, write, execute, delete, create, and/or search.

D. Privileged access (e.g., administrative accounts, root accounts) must be granted based strictly on role requirements.

1. The number of personnel with special privileges should be carefully limited.

V. Access Account Management

A. User ID accounts must be established, managed, and terminated to maintain the necessary level of data protection.

B. The following requirements apply to network logons as well as individual application and system logons, and should be implemented where technically and procedurally feasible:

1. Account creation requests must specify access either explicitly or a role that has been mapped to the required access.
 - a. New accounts created by mirroring existing user accounts must be audited against the explicit request or roles for appropriate access rights.
2. Accounts must be locked out after five consecutive invalid logon attempts.
 - a. When a user account is locked out, it should remain locked out for a minimum of five minutes or until authorized personnel unlocks the account.
3. User interfaces must be locked after no more than twenty minutes of system/session idle time.
 - a. This requirement applies to workstation and laptop sessions as well as application sessions where feasible.
 - b. The office of information technology will implement measures to enforce this requirement and to require the user to re-authenticate to reestablish the session.
4. Systems housing or using restricted information must be configured in such a way that access to the restricted information is denied unless specific access is granted.
 - a. Access to restricted information is never to be allowed by default.

5. Access must be revoked immediately upon notification that access is no longer required.

a. Access privileges of terminated or transferred users must be revoked or changed as soon as possible.

b. In cases where an employee is not leaving on good terms, the user ID must be disabled simultaneously with departure.

c. Access for users who are on leaves of absence or extended disability must be suspended until the user returns.

6. User IDs will be disabled after a period of inactivity that is determined appropriate by the current business process.

7. All third party access (contractors, business partners, consultants, vendors) must be authorized and monitored.

8. Appropriate logging will be implemented commensurate with sensitivity/criticality of the data and resources.

a. Logging of attempted access must include failed logons.

b. Where practical, successful logons to systems with restricted information should be logged.

c. Logs should be monitored and regularly reviewed to identify security breaches or unauthorized activity.

d. Logs should be maintained for at least ninety days.

9. A periodic audit of secured systems to confirm that access privileges are appropriate must be conducted.

a. The audit will consist of reviewing and validating that user access rights are still needed and are appropriate.

VI. Compliance and Enforcement

A. The policy applies to all users of information resources including students, faculty, staff, temporary workers, vendors, and any other authorized users who are permitted access.

B. Persons in violation of this policy are subject to a range of sanctions (determined and enforced by institution management), including the loss of

computer network access privileges, disciplinary action, dismissal from the institution, and legal action.

C. Some violations may constitute criminal offenses, per Tennessee and other local, and federal laws. The institution will carry out its responsibility to report such violations to the appropriate authorities.

VII. Exceptions

A. Documented exceptions to this policy may be granted by the information security officer for the institution based on limitations to risk and use.

Source

Date of approval

Related

Password Management

Exhibits

N/A

Policy Area

Format: G – General Guidelines

Number – G-053

Name: Personally Identifiable Information (PII)

Purpose

TBR institutions create, collect, maintain, use, and transmit personally identifiable information relating to individuals associated with the institution including, but not limited to, students, alumni, faculty, administrators, staff, and service employees. The institution is committed to protecting PII against inappropriate access and use in compliance with applicable laws and regulations in order to maximize trust and integrity.

Applies To

All

Definitions

- **Data Custodians:** Data Custodians are institutional designees who have planning and policy-making responsibilities for institutional data and the institutional Data Warehouse. The Data Custodians, as a group, are responsible for overseeing the establishment of data management policies and procedures and for the assignment of data management accountability.
- **Minimum Necessary:** Minimum Necessary is the standard that defines that the least information and fewest people should be involved to satisfactorily perform a particular function.
- **Personally Identifiable Information (PII):** Information which can be used to distinguish or trace an individual's identity, such as their name, Social Security number, or biometric records, alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc.
- **Directory information:** Directory Information is determined by each institution and is not considered PII

Policy

I. Policy

A. Members of the TBR community shall employ reasonable and appropriate administrative, technical, and physical safeguards to protect the integrity,

confidentiality, and security of all personally identifiable information (PII), irrespective of its source or ownership or the medium used to store it.

B. All individuals who dispense, receive, and store PII have responsibilities to safeguard it.

C. In adopting this policy, the System is guided by the following objectives:

1. To enhance individual privacy for members of the TBR community through the secure handling of PII and personal identifiers (PIDs);
2. To ensure that all members of the TBR community understand their obligations and individual responsibilities under this policy by providing appropriate training that will permit the TBR community to comply with both the letter and the spirit of all applicable privacy legislation. Each member institution will be responsible for determining the means of training for its institution;
3. To increase security and management of Social Security numbers (SSNs) by:
 - a. Instilling broad awareness of the confidential nature of the SSNs;
 - b. Establishing a consistent policy about the use of SSNs throughout the System; and
 - c. Ensuring that access to SSNs for the purpose of conducting TBR business is granted only to the extent necessary to accomplish a given task or purpose.
 - d. To reduce reliance on the SSN for identification purposes as much as possible.
4. To comply with all Payment Card Industry (PCI) standards
5. To comply with HIPPA standards (if applicable)

D. Data Custodians are responsible for oversight of personally identifiable information in their respective areas of institutional operations. Activities of these officials are aligned and integrated through appropriate coordination among these cognizant institutional officials.

II. Scope

A. This policy applies to all members of the TBR community, including all full- and part-time employees, faculty, students and their parents or guardians, and

other individuals such as contractors, consultants, other agents of the community, alumni, and affiliates that are associated with the System or whose work gives them custodial responsibilities for PII.

III. Policy Requirements

A. Data Trustees

1. Officials responsible for each of the following areas will be considered data custodians:

- a. Student Records
- b. Alumni and Donor Records
- c. Health Records
- d. Faculty and Staff Records
- f. Purchasing and Contracts
- g. Research Subjects
- h. Public Safety

IV. Personally Identifiable Information

A. PII may be released only on a Minimum Necessary basis and only to those individuals who are authorized to use such information as part of their official TBR duties, subject to the requirements:

- 1. That the PII released is narrowly tailored to a specific business requirement;
- 2. That the information is kept secure and used only for the specific official TBR [business] purposes for which authorization was obtained; and
- 3. That the PII is not further disclosed or provided to others without proper authorization as defined above.

B. PII may be handled by third parties with the strict requirement that the information be kept secure and used only for a specific official authorized business purpose as defined in a Business Associate Agreement with that third party.

C. Exceptions to this policy may be made only upon specific requests approved by the cognizant institutional official responsible for such information as specified

in this policy and only to the degree necessary to achieve the mission and business needs of the institution.

1. Any and all exceptions made must be documented, retained securely, and reviewed periodically by the appropriate cognizant institutional official or his/her designee.

D. Directory Information, as defined by Federal and State law and institutional policy, will be published following the guidelines defined by the institution.

E. Information that has been collected that conforms to the HIPAA standards of deidentification or anonymization is not PII.

V. Government-Issued Personal Identifiers

A. Social Security Number

1. Provision of Information

a. TBR institutions collect SSNs:

(1) When required to do so by law;

(2) When no other identifier serves the business purpose;
and

(3) When an individual volunteers the SSN as a means of locating or confirming personal records.

b. In other circumstances, individuals are not required to provide their SSN verbally or in writing at any point of service, nor are they to be denied access to those services should they refuse to provide an SSN.

2. Release of SSNs

a. SSNs will be released to persons or entities outside the institution only:

(1) As required by law;

(2) When permission is granted by the individual;

(3) When the external entity is acting as the institution's authorized contractor or agent and attests that no other methods of identification are available, and reasonable

security measures are in place to prevent unauthorized dissemination of SSNs to third parties; or

(4) When the appropriate Counsel has approved the release.

3. Use, Display, Storage, Retention, and Disposal

- a. SSNs or any portion thereof will not be used to identify individuals except as required by law or with approval by a cognizant TBR official for a TBR business purpose.
- b. The release or posting of personal information, such as grades or occupational listings, keyed by the SSN or any portion thereof, is prohibited, as is placement of the SSN in files with unrestricted access.
- c. SSNs will be transmitted electronically only for business purposes approved by the institutional officials responsible for SSN oversight and only through secure mechanisms.
- d. The Data Custodians who are responsible for SSNs will oversee the establishment of business rules for the use, display, storage, retention, and disposal of any document, item, file, or database which contains SSNs in print or electronic form.

B. Non-SSN Government-Issued Identifiers

1. In the course of its business operations, TBR institutions have access to, collect, and use non-SSN government-issued identifiers such as driver's licenses, passports, HIPAA National Provider Identifiers, Employee Identification Numbers (EIN), and military identification cards, among others.
2. TBR institutions shall follow the Minimum Necessary standard and strive to safeguard these identifiers.

VI. TBR Institution-Issued Identifiers

A. Institutional ID Number

1. Assignment Eligibility and Issuance

- a. The institutional id is a unique alphanumeric identifier assigned by the institution to any entity that requires an identifying number in any institutional system or record.

b. An Institutional ID is assigned at the earliest possible point of contact between the entity and the institution.

c. The Institutional ID is associated permanently and uniquely with the entity to which it is assigned.

2. Use, Display, Storage, Retention, and Disposal

a. The Institutional ID is considered PII by the institution, to be used only for appropriate business purposes in support of operations.

b. The Institutional ID is used to identify, track, and serve individuals across all institutional electronic and paper data systems, applications, and business processes throughout the span of an individual's association with the institution and presence in the institution's systems or records.

c. The Institutional ID is not to be disclosed or displayed publicly by the Institution, nor to be posted on the institution's electronic information or data systems unless the Institutional ID is protected by access controls that limit access to properly authorized individuals.

d. The release or posting of personal information keyed by the Institutional ID, such as grades, is prohibited.

e. Any document, item, file, or database that contains Institutional IDs in print or electronic form is to be protected and disposed of in a secure manner in compliance with data retention rules.

VII. Other Externally-Assigned Identifiers and Other Personally Identifiable Information

A. TBR institutions shall follow the Minimum Necessary standard and strive to safeguard any externally assigned identifiers which may be collected.

VIII. Responsibility for Maintenance and Access Control

A. Institutional IDs are maintained and administered by the appropriate institutional office in accordance with this policy.

1. Other institutional offices may maintain and administer electronic and physical repositories containing personal identification numbers for uses in accordance with this policy.

B. Access to electronic and physical repositories containing PII will be controlled based upon reasonable and appropriate administrative, physical, technical, and organizational safeguards.

C. Individuals who inadvertently gain access to a file or database containing PII should report it to the appropriate authority.

IX. Enforcement

A. Violations of this policy resulting in misuse of, unauthorized access to, or unauthorized disclosure or distribution of personal identification numbers may subject individuals to legal and/or disciplinary action, up to and including the termination of employment or contract with the Institution or, in the case of students, suspension or expulsion from the institution.

Source

Date of approval

Related

Exhibits

N/A



TENNESSEE BOARD OF REGENTS

MEETING: Presidents Quarterly Meeting
Directors Quarterly Meeting

SUBJECT: Sex Discrimination, Sexual Harassment and Sexual
Misconduct Policies

DATE: August 19, 2014

PRESENTER: Mary Moody

ACTION REQUIRED: Voice Vote

STAFF'S RECOMMENDATION: Approve

BACKGROUND INFORMATION:

Due to recent legislative and regulatory changes at the federal level, the system and its institutions are required to implement certain policy changes regarding sexual violence on campus. Attached is the proposed system policy 6:03:00:00 *Sexual Misconduct*. In drafting the proposed sexual misconduct policy, it was determined that the existing policy 2:02:10:01 *Sex Discrimination and Sexual Harassment* should be grouped with the new sexual misconduct policy so that these related policies would be found in the same policy area. Also attached is a proposed general policy, 6:01:00:00 *Sex Discrimination, Sexual Harassment and Sexual Misconduct*, harmonizing the two substantive policies and the existing P-080, *Discrimination & Harassment-Complaint & Investigation Procedure*.

Sex Discrimination, Sexual Harassment or Sexual Misconduct: 6:01:00:00

Policy Area: Sex Discrimination, Sexual Harassment and Sexual Misconduct Policies

Applicable Divisions: TCATs, Community Colleges, Universities, and System Office

I. General Policy

It is the intent of the Tennessee Board of Regents that the institutions under its jurisdiction shall fully comply with Title IX of the Education Amendments of 1972, §485(f) of the HEA, as amended by §304 of the Violence Against Women Reauthorization Act of 2013, the regulations implementing these Acts found at 34 CFR §668.41, §668.46, and Appendix A to Subpart D of Part 668; and Sections 799A and 845 of the Public Health Service Act and Regulations issued pursuant thereto found at 45 CFR Parts 83 and 86. The policies in this area are adopted to address such compliance.

II. Definitions

For purposes of this policy area the following definitions shall apply:

- A. **Sex Discrimination** is treating someone less favorably because of that person's sex, sexual orientation or gender identity/expression.
- B. **Sexual Harassment** is conduct based on a person's sex, sexual orientation or gender identity/expression that
 1. adversely affects a term or condition of an individual's employment, education, participation in an institution's activities or living environment;
 2. Has the purpose or effect of unreasonably interfering with an individual's employment or academic performance or creating an intimidating, hostile, offensive or abusive environment of the individual; or
 3. Is used as a basis for or a factor in decisions that tangibly affect that individual's employment, education, participation in an institution's activities or living environment.
- C. **Sexual Misconduct** for purposes of this policy area includes dating violence, domestic violence, sexual assault, and stalking, as they are defined in Policy 6:02:00:00.

III. Applicable Policies and Procedures

Complaints of sex discrimination or sexual harassment by or against students, faculty or staff shall be governed by Policy 6:02:00:00 and P-080. Complaints of sexual misconduct shall be governed by Policy 6:03:00:00.

Sex Discrimination and Sexual Harassment : ~~2:02:10:01~~6:02:00:00

Policy Area

[Academic Policies](#) [Sex Discrimination, Sexual Harassment or Sexual Misconduct Policies](#)

Applicable Divisions

TCATs, Community Colleges, Universities, System Office

Purpose

It is the intent of the Tennessee Board of Regents that the institutions under its jurisdiction shall fully comply with Title IX of the Education Amendments of 1972, Sections 799A and 845 of the Public Health Service Act and Regulations issued pursuant thereto (45 C.F.R. Parts 83 and 86). The following policy and procedures are adopted by the Board to assist the institutions in such compliance.

Policy/Guideline

1. Sex Discrimination

1. It is the policy of the Tennessee Board of Regents that, pursuant to Title IX of the Education Amendments of 1972, Sections 799A and 845 of the Public Health Service Act, and Regulations adopted pursuant thereto, no institution shall discriminate on the basis of sex in the education programs or activities of the institution, including health-related training programs.
2. Institutions shall ensure that equal opportunity and nondiscrimination exist on the basis of sex for students in all education programs and activities, including but not limited to, the following:
 1. Recruitment and admission;
 2. Academic, extracurricular, research, occupational training, health-related training, and other education programs;
 3. Rules on student life activities;

4. Housing;
 5. Facilities;
 6. Access to course offerings;
 7. Counseling;
 8. Financial assistance;
 9. Employment assistance;
 10. Health and insurance benefits and services;
 11. Rules on marital or parental status; and
 12. Athletics.
3. In addition, in conjunction with Board Policy No. 5:01:02:00, each institution shall ensure that no person, on the basis of sex, is excluded from participation in, denied the benefits of, or subjected to discrimination in employment under any education program or activity.
 4. Nondiscrimination in employment on the basis of sex shall include, but not be limited to, the following areas:
 1. Employment criteria;
 2. Recruitment and hiring;
 3. Promotion, tenure, demotion, transfer, layoff, termination, nepotism policies, and rehiring;
 4. Compensation;
 5. Job assignments, classifications, and descriptions, lines of progression and seniority lists;
 6. Leave;
 7. Fringe benefits; and
 8. All other terms, conditions, and privileges of employment.
2. Sexual Harassment
 1. It is the policy of the Tennessee Board of Regents that pursuant to Title IX of the Education Amendments of 1972 and regulations adopted pursuant thereto, no institution shall condone sexual harassment of students, applicants for employment or employees and each institution shall affirmatively address all allegations of sexual harassment.

2. Compliance with this policy shall be effectuated through procedures established in accordance with Section III.B. of this policy and Guideline P-080.

3. Procedures

1. Designation of Responsible Employee.

1. Each institution shall designate at least one employee who will coordinate the efforts of the institution to comply with the Acts and the Regulations.
2. The designated employee or employees should have sufficient time and ability to evaluate the compliance efforts of the institution, coordinate such efforts, and investigate complaints by employees or students arising under the Acts and the Regulations.
3. The names of the designated employee or employees of each institution should be submitted to the Chancellor.

2. Complaint Procedures.

1. Students and employees shall utilize the complaint and investigation procedure set forth in TBR Guideline P-080 Discrimination and Harassment – Complaint and Investigation Procedure (or the institution's corresponding policy) when filing complaints arising under the Acts or the Regulations.

3. Statement and Dissemination of Policy.

1. Each institution shall designate a policy statement reaffirming the fact that it does not discriminate on the basis of sex in the educational programs or activities which it operates and that it is required by Title IX of the Educational Amendments of 1972, Sections 799A and 845 of the Public Health Service Act, and 45 C.F.R. Parts 83 and 86 not to discriminate in employment in or admission to education programs or activities.
2. The policy statement shall include the name and address of the employee or employees designated pursuant to Section III.A.1., to whom inquiries concerning the application of the above Acts or the Regulations adopted pursuant thereto may be directed.
3. Each institution shall adopt specific and continuing measures whereby applicants for admission and employment, students, employees, and sources of referral of applicants for

admission and employment will be notified of the policy adopted pursuant to section 1. of this item.

4. The policy statement adopted pursuant to section 1. of this item shall be published in the following publications:
 1. Local newspapers;
 2. Newspapers and magazines operated by the institution or by student or alumni groups; and
 3. Memoranda or written communications to every student and employee of the institution.
5. In addition, each institution shall include the policy statement in each announcement, bulletin, catalog, and application form which it makes available to any person herein described, or which is used in connection with the recruitment of students or employees.
4. Self-Evaluation.
 1. Each institution shall submit to the Chancellor a written self-evaluation of its current policies and practices and the effects thereof concerning admission and treatment of students, and employment of academic and non-academic personnel working in connection with the institution's education programs and activities.
 2. Each institution shall modify any policies and practices which do not meet the requirements of Title IX, the Public Health Service Act, or the Regulations issued pursuant thereto, shall take appropriate remedial steps to eliminate the effects of any discrimination which resulted from such policies and practices, and shall recommend to the Chancellor amendment of any state legislation which inhibits compliance with Title IX, the Public Health Service Act, and the Regulations issued pursuant thereto.

Sources

TBR Meetings, October 17, 1975; September 30, 1983; December 14, 1984; March 28, 2008; June 19, 2009 to take effect on July 1, 2009.

Related Policies

- Equal Employment Opportunity and Affirmative Action
- Discrimination & Harassment - Complaint & Investigation Procedure

Sexual Misconduct: 6:03:00:00

Policy Area: Sex Discrimination, Sexual Harassment and Sexual Misconduct Policies

Applicable Divisions: TCATs, Community Colleges, Universities, and System Office

I. Purpose

It is the intent of the Tennessee Board of Regents that the institutions under its jurisdiction shall fully comply with Title IX of the Education Amendments of 1972, §485(f) of the HEA, as amended by §304 of the Violence Against Women Reauthorization Act of 2013, the regulations implementing these Acts found at 34 CFR §668.41, §668.46, and Appendix A to Subpart D of Part 668. This policy is adopted specifically to address the offenses defined herein. All other sexual harassment is also strictly prohibited and any allegations of such shall be governed by TBR Guideline P-080, and the applicable institutional policy.

The Tennessee Board of Regents intends for each institution to provide a single, easily accessible and user-friendly document to advise students, employees, and others affected by sexual misconduct of each institution's rules and procedures. Institutions under the Tennessee Board of Regents system shall ensure that the sexual misconduct policy is in a format or formats that make it readily available. The following policy and procedures are adopted by the Board to assist the institutions in such compliance.

II. Definitions

For the purpose of this policy, the following definitions shall apply:

- **Consent** – an informed decision, freely given, made through mutually understandable words or actions that indicate a willingness to participate in mutually agreed upon sexual activity. Consent cannot be given by an individual who is asleep; unconscious; or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason; or, is under duress, threat, coercion, or force. Past consent does not imply future consent. Silence or an absence of resistance does not imply consent. Consent can be withdrawn at any time.

- **Dating violence** – violence against a person when the accuser and accused are dating, or who have dated, or who have or had a sexual relationship. “Dating” and “dated” do not include fraternization between two (2) individuals solely in a business or non-romantic social context. Violence includes, but is not necessarily limited to,
 - (1) inflicting, or attempting to inflict, physical injury on the accuser by other than accidental means;
 - (2) placing the accuser in fear of physical harm;
 - (3) physical restraint;
 - (4) malicious damage to the personal property of the accuser, including inflicting, or attempting to inflict, physical injury on any animal owned, possessed, leased, kept, or held by the accuser; or,

- (5) placing a victim in fear of physical harm to any animal owned, possessed, leased, kept, or held by the accuser.

- **Domestic violence** – violence against a person when the accuser and accused:

- (1) Are current or former spouses;
- (2) live together or have lived together;
- (3) are related by blood or adoption;
- (4) are related or were formally related by marriage; or,
- (5) are adult or minor children of a person in a relationship described above.

Domestic violence includes, but is not necessarily limited to, the following:

- (1) inflicting, or attempting to inflict, physical injury on the accuser by other than accidental means;
- (2) placing the accuser in fear of physical harm;
- (3) physical restraint;
- (4) malicious damage to the personal property of the accuser, including inflicting, or attempting to inflict, physical injury on any animal owned, possessed, leased, kept, or held by the accuser; or,
- (5) placing the accuser in fear of physical harm to any animal owned, possessed, leased, kept, or held by the accuser.

- **Sexual assault** – the nonconsensual sexual contact with the accuser by the accused, or the accused by the accuser when force or coercion is used to accomplish the act, the sexual contact is accomplished without consent of the accuser, and the accused knows or has reason to know at the time of the contact that the accuser did not or could not consent. Sexual contact includes, but is not limited to, the intentional touching of the accuser's, the accused's, or any other person's intimate parts, or the intentional touching of the clothing covering the immediate area of the accuser's, the accused's, or any other person's intimate parts, if that intentional touching can be reasonably construed as being for the purpose of sexual arousal or gratification.

- **Stalking** – a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested, and that actually causes the accuser to feel terrorized, frightened, intimidated, threatened, harassed, or molested. Harassment means conduct directed toward the accuser that includes, but is not limited to, repeated or continuing unconsented contact that would cause a reasonable person to suffer emotional distress, and that actually causes the accuser to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.

III. Prohibition of Sexual Misconduct

Sexual misconduct is a form of sex discrimination prohibited by Title IX. TBR is committed to helping its institutions rid their campuses of any and all acts of sexual misconduct and discrimination. As set forth in this policy, sexual misconduct includes dating violence, domestic violence, stalking, and sexual assault. TBR and its institutions strictly prohibit these offenses. Any

allegation of sexual misconduct as defined herein will be investigated and adjudicated according to this policy. Each institution shall adopt its own policy that is consistent with this policy.

A. Scope of the Policy

1. These procedures shall be utilized by any employee or student who has been a victim of sexual misconduct.

2. Former employees or students may file complaints concerning conduct which took place during the time of employment or enrollment and the conduct has a reasonable connection to the institution.

3. Any employee or student who has knowledge of an act of sexual misconduct against another person shall report the crime to campus security and/or the institution's Title IX coordinator subject to the confidentiality policy set forth below.

4. This policy applies to all third parties. An example of a third party is a vendor with whom the institution contracts to provide services.

5. This policy applies to all students and employees, regardless of sexual orientation or gender identity.

B. Title IX Coordinators

Each institution shall designate one Title IX Coordinator. Institutions may designate deputies to assist the Title IX Coordinator; however, the Title IX Coordinator shall be responsible for overseeing all Title IX incidents reported to the institution and for implementation of this policy. It is the intent of TBR that each Title IX Coordinator will have the ability, opportunity, and responsibility to identify and address any systemic gender-based harassment, discrimination, or misconduct. Each institution shall clearly identify its Title IX Coordinator's name, contact information, and a comprehensive list of the Title IX Coordinator's duties. Each institution shall initiate a campaign to inform all students, faculty, and staff of such information. In addition, each institution shall report at the beginning of each new school year to TBR's Office of General Counsel the name of, and contact information for, the institution's Title IX Coordinator.

IV. Reporting Sexual Misconduct

A. Confidentiality Policy

Each institution shall adopt a confidentiality policy that clearly sets forth a victim's options for reporting sexual misconduct. TBR encourages victims of sexual misconduct to talk to someone about what happened, whether they want their report to be investigated or not. Institutions should offer victims someone to talk to confidentially, so that they can get the support they need. Therefore, each institution shall clearly identify, by name and contact information, those employees to whom a student can disclose sexual misconduct in confidence. Institutions shall also either:

1. Clearly identify responsible employees who must report incidents to the Title IX coordinator; or

2. Clearly state that all other employees of the institution are required to report any allegation of sexual misconduct to the Title IX Coordinator.

For employees required to report allegations of sexual misconduct to the Title IX Coordinator, those employees shall be trained on their responsibility to report. The training shall include the name and contact information of the person to whom they should report the allegation. Employees required to report shall also be trained to inform victims of their obligation to report as soon as the employee realizes the victim is about to report an incident of sexual misconduct.

B. Reporting Pursuant to the Nottingham Act

Unless the victim of a sexual assault does not consent to the reporting of an offense, the chief security officer or chief law enforcement officer of each institution shall immediately notify the local law enforcement agency with territorial jurisdiction over the institution if the officer is in receipt of a report from the victim alleging that any degree of rape has occurred on the property of the institution. The chief security officer or chief law enforcement officer shall designate one (1) or more persons who shall have the authority and duty to notify the appropriate law enforcement agency in the absence of the chief security officer or chief law enforcement officer. In the case of an alleged rape, the institution's law enforcement agency shall lead the investigation. After notifying the local law enforcement agency, the institution shall cooperate in every respect with the investigation conducted by the law enforcement agency. T.C.A. § 49-7-129.

If the victim does not consent to the reporting, the chief security officer or chief law enforcement officer of each institution shall not report the offense to the local law enforcement agency. T.C.A. § 49-7-2207; Public Acts 2005, Chapter 305.

C. How to File a Report of Sexual Misconduct

TBR institutions shall clearly identify formal reporting options for Complainant of sexual misconduct. Formal reporting options may include criminal complaints, institutional complaints, anonymous complaints, and alternatives to reporting, such as privileged or confidential disclosures. Policies shall explain how each of these formal reporting options work and include contact information for the people to whom a report can be made. Subject to the institution's confidentiality policy, the Title IX Coordinator shall be notified of all complaints of sexual misconduct.

V. Investigation and Outcomes

A. Institutional Procedures

Each institution shall adopt procedures that are consistent with this policy and that clearly explain the institution's process for investigating and resolving complaints of sexual misconduct. The procedures shall include the specific rights outlined in this policy and shall be clearly

communicated to all students, faculty, and staff. At a minimum, each institution's procedures shall require the following:

1. Each institution shall attempt to get the Complainant to provide the complaint in writing. The complaint shall include the circumstances giving rise to the complaint, the dates of the alleged occurrences, and names of witnesses, if any. The Complainant may fill out a complaint form or submit a detailed written report of the incident. When the Complainant chooses not to provide or sign a written complaint, the matter will still be investigated and appropriate action taken;

2. Complaints made anonymously or by a third party must also be investigated to the extent possible;

3. All proceedings will include a prompt, fair, and impartial investigation and result. It is the intent of the Tennessee Board of Regents that institutions shall provide the respondent and complainant equitable rights during the investigative and institutional hearing processes as further described in this policy;

4. The complainant and respondent shall be provided with the same opportunities to have others present during any proceeding, including the opportunity to be accompanied to any related meeting which they are allowed to attend by the advisor of their choice. Nothing in this policy shall be read to require an institution to allow the respondent to attend an interview of the complainant or other witnesses;

4. The institution shall not limit the choice of advisor for either the complainant or respondent;

5. The Complainant and Respondent will be simultaneously notified in writing of the result of the investigation, the institutional hearing, and any disciplinary matters, unless the complainant or respondent requests not to be informed of this information; the institution's procedures for the Respondent and the Complainant to appeal the result of the disciplinary proceeding; any change to the result of the disciplinary matter; and when such results become final;

6. The Complainant and the Respondent shall be timely notified of all meetings which they are allowed to attend and will be provided with timely access to any information that will be used during any disciplinary proceeding;

7. The preponderance of the evidence standard (i.e., more likely than not) shall be used in all stages of the complaint proceedings, including any investigation, hearings, and disciplinary matters;

8. Mediation between the Complainant and the Respondent is never an appropriate resolution in sexual misconduct cases;

9. All investigation, hearing, and disciplinary actions shall be conducted by officials who do not have a conflict of interest or bias for or against the Complainant or the Respondent. Each institution shall adopt a process by which either party may raise issues related to potential conflicts of interest of such individuals.

10. Legal Counsel shall always be consulted prior to investigation. Hereinafter, references to "Legal Counsel" shall mean either the Office of General Counsel or on-campus legal counsel, as appropriate.

11. In situations that require immediate action because of safety or other concerns, the institution may take any administrative action which is appropriate. Examples of such interim actions include, but are not limited to:

- a. providing an escort to ensure that the Complainant can move safely between classes and activities;
- b. ensuring that the Complainant and Respondent do not attend the same classes;
- c. moving the Complainant or Respondent to a different residence hall;
- d. providing counseling services;
- e. providing medical services;
- f. providing academic support services, such as tutoring; and
- g. arranging for the Complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record.

12. Students may be placed on interim suspension under the appropriate circumstances pending the outcome of the investigation. Institutions shall follow the procedures set forth in TBR Policy 3:02:00:01—General Regulations on Student Conduct & Disciplinary Sanctions (and applicable institutional policies) before placing any student on interim suspension.

13. Institutional policies shall clearly state actions a Complainant of sexual assault should take to preserve evidence. A Complainant should not change or destroy clothes, take a shower or bath, wash his/her hands, use the toilet, brush his/her teeth, or clean up in any way. If the attack occurred in the Complainant's home or dorm room, the victim should not rearrange and/or clean up anything. It is very important for the Complainant to seek medical attention immediately so that the Complainant can be screened for sexually transmitted diseases/pregnancy/date rape drugs, obtain emergency contraception, and receive treatment for any physical injuries. Valuable physical evidence can be obtained from the Complainant and the Complainant's clothing.

14. Institutional policies shall set forth parameters and clarify what information may and may not be shared during a parallel investigation with law enforcement (e.g., via a Memorandum of Understanding with local law enforcement).

15. Institutions shall not create a separate procedure for investigating and resolving complaints of sexual misconduct involving athletes or any other subgroup of students.

B. Appointing the Investigator

All complaints of sexual misconduct shall be presented to the Title IX Coordinator or designee. After consultation with legal counsel, if the Title IX Coordinator determines that the complaint

contains an allegation of dating violence, domestic violence, sexual assault, or stalking, the Title IX Coordinator shall follow the procedures set forth in this policy and the applicable institutional policy to investigate and adjudicate the complaint. The Title IX Coordinator may appoint a qualified, sufficiently trained person to investigate the allegations made in the complaint. Only one person shall be identified as the Investigator. The Investigator shall, at a minimum, receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

C. What the Investigation Should Entail

Once the Investigator receives the complaint, the Investigator shall notify the Complainant in writing of his/her rights and request a meeting. The investigator shall also notify the Respondent in writing of the complaint and his/her rights and request a meeting with the Respondent.

The investigation shall include interviews with both the Complainant and Respondent, unless either declines an in-person interview. The investigation shall also include interviews with relevant witnesses named by the Complainant and Respondent or any other potential, relevant witness made known to the Investigator. The investigation shall also include the gathering and reviewing of any documentary, electronic, physical, or other type of relevant evidence. The Investigator is expected to request a list of relevant witnesses and evidence from Complainant and Respondent and take such into consideration. It is the responsibility of the Investigator to weigh the credibility of all individuals interviewed and to determine the weight to be given to information received during the course of the investigation. The Investigator shall not consider any evidence about the Complainant's prior sexual conduct with anyone other than the Respondent. Evidence of a prior consensual dating or sexual relationship between the parties by itself does not imply consent or preclude a finding of sexual misconduct.

The Investigator shall notify the Complainant, the Respondent, and all individuals interviewed during the investigation that retaliation is strictly prohibited and may be grounds for disciplinary action.

D. Outcome of Investigation

Upon completion of the investigation, the Investigator shall draft a written report that includes the allegations made by the accuser, the response of the accused, and a summary of the investigation. The report shall be delivered to the Decision Maker designated by the institution. The Decision Maker shall, at a minimum, receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

After review of the report, the Decision Maker shall make a determination as to whether or not a violation of this policy occurred. This determination shall be based on the preponderance of the evidence standard. The Decision Maker's determination and the justification shall be made in writing and provided simultaneously to the accuser and the accused. The Decision Maker's written

report shall also contain a notice to both parties of their right to request an institutional hearing on the determination that a policy violation did or did not occur.

E. Institutional Hearing Procedures

Either party may request an institutional hearing on the determination that a policy violation did or did not occur by providing written notice of the request to the Investigator within ten (10) days of receipt of the Decision Maker's decision. If a request is not received within ten (10) days, the Decision Maker's determination is final. Each institution shall adopt procedures for institutional hearings that are consistent with this policy.

1. The hearing may be held before either a hearing officer or hearing committee. All hearing officers and hearing committee members shall, at a minimum, receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

2. Institutions are not required to allow formal discovery to occur between the parties.

3. Each party is entitled to have an advisor of their choice available; however, institutions may limit the involvement of the advisor during the hearing or any meeting related to the hearing.

4. The hearing officer or committee shall use a preponderance of the evidence standard.

5. The hearing officer or committee shall issue a written determination as to whether or not a violation of this policy occurred and the justification for this decision.

6. Each party shall be simultaneously notified of the hearing officer or committee's decision in writing. The parties shall also be simultaneously notified of their right to appeal the hearing officer or committee's determination to the President/Director.

F. Appeal of Hearing Decision

If either party chooses to appeal the hearing officer/committee's decision, the party shall notify the Investigator in writing of their decision to appeal within five (5) business days of receipt of the hearing officer/committee's determination. If a written request for appeal is not received within five (5) days, the decision of the hearing officer/committee is final. Each institution shall adopt procedures to appeal the decision to the President/Director. The President/Director shall simultaneously notify the parties in writing of their decision and the justification for it. The President/Director's decision as to whether or not a violation occurred is final.

G. Campus-Wide Environment

If a final decision has been made that a policy violation occurred, the Title IX Coordinator or designee shall determine any remedies needed to address the campus-wide environment. It is the

intent of TBR that institutions will consider the impact of an incident of sexual misconduct on the campus as a whole and on specific groups or areas on campus. For example, if Title IX Coordinator or designee may determine that specific training is needed for a student group whose members have been accused of sexual assault.

H. Institutional Disciplinary Action

If a final decision has been made that a policy violation occurred, the Respondent shall be referred to the appropriate personnel for a determination of discipline. The appropriate personnel will be determined by the status of the Respondent. For example, if the Respondent is a student, then the matter may be referred to the student conduct officer. If the Respondent is an employee, the matter may be referred to the Human Resources Department. Each institution shall adopt a policy that clearly outlines the procedures for referring the matter to the appropriate personnel for discipline. The policy shall include, at a minimum, the following rights for the Complainant:

1. The Complainant shall receive sufficient notice of and be allowed to attend any meeting or hearing during the disciplinary process.
2. The Complainant shall be allowed to have an advisor of their choice attend any meeting or hearing.
3. The Complainant shall be allowed to testify at any hearing during the disciplinary process, even if neither party intends to call the Complainant as a witness for their case-in-chief.
4. The Complainant shall be allowed access to any evidence presented during any disciplinary meeting or hearing.
5. The Title IX Coordinator or designee shall be appointed as the Complainant's contact person for any questions or assistance during the disciplinary process.
6. The Complainant shall receive written notice of the outcome of the disciplinary process.
7. The Complainant and Respondent will be simultaneously notified in writing of the result of any proceeding related to the investigation and institutional hearing, unless the complainant or respondent requests not to be informed of this information; the institution's procedures for the Respondent and the Complainant to appeal the result of the disciplinary proceeding; any change to the result; and when such results become final.

I. Timeframe for Conducting the Investigation and Resolving the Complaint

Every reasonable effort shall be made to conclude the investigation and resolve the complaint within sixty (60) calendar days following receipt of the complaint. Within this sixty (60) day timeframe, it is expected that the Investigator will conclude the investigation, that the Investigator will present a report to the appointed Decision Maker, and that the Decision Maker will notify the parties in writing of the determination. This timeframe does not include a hearing as the

result of a request by either party. If such a hearing is requested, every reasonable effort shall be made to conclude the hearing and resolve the appeal, including any appeal to the President/Director, within thirty (30) days following the institution's receipt of the party's request for a hearing. If the Investigator, Decision Maker, or Hearing Officer determine that additional time is needed, both parties shall be notified in writing of the delay, the anticipated date that the investigation or hearing will be concluded, and the reasons for such delay. If either party determines that additional time is needed, that party shall request such in writing to either the Investigator (if the Decision Maker has not yet made a determination) or Hearing Officer (if a request for hearing has been received by the institution). The written request for additional time shall include the reasons for the requested delay and the number of additional days needed. The Investigator or Hearing Officer shall make every reasonable effort to respond to the request within two (2) business days following receipt of the request and shall notify both parties in written as to whether or not the request is granted.

VI. Victim Services

TBR intends for each institution to provide resources and assistance to victims of sexual misconduct.

A. Institutions Without On-Campus Services

1. For institutions without medical, counseling, or law enforcement services on their campuses, these institutions should partner with local community organizations that may be able to provide these services for victims of sexual misconduct.
2. Any such partnership shall be clearly communicated to students, faculty, and staff.
3. Any victim presenting to an institution without on-campus resources shall be informed about the agreement and encouraged to seek services from the partnering community organizations.

B. Victim Services Policy

Each institution shall adopt a policy describing the assistance and services it provides to victims. Each policy shall include, at a minimum, the following:

1. The identity and contact information for any trained on- and off-campus advocates and counselors who can provide an immediate confidential response in a crisis situation;
2. Emergency numbers for on- and off-campus safety, law enforcement, and other first responders, including the Title IX coordinator;
3. A description of the institution's sexual assault response team (SART) process and resources SART members can offer. If an institution does not have a SART, that institution should coordinate with local, community-based SARTs and describe their process, if any are available;

4. A list of health care options, both on- and off-campus, including options to seek treatment for injuries, preventative treatment for sexually transmitted diseases, and where and how to get a rape kit or find a Sexual Assault Nurse Examiner (SANE);

5. A statement of the importance of seeking medical treatment in order to preserve evidence;

6. A list of locations, including contact information, for any available advocate (e.g., a local rape crisis center, on-campus advocacy program) who can accompany a victim to the hospital or health provider;

7. A statement that these services are available for victims of sexual misconduct whether or not a victim chooses to make an official report or participate in the institutional disciplinary or criminal process; and,

8. A description of interim measures an institution may be able to take to ensure the safety and well-being of the victim and interim measures pending the outcome of the investigation, including examples of interim measures.

C. When a Victim Presents

Each institution shall adopt a policy describing the procedures victims should follow if a crime of dating violence, domestic violence, sexual assault, or stalking has occurred. At a minimum, institutions shall provide to victims written information regarding the following:

1. The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order;

2. How and to whom the alleged offense should be reported;

3. Options about the involvement of law enforcement and campus authorities, including notification of the victim's option to—

a. Notify proper law enforcement authorities, including on-campus and local police;

b. Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and

c. Decline to notify such authorities;

4. Where applicable, the rights of the victim and the institution's responsibilities for orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court or by the institution; and

5. Options for, and available assistance in, changing academic, living, transportation, and working situations.

VII. Education and Awareness

It is the intent of TBR that its institutions will offer educational programming and training to their students, faculty, and staff that are intended to end dating violence, domestic violence, sexual assault, and stalking.

TBR institutions shall create user friendly materials to explain the policy and how victims can get help, and provide those materials online and through other strategies appropriate for the campus. Institutional education related to sexual misconduct shall be provided to all incoming students. Institutions shall promote awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking. Education will also include information on how to prevent sexual assault, such as information on bystander intervention, as well as how to recognize abusive behavior and avoid potential abusive relationships. Students shall be trained on the procedures for filing a report, as well as procedures for institutional disciplinary action in cases of alleged sexual violence. Institutional education will also inform students of the sanctions and protective measures that the institution may impose once a report of sexual violence has been made.

VIII. Training

TBR institutions shall develop a plan for implementing and widely publicizing the sexual misconduct policy to the entire campus and provide mandatory training on the policy. Institutions shall establish procedures for regularly reviewing, evaluating, and updating the policy. At a minimum, institutions shall provide training for the Title IX coordinator, law enforcement, responsible employees, victim advocates, and anyone else involved in responding to, investigating, or adjudicating sexual misconduct. Institutional training may provide training to all employees likely to witness or receive reports of sexual violence, including professors, school law enforcement, school administrators, school counselors, general counsels, athletic coaches, health personnel and resident advisors.

Training should ensure that responsible employees with the authority to address sexual violence know how to appropriately respond to reports of sexual violence, that responsible employees know that they are obligated to report sexual violence to the Title IX coordinator or other designated official, and that all employees understand how to respond to reports of sexual violence. Training should also ensure that professional counselors, pastoral counselors, and non-professional counselors or advocates also understand the extent to which they may keep a report confidential.

IX. Title IX Coordinators

(List of Title IX coordinators by Institution.)

X. Retaliation

TBR, its institutions, officers, employees, or agents are strictly prohibited from retaliating, intimidating, threatening, coercing, or otherwise discriminating against any individual for exercising their rights or responsibilities under any provision of this policy. Retaliation will result in disciplinary measures, up to and including termination or expulsion.

PRESIDENTS QUARTERLY MEETING

DIRECTORS QUARTERLY MEETING

DATE: Presidents Meeting (August 19, 2014)
Directors Meeting (August 19, 2014)

AGENDA ITEM: Women in Higher Education – Tennessee (WHET)

ACTION: Information Item

PRESENTERS: Dr. MaryLou Apple and Dr. Wendy Thompson

BACKGROUND INFORMATION:

WHET institutional memberships are a cost effective way to provide professional development for TBR women faculty and staff and to allow for networking and partnerships on state, regional and national levels.

The presentation will provide background information on the benefits of membership and information on how to join. Presidents are invited to share your experiences during the WHET Conference- Presidential Leadership Forum on Oct. 9 from 4-5 pm on the campus of Middle Tennessee State University.