

## President's Retreat Agenda

Embassy Suites Nashville SE – Murfreesboro  
Broadland's Room A & B

November 13-14, 2017

### November 13

12:00 to 1:00

Check-In

1:00 – 2:30 p.m.

**Welcome by Chancellor Tydings and  
Legislative Panel Discussion**

2:40 - 5 p.m.

**Division Updates (20 minutes each)**

- Information Technology (Vieira)
- Business Services (Gibbs)
- Academic Affairs (Schulte)
- Economic and Community Development (Puryear)
- Student Success (Leming)
- General Counsel (Moody)
- External Affairs (McCormick)

5:30 p.m.

Reception/Dinner

### November 14

8 – 10 a.m.

**Creating a Culture of Collaboration**

Derrick Young, President  
YMG Corporate Culture Consulting

10:00 to 10:10

**WGU Update**

Dr. Kim Estep, WGU Tennessee Chancellor

10:15-11:30 a.m.

**Focused Priority Strategy Discussion**

Russ Deaton and Wendy Thompson

# President's Retreat Agenda

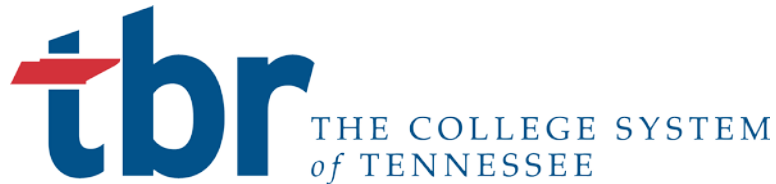
Embassy Suites Nashville SE – Murfreesboro

November 13-14, 2017

11:30 a.m. – 3 p.m.      **Lunch** (Special Presentation by Ollie the Otter) **and**

## **Business Meeting**

1. Warrant of Competency Policy – Mary Moody
2. Revisions to Guideline G-070 Records Retention & Disposal of Records – Mary Moody
3. Revisions to P-085 Workplace Violence Prevention - Mary Moody
4. Campus Free Speech Act – Mary Moody
5. Smoking and Smokeless Tobacco Policy and Alcoholic Beverages Policy – Mary Moody
6. Response to Public Records Requests – Mary Moody
7. Revisions to G-120 - Method of Administration for Compliance with Office of Civil Rights Guidelines, Title VI, Title IX, & Section 504 - Heidi Leming



---

**Presidents Meeting – November 14, 2017**

---

**SUBJECT:** Approval of Policy  
Warranty of Competency of Graduates of Technical Programs

**PRESENTER:** Mary G. Moody, General Counsel

**ACTION REQUIRED:** Requires Vote

---

This policy establishes a warranty of the competency of graduates of TBR technical programs. The warranty guarantees that graduates of technical programs at our colleges of applied technology and community colleges have demonstrated proficiency in their technical program of credit, and should the student be unable to perform one or more of the trained competencies after graduation – including failure to pass a state or national licensing exam -- we will agree to provide the student specific training at the institutions at no cost to the student or the company. This warranty will be valid for up to one year after graduation.

*Attachments Proposed Policy, Proposed Procedures, Proposed Warranty Redemption Form*

##

## Policy Area

Academic

**Name:** Warranty of Competency of Graduates of Technical Programs

## Purpose

This policy demonstrates the confidence of the Tennessee Board of Regents in the quality of our technical programs and assures our graduates and their employers that graduation reflects competency in the AAS Degree, Diploma and Technical Certificate of Credit program in which they were trained.

## Applies To

Community Colleges and Colleges of Applied Technology

## Definitions

**Competency:** A competency is the capability to apply or use a set of related knowledge, skills, and abilities required to successfully perform critical work functions or tasks in a defined work setting.

**Skill Set:** Specific tasks associated with competencies the student should be able to perform successfully at the completion of the program/course; can be found in the syllabus or program outcome sheet provided by the institution.

## Policy

- I. As a demonstration of our confidence in the quality of our community college and technical college programs, the Tennessee Board of Regents system (TBR) warrants every graduate of programs offering an AAS Degree, Diploma or Technical Certificate of Credit.

The Warranty guarantees that the graduate has demonstrated the knowledge and skill set as identified in the curriculum or program guide and can perform each competency. **Any program graduate who is identified to lack such knowledge and skill set shall be retrained at no cost to the employer or the graduate for tuition fees.**

- II. The Warranty may be redeemed by an employer in conjunction with a graduate employee if the graduate employee is unable to perform one or more of the competencies contained in the applicable curriculum or program guide in effect at the time of the individual's graduation.

- III. This Warranty is applicable only to graduates of a technical AAS degree, diploma, or certificate of credit who entered the program after the date of implementation of the Warranty program.
- IV. The Warranty shall remain in effect for one year immediately following the date of an individual's graduation or completion of certificate. The Warranty shall be honored by the community college or technical college from which the individual graduated. In extenuating circumstances, as determined by the Chancellor, the graduate may be retrained by a school that did not issue the original certificate or diploma. In this circumstance the originating school shall reimburse the school that retraines for the cost of that retraining. The employer and graduate do not pay the tuition costs for the retraining.
- V. Any exception to this policy must be approved by the Chancellor.
- VI. The Chancellor, or designee, shall develop procedures for implementing this policy.
- VII. The Chancellor, or designee, shall resolve any disputes pertaining to this warranty policy.
- VIII. This policy is not intended to waive the sovereign immunity of TBR or any of its institutions or to create a cause of action for money damages or injunctive relief. This warranty can only be redeemed for retraining as described in this policy and has no cash value to the graduate or the employer.

#### **Source**

T.C.A. § 49-8-203; T.C.A. § 49-11-402. General powers and duties of Board of Regents.

#### **Related**

Procedure ##

#### **Exhibits**

A Guarantee of Training to Tennessee's Employers

### **Warranty of AAS Degree, Diploma and Technical Certificate Graduates Procedure:**

If within one year of graduation, an employer determines a TBR technical graduate does not have the skills for which we say we have trained, the college of record agrees to provide retraining in the specific skill set. This one-time retraining will be provided free of tuition costs.

The employer will submit a written Warranty Redemption request to the Tennessee Board of Regents Office of Economic and Community Development (TBR ECD).

The TBR ECD office will review the claim. If approved, the TBR ECD office will contact the employer and the graduate to confirm the retraining. The TBR ECD office will contact the training institution's Academic Affairs Office to schedule the retraining free of charge.

If denied, the TBR ECD office will notify the employer.

The TBR ECD office will maintain a searchable database of each claim filed. The database will be organized by college, program/class, and deficiency.

(for more information, please see: [www.tbr.edu/e cd](http://www.tbr.edu/e cd))



### Tennessee Board of Regents Warranty Redemption Form

If within one year of graduation an employer determines a TBR technical graduate does not have the skills for which we say we have trained, the college of record agrees to provide retraining in those specific skill sets. This one-time retraining will be provided free of tuition.

#### Employer Information

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Company Contact \_\_\_\_\_

(supervisor, HR, etc.)

Best way to contact you: \_\_\_\_\_

(email, or mail)

Skill/Competency or Licensure Area needing retraining:

\_\_\_\_\_  
\_\_\_\_\_

#### Graduate Information:

Date: \_\_\_\_\_ Graduation Date: \_\_\_\_\_

Student Name: \_\_\_\_\_

Address: \_\_\_\_\_

Best way to contact you: \_\_\_\_\_

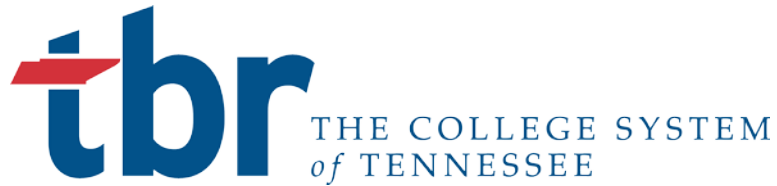
(email or mail)

Program Attended: \_\_\_\_\_

College Attended: \_\_\_\_\_

Credential Awarded: \_\_\_\_\_ AAS Degree \_\_\_\_\_ Diploma \_\_\_\_\_ Certificate

Instructor or Advisor's Name: \_\_\_\_\_



**Presidents Meeting – November 14, 2017**

---

**SUBJECT:** Approval of TBR Policies  
G-070 Records Retention and Disposal of Records

**PRESENTER:** Mary G. Moody

**ACTION REQUIRED:** Requires a Vote

---

The proposed changes to TBR Guideline G-070, Records Retention and Disposal of Records will align our requirements with Statewide Records Destruction Authorization classifications.

*Attachment: Proposed Revisions to Guideline G-070*



# Records Retention and Disposal of Records:

## G-070

### Guideline Area

---

General Guidelines

### Applicable Divisions

---

TCATs, Community Colleges, System Office

#### IV. [Records Retention Schedules](#)

- A. The Tennessee Board of Regents adheres to Statewide, ~~University Statewide~~, other agency (where appropriate), and TBR Records Destruction Authorization (RDA) ~~c~~Classifications.
- B. Notwithstanding the retention period stated herein, should such periods conflict with federal or state law or regulation, the period of longer retention shall apply.
- C. Access the appropriate retention schedule by clicking on the RDA number in Sections V. and VI. below.

#### V. [Statewide RDA's:](#)

- A. [SW01](#): Accounting Journal Vouchers & Deposit Slips - Documents relating to Accounts Receivables and Deposits with Supporting Documentation. EXAMPLES: AG – Agency Only Approval Journals, AL – Allocation Process, AM - Assets Management, AP - Accounts Payable, AR - Accounts Receivable, BA - Balances from STARS, BI - Billing, CL - Closing Process, CM - Cash Management, CN - Contracts, DA - Division of Accounts Approval, EX - External Application, FM - Fleet Management, GM - Grants, IN - Inventory, IU - Inter-Unit Transaction, JV - Online Journal Voucher, KK - Commitment Control Journals, LA - Accrued Liabilities, LM - Enterprise Learning Management, MU - Multi-Unit Transactions, PM - Plant Management, PR - Project Closing, PY - Payroll, RA Accrued Revenue, RV - PS exp to STARS, TR - Transactions from STARS, TV - Travel (Expenses), YA - Year End Adjustments This RDA is not applicable for the Division of

Accounts, Dept. of Finance and Administration. **Retention: 5 yrs. ; End Action: Destroy**

- B. **SW02**: Accounting Reports - Documents relating to monthly accounting reports. This series also includes Accounting Reports from Edison, Banner, or the STARS System. **Retention: 5 yrs. ; End Action: Destroy**
- C. **SW03**: **Inactive** Human Resources Employee **Documentation Eligibility Documents** - Documents pertaining to the proof of eligibility to work. Included in this record series is human resource documentation kept in agency. Examples: Cards or sheets showing name, address, telephone number, and similar data for each office employee; printouts. Records covered under SW-U09 University Personnel Records shall not be destroyed under this RDA. **Retention: 5 yrs. ; End Action: Destroy**
- D. **SW04**: Employee Medical Records - Documents relating to confidential employee medical records. Examples: Documentation of physicals and health status, Alcoholics Anonymous treatment statement, drug related treatment, injured in the line of duty and workers' compensation claims. **Retention: 30 yrs. ; End Action: Destroy**
- E. **SW07**: Travel Authorization Files - Documents relating to requests and authorizations for in-state and out-of-state travel and related correspondence, including cost estimates for travel. **Retention: 5 yrs. ; End Action: Destroy**
- F. **SW09**: Attendance and Leave Records - Documents relating to attendance and leave, including correspondence such as notice of holidays and hours worked. **Retention: 5 yrs. ; End Action: Destroy**
- G. **SW10**: Real Property Lease Files - Documents relating to the lease space in which various state agencies and departments are housed. Examples: Space Action Request Form (FA-0006), Request for Proposal (RFP), and related correspondence. **Retention: 5 yrs. ; End Action: Destroy**
- H. **SW11**: Internal Audit Reports and Working Papers - Documents relating to internal audit reports and working papers generated by internal auditors to document investigations and/or audit reports conducted internally that are submitted to the commissioners, the

Comptroller of the Treasury, and other parties. This RDA is not applicable to the Comptroller of the Treasury and its divisional offices. **Retention: 10 yrs. ; End Action: Destroy**

- I. **SW12**: Contracts & Requests for Proposals (RFP's) - Documents relating to contracts between state agencies and vendors. Records includes a copy of the final contract, Requests for Proposals (RFP)documents, Requests for Information (RFI) documents, bid evaluation documents, statements of work, deliverable documentation, change order documentation, correspondence, and other related documents. **Retention: 6 yrs. ; End Action: Destroy**
- J. **SW14**: Discrimination Harassment Investigation Files - Documents relating to discrimination and workplace harassment investigations. Examples: investigation intake/referral, investigation memos, Equal Employment Opportunity Commission charges/documents, Tennessee Human Rights Commission charges/documents. **Retention: 5 yrs. ; End Action: Destroy**
- K. **SW15**: Annual Report Working Papers - Working Paper documents relating to the annual reports prepared by all agencies. **Retention: 5 yrs. ; End Action: Destroy**
- L. **SW16**: Temporary Records - "Temporary Records", is defined at T.C.A § 10-7-301 (13) as: "material which can be disposed of in a short period of time as being without value in documenting the function of an agency. Temporary records will be scheduled for disposal by requesting approval from the public records commission [PRC] utilizing a records disposition authorization [RDA]." These records are only considered records in that they are notes and/or communication media and may include correspondence below the Commissioner level, unless superseded by another RDA. Under no circumstance will documents of Fiscal, Legal, or Historic Value be considered Temporary Records. **Retention: 0 yrs. ; End Action: Destroy**
- M. **SW17**: Working Papers - "Working Papers" is defined in T.C.A. § 10-7-301(14) as: "those records created to serve as input for final reporting documents, including electronic data processed records, and/or computer output microfilm, and those records

which become obsolete immediately after agency use or publication." Working papers are used to produce a record in its final form. For the purpose of the RDA, working papers are those records that have no evidential or informational value once an action has been completed and do not relate to significant steps taken in preparing the final record. The record resulting from the working papers are then governed by its RDA. Working papers does not include records that have evidential or informational value that is needed to support the final record. Under no circumstance may documents of Fiscal, Legal, or Historic Value be considered Working Papers. This RDA does not apply to Annual Report (SA15), Budget (SW18), or Internal Audit (SW11) working papers. This RDA covers all other working papers unless superseded by another specific RDA.

**Retention: 1 yrs. ; End Action: Destroy**

- N. [SW18](#): Budget Papers - Documents relating to budget working papers and budget requests. The records are documents used to assist the agency in the preparation of budgets and to justify requests to the Department of Finance and Administration as well as copies of official budget requests submitted to the Department of Finance and Administration for recommendations to be presented for final approval. Records include correspondence, instructions, tabulations, reports, cost estimates, budget request forms, program objectives, strategies, budget revisions and other related documents.

**Retention: 5 yrs. ; End Action: Destroy**

- O. [SW19](#): ~~Active Employee Files -- These files consist of Departmental Employee HR information and contains the following, but not limited to, documents: Personnel File Audit Checklist, Request for Personnel Action Form, Employment Application, W-4 Form, Direct Deposit Authorization, Drug-Free Workplace Policy, Memo for the Operation of Motor Vehicles by State Employees, Acceptable Use Policy Network Access Rights and Obligations User Agreement Acknowledgement, Performance Document Job Plan and Employee Insurance & Benefits File Audit Checklist. Records covered under SW03 Human Resources Employee Information Documents shall not be destroyed under this RDA.~~

- P. [SW20](#): Fiscal Administrative Documents - Files may include documents of Fiscal Value not covered by another Statewide RDA or Agency Specific RDA. (Examples: receipt documents, invoices, purchase orders, inventory records, payment documentation, space assignment documentation, warranties, internal bookkeeping documentation, & balance sheets) **Retention: 5 yrs. ; End Action: Destroy**
- Q. [SW21](#): Grants - This RDA may apply to any Grant Files not covered by a specific RDA. Files included in this record series may include any documents pertaining to grants, such as applications, Contracts, Invoices, Asset Documentation, Monitoring Documentation, Evaluations, Photographs, Reports, Close-out Documents and Correspondence. **Retention: 5 yrs. ; End Action: Destroy**
- R. [SW22](#): Internal Policies and Procedures - Official record copy of the policies, procedures or rules. One copy of the policy, procedure, or rule will be kept by the issuing entity for retention/reference. Records series will include interim policies, procedures, and rules as well. **Retention: 10 yrs. ; End Action: Destroy**
- S. [SW23](#): Credit Card and Purchasing Card (p-Card) Documents - Documents relating to the issuing and use of state issued credit cards and Purchasing cards (p- Cards). Records series includes: new card application, cardholder agreement form, approver signed agreement form, account maintenance forms, training tests, Edison security form, transaction logs, exception logs, fiscal officer's memos, account statements, and receipts. **Retention: 5 yrs. ; End Action: Destroy**
- T. [SW24](#): Hazardous Material Files – Documentation of hazardous materials purchased, shipped, stored, or utilized by state agencies. Documents may include: inventories, shipping papers, safety documentation, utilization logs/registers, Federal or state compliance documentation (EPA, OSHA, TDEC, etc.), disposal documentation, and correspondence. Training documentation shall be stored with and covered by RDA SW19, Personnel Files. **Retention: 5 yrs. ; End Action: Destroy**
- U. [SW25](#): Administrative Documents – Internal Policies and Procedures - Documents that relate to the day-to-day administration of internal policies, procedures, and rules. Record

series includes, but not limited to: employee agreement forms, security forms, databases, frequently asked questions, and related forms. (This does not include the official record copy of the policies, procedures or rules which is covered by SW22.)

**Retention: 5 yrs. ; End Action: Destroy**

- V. [SW26](#): Incident Reports - Records of incidents/accidents occurring on State controlled property, involving state personnel or members of the general public or state owned materials. A copy of the incident reports involving injuries to state employees are to be included in the employee's medical file and covered under SW04 Employee Medical Records. **Retention: 10yrs. ; End Action: Destroy**
- W. [SW27](#): Request for Proposal Documents – Not Selected - Final submitted bid documents that were not awarded the contract. These fall under three (3) categories: Unsuccessful – bids met criteria but were not the best bid; Non-responsive – bids that did not follow directions and thus disqualified; and Rejected – bids that were not submitted by the set deadline for submission. **Retention: 5 yrs. ; End Action: Destroy**
- X. [SW28](#): Employment Application – Not Selected Candidates - Application documents, hiring information, job registers, and resumes of candidates that were not selected for the position. Records include applications for full-time, part-time, temporary, and unpaid, such as internships. These fall under three (3) categories: Unsuccessful – applicant met criteria but were not hired; Non-responsive – applicants that did not submit required material or respond back to attempted communication; and Rejected – applications that were not submitted by the set deadline for submission or failed to meet minimum requirements. **Retention: 5 yrs. ; End Action: Destroy**
- Y. [SW29](#): Affirmative Action Compliance Records - Affirmative Action Program records and any supporting documentation related to recruitment, selection, and advancement of employees that may be used to show compliance with federal Affirmative Action rules and regulations. **Retention: 5 yrs. ; End Action: Destroy**
- Z. [SW30](#): Internal Investigation Files – Records of investigation resulting from a complaint from the public and/or internally against an employee of the state (TBR and its

institutions). Records include but are not limited to: Correspondence, photographs, interviews, criminal report, medical files, state employee's files, decisions, orders or disciplinary actions and any collateral documentation received for the investigation. **Retention: 10 yrs. ; End Action: Destroy**

- AA. **SW31**: Communication Databases – Databases used for the collection of information to facilitate in communication and correspondence with the public. Includes spreadsheets/lists in paper format if an agency utilizes instead of electronic. Examples may include mailing lists for magazine or newsletter subscriptions, communication tracking systems, requests for publications, and agency/news updates. **Retention: 5 yrs. ; End Action: Destroy**
- BB. **SW32**: Accreditation Records – Documents the accreditation process relating to an agency's program or programs as required by federal or state statute, or other body. Includes background support materials, accrediting agency correspondence, guidelines, reports, procedures, and accreditation review reports and responses. **Retention: 10 yrs. ; End Action: Destroy**
- CC. **SW33**: Volunteer Forms and Unpaid Intern Records – Volunteer and intern screening documents and background check data. Records include but not limited to; Applications submitted by individuals volunteering and interning for the State, consent forms, background check information (verification of Social Security number, verification of Driver's License, Criminal History Records, etc.), liability forms, training records, training completion, disciplinary action, performance evaluation, etc. These records include only applicants accepted. **Retention: 30 yrs. ; End Action: Destroy**
- DD. **SW34**: Recordings from Law Enforcement Mobile Devices – Incident Not Identified – Recordings, created by a law enforcement agency using mobile devices, that are not known to have captured a unique or unusual action from which litigation or criminal prosecution is expected to likely result. Records included but not limited to all mobile recordings, regardless of where recording device is mounted, such as: Bodycam (device on officer's chest, shoulder, head, etc.), Dashcam (or other device mounted on the

inside or outside of a vehicle), Animal cam (on an animal's body), Drone (unmanned aerial vehicle or any other remote controlled equipment). These records are only for recordings where No Incident is Identified, recordings where an Incident is Identified will be superseded by the agency's investigative RDA or Statewide 30: Internal Investigation Files and shall not be destroyed under this Statewide. **Retention: 3 months ; End Action: Destroy**

- EE. **SW35: Open Records Request – Record Series Consists of correspondence with the public regarding requests to view or retrieve information from official records. Records include but are not limited to emails, letters, and attachments. Note: the records requested are not covered by this RDA, but are to be governed by the appropriate original RDA for the requested records. Retention: 5 yrs. ; End Action: Destroy**
- FF. **SW36: Original Captured Media – Finished products of video, audio and digital images captured and produced of official agency business created and used by the employees of the agency. Retention: 5 yrs. ; End Action: Permanent**
- GG. **SW37: Temporary Captured Media – Temporary Records is defined at T.C.A. § 10- 7- 301(13) as: material which can be disposed of in a short period of time as being without value in documenting the function of an agency. Temporary records will be scheduled for disposal by the requesting approval from the public records commission [PRC] utilizing a records disposition authorization [RDA]. Video, audio and still photography captured and produced by agency employees for the use of the agency and which do not meet quality standards (blurry, out of focus, etc.) are temporary and to be removed at the discretion of the creator and/or staff. Any media that is not disposed of will be covered under SW36. Retention: 0 yrs. ; End Action: Destroy**
- HH. **SW39: Title VI Annual Report – Agency copy of Annual Reports and supporting documentation submitted to the Federal Government or TN Human Rights Commission. Retention: 5 yrs. ; End Action: Destroy**
- II. **SW40: Rule Promulgation File – Records of voting on policy or rule adoption. The official files of the final promulgated rules: signed copies going to the Attorney**



General and Secretary of State response to public comments; any signed roll-call votes approving the rules, etc. Retention: 0 yrs. ; End Action: Permanent


JJ. SW41: Fraud Investigation Files – Documents of the investigations that are undertaken based on complaints or referrals received involving, but not limited to, alleged non-profit fraud, license fraud, medical fraud, and the abuse of state funded benefits. Records include, but are not limited to, research investigation notes, correspondence, files relative to investigation, and any pertinent law enforcement data. Confidential investigation shall be kept under agency specific RDA. Retention: 10 yrs. ; End Action: Destroy

KK. SW42: Unsuccessful Grant Applications – Records of proposals that have been denied funding or for which no award decision has been made by the funding state agency. Series includes, but is not limited to, proposal for grant, correspondence, notes, project/planning files, grant evaluation summaries, letters of denial, and other related documentation. Retention: 5 yrs. ; End Action: Destroy

VI. Higher Education Records

- A. SW-U01: College/University Boards, Commissions, and College/University System Chief Executive President Documents – Records include but not limited to: documents or records related to meetings of Boards, Commissions, Councils, and Committees. Documents relating to the System/College Chief Executive all areas of the President and his/her executive staff in the transaction of the official business. Examples: Official cCorrespondence, ~~and~~ memorandums, final reports, official policies, current & obsolete directives, minutes/accounts of proceedings, agenda, copies of reports, and announcements. with internal personnel, officials of other state agencies. Records included are minutes/accounts of proceeding actions taken, agenda, copies of reports, exhibits, announcements, reports, working papers, policies and procedures, etc.
1. For purposes of this RDA, records include official business of the Chancellor and all institution presidents, Executive Staff includes Executive Vice Chancellor, Vice

~~Chancellors, Vice Presidents, and Assistant Directors~~, or anyone designated as an “Interim” for these positions. **Retention: 5 yrs. ; End Action: Permanent**

- B. [SW-U02](#): Student Education Record – These files contain the official academic record of students attending State institutions. They include, but are not limited to Academic Records (includes Narrative Evaluations, Competency Assessments), Change of Grade Records; Financial Aid Transcripts (if applicable), Class Lists (original grade sheets or cards), Graduation Lists, transcripts, Permanent Student Cards, Statistical Data (enrollment, grades, racial/ethnic, degree), Commencement Program (1 copy), Student Disciplinary Files resulting in expulsion. **Retention: 0 yrs. ; End Action: Permanent**
1. Student FERPA rights and defining Education Records is contained in 20 USC 1232g:  [FERPA Rights](#)
- C. [SW-U03](#): Alumni Development Files/Donor Gifts and Contributions/Endowment and Living Trust Agreements – Current and Historical Data Including (1) Alumni Development Files: alumni information, solicitation, pledge and contributions data, and all related documents. (2) Donor Gifts and Contributions: Donor Recognition Committee, Donor Director of Private Giving, Fund Raising Report, Philanthropy Awards, and all related documents. (3) Endowment and Living Trust Agreements, and all related documents. **Retention: 5 yrs. ; End Action: Permanent**
- D. [SW-U04](#): Student National Collegiate Athletic Association (NCAA), Patient, and Academic Second Opportunity Records – These records include, but is not limited to Athletic files including NCAA eligibility and related files, student patient files, and Academic second opportunity applications.
1. For purposes of this RDA, NCAA also includes records related to the National Junior College Athletic Association (NJCAA). **Retention: 10 yrs. ; End Action: Destroy**
- E. [SW-U05](#): Trademark, Copyright, Patent Records, Printed Materials and Publications – These records include, but are not limited to Trademark, Copyright and Patent records, including correspondence, forms, documents and materials relating to application for and granting of same. Printed Materials and Publications which have permanent

administrative, physical, historical or legal value, such as; class schedules (institutional), institution catalogs, brochures, etc. **Retention: 0 yrs. ; End Action: Permanent**

F. **SW-U08: University Real Property Files – Facility files that include: deeds, leases, capital agreements, and other historical property documents. Retention: 10 yrs. ; End Action: Permanent**

G. **SW-U09: University Personnel Records – Personnel Records of college employees. Files are comprised of official personnel files for each employee. At a minimum, these files contain documentation of the employee’s payroll history with the department. Retention: 65 yrs. ; End Action: Destroy**

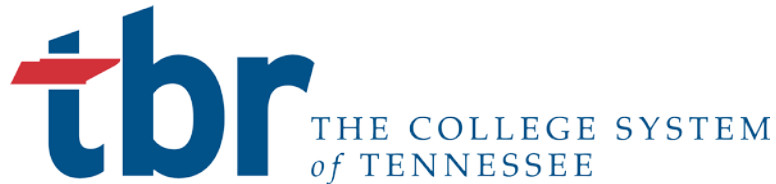
H. Student Records

1. The Family Educational rights and Privacy Act of 1974, as amended (FERPA)(see Section VI.B.1.) specifically requires institutions to maintain records of requests and disclosures of personally identifiable information except for defined “directory information” and requests from students to review their own records.
  - a. The records of disclosures and requests for disclosures are considered part of the students’ educational records; therefore, these records must be retained as long as the education records to which they refer are retained by the institution.
  - b. FERPA requires that no record for which there is a pending request to review be destroyed.
2. Student Miscellaneous Records: Records in this category are covered under SW16 Temporary Records. These records include, but are not limited to;
  - a. All records of applicants who do not enter an institution;
  - b. The following records of applicants who enter an institution;
    1. Grade Reports (Registrar’s copies)
    2. Registration Forms
    3. Social Security Certificates
    4. Teacher Certifications (Institution only)
    5. Transcript Requests (student)

6. Audit Authorizations
7. Pass/Fail Requests
8. Changes of Course (add/drop)
9. Credit/No Credit Approvals
10. Enrollment Verifications (logs or lists)
11. Applications for Graduation
12. Academic Advisor Files
13. Class Schedules (student)
14. Personal Data Information Forms
15. Letters of Recommendation
16. Student Disciplinary Files (for matters resulting in a finding of no violations(s))

**Retention: 0 yrs. ; End Action: Destroy**

3. [10152](#): Student Information Records: ~~Retention 5 years~~
  - a. Records that are not protected as part of the Student Education record.
    1. These records include, but are not limited to individual office or department files, Entrance Examination Reports, Transcripts (high school, other colleges) foreign student forms, graduation authorizations, advance placement records, applications for admission or readmission, credit by exam forms, placement records, transfer credit evaluations, student ledger cards/registration system receipts, tuition and fee charges, AAPP scan sheets and essay booklets, examination papers and answer sheets, athletic department files, campus health clinic records. **Retention: 5 yrs. ; End Action: Destroy**



---

**Presidents Meeting – November 14, 2017**

---

**SUBJECT:** Approval of Policy  
Prevention of Workplace Violence

**PRESENTER:** Mary G. Moody, General Counsel

**ACTION REQUIRED:** Requires Vote

---

Due to *the Healthy Workplace Act*, passed in 2015, and the Campus Carry provisions passed in 2016, we have examined TBR policies and guidelines to assure that we have adequate policies to provide for a workplace free of physical violence, threats and intimidation. We have determined that P-085, *Workplace Violence Prevention*, should be revised and made a policy. The proposed revision is attached for your approval.

*Attachments:* Current Guideline P-085, Proposed Policy *Prevention of Workplace Violence*

## Policy Area

---

Personnel

## Number

## Name

## Prevention of Workplace Violence

## Purpose

---

To provide all employees with a workplace environment free from physical violence, threats, and intimidation.

## Applies To

---

Colleges and System Office

## Definitions

For purposes of this policy:

---

- **Violence or threats** means acts of violence or threats of aggression including gestures or, oral or written expression that:
  - create fear of bodily harm;
  - cause or can cause death or bodily injury;
  - threaten the safety of a co-worker, student or member of the public;
  - or, damage property.
    - Acts of violence and threats of violence include, but are not limited to: verbal (such as threats, harassment, abuse or intimidation), nonverbal (such as gestures and intimidation), written communication (such as notes, e-mail), physical (such as hitting, pushing, shoving, kicking, touching and assault), and other (such as arson, sabotage, vandalism and stalking).

- **On the Work Site/In the Workplace** means all real property owned or occupied by TBR, TBR vehicles and personal vehicles when in use performing state business.
- **Reasonable Suspicion** means the degree of knowledge sufficient to cause an ordinarily prudent and cautious person to believe that the circumstances being presented are more likely to be true than not. Reasonable suspicion must be based on an articulable, specific and objective basis and may include direct observation; or information received from a source believed to be reliable.
- **Employee** means, for purposes of this guideline only, persons receiving a payroll check from TBR or one of its institutions.

## **Policy**

### **I. Commitment to a Safe and Healthy Workplace**

---

- A. TBR has a strong commitment to its employees to provide a safe, healthy and secure work environment.
- B. TBR also expects its employees to maintain a high level of productivity and efficiency.
- C. The use of violence or threats of violence in the workplace are inconsistent with these objectives. TBR expects all employees to report to the work site and perform their duties in a safe and productive manner, without violence or threats of violence toward any other individual. Violence, threats, or intimidation toward any other individual will not be tolerated.
- D. TBR Policy 7:01:00:00, *Firearms and Other Weapons*, controls the possession and use of weapons on property owned or controlled by TBR and its institutions. To the extent that this guideline conflicts with the provisions of that policy, that policy controls.

### **II. Applicability**

- A. The provisions of this Guideline apply to all TBR employees and to all TBR work sites owned or occupied by TBR or its institutions.

- B. This Guideline also applies to any employee conduct, on or off the work site, which poses a substantial threat to persons or property within the institutional community.

### **III. Implementation**

- A. It is the responsibility of Human Resources to ensure that all employees are informed about this Guideline. This guideline shall be posted on the TBR and institution websites and a copy of the guideline shall be made available to each new employee.
- B. Employees who witness violence or threats of violence must immediately report such conduct to campus or local law enforcement, appropriate supervisor and the Human Resources Officer.
- C. Employees who are victims of violence or threats of violence in the workplace are encouraged to report such conduct to campus or local law enforcement, the appropriate supervisor and/or the Human Resources Officer.

### **IV. Prohibited Activities**

- A. TBR specifically prohibits the following:
  - 1. Possessing, storing or using a weapon in violation of TBR Policy 7:01:00:00.
  - 2. Refusing to submit to an inspection for the presence of a prohibited weapon based on reasonable suspicion.
  - 3. Refusing to allow inspection of personal storage areas based on a reasonable suspicion that a prohibited weapon or weapons will be found in such area.
  - 4. Conviction under any criminal statute for the illegal use or possession of a weapon or for committing a violent act against the person or property of another.
  - 5. Refusing to cooperate in an investigation about allegations or suspicion that violence or threats of violence have or is likely to occur, or an investigation about the possession of a prohibited weapon by the employee or a co-employee.
  - 6. Engaging in violence or threats of violence.



7. Repeated verbal abuse in the workplace, including derogatory remarks, insults, and epithets.
  8. Verbal, nonverbal, or physical conduct of a threatening, intimidating or humiliating nature in the workplace.
- B. An employee who engages in any of these prohibited activities will be subject to discipline, up to and including termination of employment.

## **V. Permissible Activities**

The following activities do not violate this guideline:

- A. Disciplinary procedures conducted in accordance with institutional or TBR policies and guidelines;
- B. Routine coaching and counseling, including feedback about and correction of work performance;
- C. Reasonable work assignments, including shift, post, and overtime assignments;
- D. Individual differences in styles or personal expression that are otherwise legally permissible.
- E. Passionate, loud expression with no intent to harm others and that are otherwise legally permissible;
- F. Differences of opinion on work-related concerns; or
- G. The non-abusive exercise of managerial prerogative.

## **VI. Reporting**

- A. An employee who witnesses an incident of violence, threats of violence or suspicious behavior, must immediately report such conduct to campus or local law enforcement, as applicable, appropriate supervisor and the Human Resources Officer.
- B. Any employee who is granted a court order requiring any other individual to stay away from the employee's place of work must furnish a copy of the order to the Human Resources Department and campus security or law enforcement as soon as practicable.
- C. A supervisor who witnesses an incident of violence, threats of violence or suspicious behavior, must immediately report such conduct to campus or local law enforcement, as applicable, and the Human Resources Officer.

## **VII. Right to Search for Weapons**

Any TBR institution has the right to search for illegally possessed weapons in any area on the institution's premises, including, but not limited to, lockers, furniture, containers, drawers, equipment or other facilities, lunch boxes, brief cases, personal bags, personal toolboxes or tool kits, parking lots, TBR vehicles and other vehicles parked on the institution's premises. **Such searches may only be conducted by law enforcement officers and, when feasible, in consultation with the Office of General Counsel.**

## **VIII. Prohibition on Retaliation**

Employees who report incidents of threats, violence, intimidating conduct, or illegal possession of weapons; bring a complaint, or assist in the investigation of a complaint, will not be adversely affected in terms and conditions of employment, discriminated against or discharged because of their actions in this regard.

## Sources

T.C.A. 39-17-1309(e)(9); T.C.A. Title 50, Chapter 1, Part 5, *The Healthy Workplace Act*

---

## History

November 3, 1999 - TBR President's Meeting; Public Chapter 1061, effective July 1, 2016.

## Related

TBR Policy 7:01:00:00, *Firearms and Other Weapons*

## Exhibits

---

-  [Exhibit 1 - Guide to Gun Laws on Campus](#) (pdf /31.28 KB)

## **Workplace Violence Prevention: P-085**

### **Purpose**

---

To define the Guideline of the TBR that all employees have the right to work in an environment free from physical violence, threats, and intimidation.

### **Definitions**

---

- Violence or threats - Include acts of violence or threats of aggression including gestures or, oral or written expression which:
  - create fear of bodily harm;
  - cause or are capable of causing death or bodily injury;
  - threaten the safety of a co-worker, student or member of the general public;
  - or, damage property.
    - Acts of violence and threats of violence include, but are not limited to: verbal (such as threats, harassment, abuse or intimidation), nonverbal (such as gestures and intimidation), written communication (such as notes, e-mail), physical (such as hitting, pushing, shoving, kicking, touching and assault), and other (such as arson, sabotage, vandalism and stalking).
- Weapon - Includes a device, instrument, material or substance used for, or can cause death or bodily injury, or damage to property. Weapons include, but are not limited to: an explosive or an explosive weapon, a device principally designed, made or adapted for delivering or shooting an explosive weapon, a machine gun, a rifle or shotgun, a handgun, a firearm silencer, a switchblade knife or any other type of knife, or brass knuckles, or any other implement for infliction of bodily injury, damage to property, or death which has no common lawful purpose. Pocket knives or knives used solely for eating, food preparation or distribution, are not considered "weapons" for purposes of these Guidelines unless used to inflict bodily injury or damage to property.

- On the Work site/In the Workplace - Includes all real property owned or occupied by TBR, TBR vehicles and personal vehicles when performing state business off campus.
  - Possession - Includes, but is not limited to, the presence of a weapon on the employee, in his/her motor vehicle, desk, lunch box, locker, a tool kit, bag, purse, cabinets, office, etc.
  - Reasonable Suspicion - The degrees of knowledge sufficient to induce an ordinarily prudent and cautious person to believe that the circumstances being presented are more likely to be true than not. Reasonable suspicion must be based on an articulatory, specific and objective basis and may include direct observation; or information received from a source believed to be reliable.
  - Employee - For purposes of this guideline only, persons receiving a payroll check from TBR or one of its institutions. **Guideline**
- 

#### I. Guideline

- A. TBR has a strong commitment to its employees to provide a safe, healthy and secure work environment.
- B. TBR also expects its employees to maintain a high level of productivity and efficiency.
- C. The use of violence or threats of violence in the workplace is inconsistent with these objectives. TBR expects all employees to report to the work site without possessing weapons and to perform their jobs without violence or threats of violence toward any other individual and to be able to perform their duties in a safe and productive manner. Violence, threats, or intimidation toward any other individual will not be tolerated.
- D. Except as provided in TBR Policy 7:01:00:00, weapons of any kind are prohibited in the workplace. The presence of unauthorized weapons in the workplace will not be tolerated.

#### II. Coverage

- A. The provisions of this Guideline apply to all TBR employees and to all TBR work sites owned or occupied by TBR or its institutions.
- B. In addition, this Guideline applies to any conduct, on or off the work site, which poses a substantial threat to persons or property within the institutional community.
- C. Tennessee Board of Regents at its discretion, may from time to time modify this Guideline. In the event the TBR Workplace Violence Guideline is revised, a copy of the revised Guideline will be provided to each employee.

### III. Guideline Implementation

- A. It is the responsibility of Human Resources to ensure that all employees are given copies of this Guideline.
- B. Employees who are victims of or witness to violence or threats of violence must immediately report such conduct to campus or local law enforcement, appropriate supervisor and the Human Resources Officer.

### IV. Prohibited Activities

- A. The possession and carrying of firearms and other weapons on the property owned or controlled by TBR or its institutions is controlled by TBR Policy 7:01:00:00, Firearms and Other Weapons. To the extent that this guideline conflicts with that policy, the policy controls.
- B. TBR specifically prohibits the following and may discipline an employee up to and including dismissal for any of the following:

1.

1Refusing to submit to an inspection for the presence of a weapon based on reasonable suspicion.

- 2. Refusing to allow inspection of storage areas specified in item 2, above, based on a reasonable suspicion that a weapon or weapons will be found in such area.

3. Conviction under any criminal statute for the illegal use or possession of a weapon or for committing a violent act against the person or property of another.
  4. Refusing to cooperate in an investigation about allegations or suspicion that violence or threats of violence have or is likely to occur, or an investigation about the possession of a weapon by the employee or a co-employee.
  5. Engaging in violence or threats of violence.
  6. Repeated verbal abuse in the workplace, including derogatory remarks, insults, and epithets.
  7. Verbal, nonverbal, or physical conduct of a threatening, intimidating, or humiliating nature in the workplace.
  8. The sabotage or undermining of an employee's work performance in the workplace.
- C. The possession and carrying of firearms and other weapons on the property owned or controlled by TBR or its institutions is controlled by TBR Policy 7:01:00:00, Firearms and Other Weapons. To the extent that this guideline conflicts with that policy, the policy controls.

## V. Permissible Activities

The following activities do not violate this guideline:

- A. Disciplinary procedures conducted in accordance with institutional or TBR policies and guidelines;
- B. Routine coaching and counseling, including feedback about and correction of work performance;
- C. Reasonable work assignments, including shift, post, and overtime assignments;

- D. Individual differences in styles or personal expression that are otherwise legally permissible.
- E. Passionate, loud expression with no intent to harm others;
- F. Differences of opinion on work-related concerns; or
- G. The non-abusive exercise of managerial prerogative.

## VI. Discipline

- A. An employee who violates this Guideline by engaging in any of the prohibited activities of Section IV, pursuant to TBR guideline/policy, is subject to discipline up to and including immediate dismissal.
- B. An employee who violates this Guideline by bringing a weapon onto the work site whose employment is not terminated will be subject to searches from time to time, for an indefinite period not to exceed one (1) year from the date of the violation.
- C. An employee's consent to submit to a search for weapons, based on reasonable suspicion, is required as a condition of continued employment and the employee's refusal to consent may result in disciplinary action, possibly including dismissal.

## VII. Reporting

- A. An employee who witnesses an incident of violence, threats of violence or suspicious behavior, must immediately report such conduct to campus or local law enforcement, appropriate supervisor and the Human Resources Officer.
- B. Any employee who is granted a court order requiring any other individual to stay away from the employee's place of work must furnish a copy of the order to the Human Resources Department and Campus Security when practicable.



- C. Supervisory Responsibility - A supervisor who witnesses an incident of violence, threats of violence or suspicious behavior, must immediately report such conduct.

#### VIII. Miscellaneous

- A. Any TBR institution has the right to search any area on TBR premises for weapons including, but not limited to, lockers, furniture, containers, drawers, equipment or other facilities, lunch boxes, briefcases, personal bags, personal toolboxes or tool kits, parking lots, TBR vehicles and other vehicles parked on TBR owned or occupied premises.
  - 1. However, such searches will be based only on a reasonable suspicion that a weapon or weapons will be found.
  - 2. If feasible prior to conducting a search, the Office of General Counsel should be consulted.
- B. If an employee is injured while participating in a fight or after instigating a fight, then entitlement to workers' compensation benefits may be denied, as consistent with Tennessee law.
- C. No part of this Guideline, nor any procedure therein, is intended to be construed as a guarantee or contract of employment or continued employment.

#### IX. Non-Retaliation

- A. This Guideline also prohibits retaliation against employees who report incidents of threats, violence, intimidating conduct, or weapons possession.
  - 1. Any employee bringing complaint or assisting in the investigation of such a complaint will not be adversely affected in terms and conditions of employment, discriminated against or discharged because of the complaint.

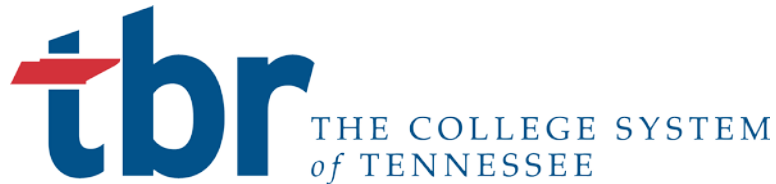
#### X. Exceptions

- A. Exceptions to this Guideline, not otherwise prohibited by law, must be approved by the President.

#### Sources

---

November 3, 1999 - TBR President's Meeting



---

**Presidents Meeting – November 14, 2017**

---

**SUBJECT:** Approval of TBR Policy  
Freedom of Speech and Expression

**PRESENTER:** Mary G. Moody, General Counsel

**ACTION REQUIRED:** Requires Vote

---

Last session, the General Assembly enacted *The Campus Free Speech Protection Act*, which takes effect on January 1, 2018. The Act requires that the governing body of every public institution of higher education adopt a policy affirming the principles of free speech set forth in the Act. The language of this proposed policy is taken from the Act verbatim and is not subject to revision.

Each institution will work with the Office of General Counsel to draft appropriate institutional policies regarding access to campus facilities and other issues affected by this policy.

*Attachment: Proposed Policy on Freedom of Speech and Expression*

## Policy Area

General

Number -

Name: **Freedom of Speech and Expression**

## Purpose

This policy reflects the commitment of the Board of Regents and the institutions it governs to freedom of speech and expression for all students and all faculty.

## Applies To

All Colleges

## Definitions

- **Constitutional time, place, and manner restrictions** means restrictions on the time, place, and manner of free speech that do not violate the First Amendment to the United States Constitution or Article I, Section 19 of the Tennessee Constitution that are reasonable, content- and viewpoint-neutral, narrowly tailored to satisfy a significant institutional interest, and leave open ample alternative channels for the communication of the information or message to its intended audience
- **Faculty** or **faculty member** means any person, whether or not the person is compensated by a public institution of higher education, and regardless of political affiliation, who is tasked with providing scholarship, academic research, or teaching. For purposes of this part, the term "faculty" shall include tenured and non-tenured professors, adjunct professors, visiting professors, lecturers, graduate student instructors, and those in comparable positions, however titled. For purposes of this part, the term "faculty" shall not include persons whose primary responsibilities are administrative or managerial.
- **Free speech** means speech, expression, or assemblies protected by the First Amendment to the United States Constitution or Article I, Section 19 of the Tennessee Constitution, verbal or written, including, but not limited to, all forms of peaceful assembly, protests, demonstrations, rallies, vigils, marches, public speaking, distribution of printed materials, carrying signs, displays, or circulating petitions. "Free speech" does not include the promotion, sale, or distribution of any product or service.
- **Institution** means an institution governed by the Tennessee Board of Regents.
- **Student** means:
  - (A) An individual currently enrolled in a course of study at the institution; and
  - (B) An organization that is comprised entirely of individuals currently enrolled in a course of study at the institution.

## Policy

### I. General Principles

- A. Students have a fundamental constitutional right to free speech.
- B. An institution shall be committed to giving students the broadest possible latitude to speak, write, listen, challenge, learn, and discuss any issue, subject to constitutional time, place, and manner restrictions.
- C. An institution shall be committed to maintaining a campus as a marketplace of ideas for all students and all faculty in which the free exchange of ideas is not to be suppressed because the ideas put forth are thought by some or even by most members of the institution's community to be offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed.
- D. It is for an institution's individual students and faculty to make judgments about ideas for themselves, and to act on those judgments not by seeking to suppress free speech, but by openly and vigorously contesting the ideas that they oppose.
- E. It is not the proper role of an institution to attempt to shield individuals from free speech, including ideas and opinions they find offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed.
- F. Although an institution should greatly value civility and mutual respect, concerns about civility and mutual respect shall never be used by an institution as a justification for closing off the discussion of ideas, however offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed those ideas may be to some students or faculty.
- G. Although all students and all faculty are free to state their own views about and contest the views expressed on campus, and to state their own views about and contest speakers who are invited to express their views on the institution's campus, they may not substantially obstruct or otherwise substantially interfere with the freedom of others to express views they reject or even loathe. To this end, an institution has a responsibility to promote a lively and fearless freedom of debate and deliberation and protect that freedom.
- H. Through shared governance with its faculty, an institution may determine for itself on academic grounds who may teach, what may be taught, how it may be taught and graded, and who may be admitted to the institution as a student.

- I. An institution shall be committed to providing an atmosphere that is most conducive to speculation, experimentation, and creation by all students and all faculty, who shall always remain free to inquire, to study and to evaluate, and to gain new understanding.
- J. The primary responsibility of faculty is to engage an honest, courageous, and persistent effort to search out and communicate the truth that lies in the areas of their competence.
- K. Although faculty are free in the classroom to discuss subjects within areas of their competence, faculty shall be cautious in expressing personal views in the classroom and shall be careful not to introduce controversial matters that have no relationship to the subject taught, and especially matters in which they have no special competence or training and in which, therefore, faculty's views cannot claim the authority accorded statements they make about subjects within areas of their competence; provided, that no faculty will face adverse employment action for classroom speech, unless it is not reasonably germane to the subject matter of the class as broadly construed, and comprises a substantial portion of classroom instruction.
- L. An institution shall maintain the generally accessible, open, outdoor areas of its campus as traditional public forums for free speech by students. This does not mean that those areas must be equally available to non-students.
- M. An institution shall not confine students' free speech to certain areas of the campus, sometimes known as "free speech zones," or otherwise create policies implying that students' free speech is restricted to particular areas of campus.
- N. An institution shall not deny student activity fee funding to a student organization based on the viewpoints that the student organization advocates.
- O. An institution shall not establish permitting requirements that prohibit spontaneous outdoor assemblies or outdoor distribution of literature, although an institution may maintain a policy that grants members of the college or university community the right to reserve certain outdoor spaces in advance.
- P. An institution shall not charge students security fees based on the content of their speech, the content of the speech of guest speakers invited by students, or the anticipated reaction or opposition of listeners to speech.

- Q. An institution shall allow all students and all faculty to invite guest speakers to campus to engage in free speech regardless of the views of guest speakers.
- R. An institution shall not disinvite a speaker invited by a student, student organization, or faculty member because the speaker's anticipated speech may be considered offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed by students, faculty, administrators, government officials, or members of the public.
- S. Students do not have the right to disrupt previously scheduled or reserved activities occurring in a traditional public forum.
- T. An institution is not required to fund costs associated with student speech or expression.

## **II. Publication of Policy**

This policy shall be:

- A. Published annually in the institution's student handbook and faculty handbook, whether paper or electronic;
- B. Made available to students and faculty by way of a prominent notice on the institution's internet site other than through the electronic publication of the policy in the student handbook and faculty handbook;
- C. Sent annually to students and employees to their institutionally-provided email address; and
- D. Addressed by the institution in orientation programs for new students and new faculty.

## **III. Institution Policies**

- A. Institutions may adopt institution policies that include measures that do not violate the First Amendment to the United States Constitution or Article I, Section 19 of the Tennessee Constitution such as:
  - 1. Constitutional time, place, and manner restrictions on assemblies, speech and expression;
  - 2. Reasonable and viewpoint-neutral restrictions in nonpublic forums;
  - 3. Restricting the use of the institution's property to protect the free speech rights of students and faculty and preserve the use of the property for the advancement of the institution's mission;

4. Prohibiting or limiting speech, expression, or assemblies that are not protected by the First Amendment to the United States Constitution or Article I, Section 19 of the Tennessee Constitution; or
  5. Content restrictions on speech that are reasonably related to a legitimate pedagogical purpose, such as classroom rules enacted by faculty.
- B. No later than March 30, 2018, all institutions shall adopt a policy on student-on student harassment defining the term consistent with and no more expansively than the following definition:
- Student on student harassment** means unwelcome conduct directed toward a person that is discriminatory on a basis prohibited by federal, state, or local law and that is so severe, pervasive, and objectively offensive that it effectively bars the victim's access to an educational opportunity or benefit.
- C. Each institution shall consult the TBR Office of General Counsel when drafting its policies on this subject and obtain its approval prior to implementing such policies.

**Source**

T.C.A. Title 49, Chapter 7, Part 24, *The Campus Free Speech Protection Act*

**Related**

**Exhibits**



---

MEMORANDUM

---

MEETING: Presidents Council

SUBJECT: Approval of TBR Policies  
General Policy on Alcoholic Beverages  
General Policy on Smoking and Tobacco

DATE: November 14, 2017

PRESENTER: Mary G. Moody, General Counsel

ACTION REQUIRED: Approval of Policy

STAFF'S RECOMMENDATION: Approval

---

The existing TBR policies regarding alcohol and tobacco on campuses, 1:07:00:00 and 3:05:01:01, are outdated. They will be replaced by the attached policies addressing those subjects separately and in more detail.

Please note:

- The Smoking and Tobacco policy allows for an institution to adopt a policy making its campus smoke and tobacco free.
- The Alcoholic Beverages policy has been drafted to allow for students over the age of twenty-one to consume alcohol if they are an invited guest at function for which the president has approved the serving and consumption of alcohol. The Presidents Council can determine whether this should remain in the policy.

# General Policy on Tobacco and Alcoholic Beverages: 1:07:00:00

## Policy Area

---

Governance, Organization, and General Policies

## Applicable Divisions

---

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

## Purpose

---

The purpose of this policy is the establishment of tobacco and alcohol policies for the Tennessee Board of Regents system.

## Definitions

---

- Sale - means any transfer, trade, exchange, or barter, in any manner or by any means, for consideration, including, but not limited to, requiring fees or the purchase of tickets for admission to the area or event at which alcoholic beverages will be served.

## Policy

---

- I. Tobacco
  - A. The sale of any products containing tobacco is prohibited on all property owned or controlled by the Tennessee Board of Regents and its institutions.
- II. Alcohol
  - A. The President of each ~~four and two-year~~ institution is authorized to, and may from time to time designate a place on property owned or controlled by the institution where alcoholic beverages may be served by alumni and foundation organizations at a function or event sponsored by said organization.
  - B. This area shall not be in classrooms, labs, faculty or administrative offices, ~~residence halls~~, student dining halls, student gathering areas, outdoor public

areas, or athletic facilities accessible to the public. Furthermore, under Policy 3:05:01:01 the use and/or possession of alcoholic beverages by students are prohibited on property owned or controlled by the institution.

- C. The sale of alcoholic beverages at the designated place is prohibited. State funds may not be used for the purchase of alcoholic beverages.
- D. Notwithstanding the provisions noted above, the sale of alcoholic beverages shall be permitted:
  - 1. ~~At the Kemmons Wilson School of Hospitality and Resort Management hotel and conference facility and the Fogelman Executive Center, both of which facilities are operated in connection with the academic program known as the Kemmons Wilson School of Hospitality and Resort Management.~~
  - 2. If Property owned by the Tennessee Board of Regents is disposed of by lease, it is permissible for the tenants of the lessee(s) to sell alcoholic beverages subject to approval by the institution of the tenants occupying the leased property.
- E. Compliance with all applicable laws and regulations shall be required.
- F. This policy shall not be construed as prohibiting the use of alcoholic beverages as cooking supplies in Hospitality Management/Culinary Arts academic coursework where said beverages are not consumed as is, but, in which, the beverages are used solely in the cooking process, or in the wine tasting process, in a manner that is consistent with standard culinary practices.

## Sources

---

TBR Meeting June 20, 1997; March 15, 2002; TBR Meeting June 26, 2008; TBR Board Meeting March 26, 2009; TBR Board Meeting September 25, 2009; TBR Board Meeting March 29, 2012.

## Related Policies

---

- Alcoholic Beverages and Smoking

# Alcoholic Beverages and Smoking: 3:05:01:01

## Policy Area

---

Student Policies

## Applicable Divisions

---

TCATs, Community Colleges, **Universities**

## Purpose

---

The purpose of this policy is the establishment of alcoholic beverage and smoking policy for property owned or controlled by the Tennessee Board of Regents.

## Policy

---

### I. Alcoholic Beverages

- A. The use and/or possession of alcoholic beverages on **university**, community college, and college of applied technology owned or controlled property shall be prohibited except as provided by Policy 1:07:00:00.

### II. Smoking

- A. Smoking shall be prohibited in all buildings owned or operated by a TBR institution.
- B. Smoking shall also be prohibited in all motor vehicles owned, leased or operated by a TBR institution.
- C. This prohibition on smoking shall be communicated to all existing employees and to all prospective employees upon their application for employment.
- D. "No Smoking" signs or the international "No Smoking" symbol shall be clearly and conspicuously posted at every entrance to every building.

## Sources

---

TBR Meeting, August 17, 1973; September 30, 1983; December 7, 2007

## Related Policies

---

- General Policy on Tobacco and Alcoholic Beverages

## **Policy Area**

General

Number -

### **Name: General Policy on Alcoholic Beverages**

#### **Purpose**

The purpose of this policy is to establish system-wide policies on the possession, consumption and sale of alcoholic beverages on property owned or controlled by the Tennessee Board of Regents.

#### **Applies To**

All Students, Faculty, Staff and Visitors at all Colleges

#### **Definitions**

- **Alcoholic Beverage** means and includes intoxicating liquors, wine and beer as defined by T.C.A. § 57-3-101 and T.C.A. § 57-5-101.

#### **Policy**

##### **I. General Prohibition**

The possession or consumption of alcoholic beverages on property owned or controlled by the college is prohibited except as provide in this policy.

A. Faculty, staff, **students** or visitors who are at least twenty-one years of age may possess unopened containers of alcoholic beverages within their personal vehicles, provided that they may not open the containers or consume the contents while on property owned or controlled by the college.

##### **II. Serving Alcoholic Beverages at Special Events**

The President of each college is authorized to approve the serving and consumption of alcoholic beverages at a function or event held on college property.

A. The event may not take place in classrooms; labs; faculty or administrative offices; student dining halls; student gathering areas; outdoor public areas, unless access to the area is restricted during the event; or athletic facilities, including stadiums, gymnasiums, playing fields, training rooms or locker rooms.

B. The approval must be given in writing and must designate the sponsor of the event, the specific location of the event, the date and time of the event and the hours during which the alcoholic beverages will be served.

C. **Students under the age of twenty-one may not attend an event at which alcoholic beverages will be served.**

D. It is the responsibility of the sponsor of the event to determine if guests who are served alcoholic beverages are at least twenty-one years of age.

E. If the sponsor is a third party, they must agree to indemnify the college from all liability arising from the service of alcohol at the event and provide proof of adequate general liability insurance.

### **III. Sale of Alcoholic Beverages at Special Events**

Subject to the provisions of section II, above, the President of each college may approve the sale of alcoholic beverages at a function or event held on college property, consistent with state and local law. The sponsor of the event is responsible for insuring compliance with the applicable laws and providing documentation of that compliance to the college prior to approval of the sale of alcoholic beverages at the event.

### **IV. Expenditure of State Funds for Alcoholic Beverages**

The expenditure of state funds for the purchase of alcoholic beverages is absolutely prohibited. "State funds" includes funds derived from state taxes, tuition, or student fees that are appropriated or re-appropriated by the general assembly. If alcoholic beverages are served at a college-sponsored event, the cost of alcoholic beverages, including tax, must always be separately identifiable on the receipts and supporting documentation and the source of the funds for the purchase must be identified.

### **V. Culinary Arts Programs**

The use of alcoholic beverages as part of the curriculum in Hospitality Management/Culinary Arts and similar academic courses where the beverages are used solely in the cooking process or in the wine tasting process that is consistent with standard culinary practices is permitted, however, students who are not twenty-one shall not participate in wine tastings.

### **VI. Sale of Alcoholic Beverages by Lessees**

If property owned by the Tennessee Board of Regents is leased to a third party, the lease may allow for sale of alcoholic beverages on the property, subject to the applicable state and local laws. The lease must be for a period of at least twelve



months; must require the lessor to obtain the lessor's prior approval of the sale of alcoholic beverages and provide for immediate termination of the lease if violations of the applicable state and local laws occur.

**Source** T.C.A. § 49-8-203, T.C.A. § 49-7-3003

Rule 0240-02-01, Tenn. Comp. R. & Regs. (1999)

**History**

**Related**

**Exhibits**

DRAFT

## Policy Area

General

Number -

### **Name: Prohibitions on Smoking and Use of Smokeless Tobacco Products**

#### **Purpose**

The purpose of this policy is to establish system-wide policies on smoking and the use of tobacco products on property owned or controlled by the Tennessee Board of Regents.

#### **Applies To**

All Colleges and System Office, students, faculty, staff and visitors

#### **Definitions**

- **Smoking** means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette (including an electronic cigarette), pipe or other lighted instrument or product that emits smoke or vapor, in any manner or in any form.
- **Vaping** means the act of inhaling and exhaling the aerosol, often referred to as vapor, which is produced by an e-cigarette or similar device. Under this policy, vaping is considered smoking.
- **Electronic Cigarette (e-cigarette)** means an electronic device that converts nicotine into a vapor that is inhaled by the user.
- **Smokeless Tobacco** includes snuff, which is fine-grain tobacco that often comes in pouches that users put between their lower lip or cheek and gum, and chewing tobacco, which comes in shredded, twisted or bricked tobacco leaves.

#### **Policy**

##### **I. Prohibitions on Smoking and Use of Smokeless Tobacco**

A. Smoking and use of smokeless tobacco are prohibited in all buildings owned or operated by the Tennessee Board of Regents and its institutions. This prohibition applies to all hallways, classrooms, laboratories, seminar/meeting rooms, offices, restrooms, indoor and open-air athletic facilities, performance halls, parking garages and all other spaces in institution-owned or operated buildings.

B. Entrances to all institution buildings are designated as smoke and smokeless tobacco-free. Unless otherwise posted, smoking and use of smokeless tobacco are prohibited within twenty-five (25) feet of all doorways, windows, and ventilation systems of all institution buildings. Smokers are responsible for ensuring that all smoking

activity, including the lighting and discarding of smoking materials, takes place more than twenty-five (25) feet from the doorways, windows, and ventilation systems of institution buildings to avoid infiltration of smoke into the buildings. Smokeless tobacco users are responsible for discarding the products of their tobacco use responsibly. The smokeless tobacco and/or its juices must be spat into a disposable cup or container that is then disposed of in the trash. Spitting tobacco and/or its juices on the floor, sidewalk, grass, landscape beds or pavement is prohibited.

C. Smoking and use of smokeless tobacco are prohibited in all motor vehicles owned, leased or operated by the institution. This prohibition applies to motor vehicles rented by the institution, but does not apply to motor vehicles rented individually by an employee for use in institution business travel unless the travel is being reimbursed by the institution and includes another employee who objects to smoking or smokeless tobacco use in the vehicle.

D. Notwithstanding anything in this policy to the contrary, Tennessee law prohibits smoking in all private motor vehicles when being used for the public transportation of children or as part of health care or day care transportation.

## **II. Smoke-Free or Tobacco-Free Campuses**

Notwithstanding Section I., above, an institution may adopt an institutional policy regarding smoking and use of smokeless tobacco that prohibits smoking or use of smokeless tobacco in all indoor and outdoor areas of its campus.

## **III. Sale of Tobacco Products and E-cigarettes Prohibited**

The sale of any products containing tobacco, e-cigarettes and other vaping supplies is prohibited on all property owned or controlled by the Tennessee Board of Regents and its institutions.

## **IV. Compliance and Enforcement**

A. This policy and/or the institution's policy on smoking and use of smokeless tobacco shall be communicated in writing to all existing employees, all prospective employees upon their application for employment, all students, and all persons who violate the prohibition on smoking or use of smokeless tobacco.

B. The institution shall post signs reasonably calculated to inform the public of the institution policy regarding smoking and the use of smokeless tobacco. If smoking and use of smokeless tobacco are permitted in designated areas, those areas must be clearly marked.

C. Institution employees may report violations of this policy to their immediate supervisor, the next level of supervision, or the institution employee directly responsible for the facility in which the violation occurs. Violations may also be reported by employees, students or others to an office designated by the institution to receive such complaints.

D. Any institution employee who is found to have violated this policy may be subject to disciplinary action.

E. Any institution student who is found to have violated this policy may be subject to discipline in accordance with the System-wide Rules on Student Conduct and Disciplinary Sanctions Chapter 0240-02-03 and the applicable institution policy.

F. Visitors to the campus who are observed violating this policy shall be informed of the policy and asked to cease the violation immediately or leave the campus. If they refuse, security should be called to escort the visitor from the campus.

G. Nothing in this policy shall be construed to limit a supervisor's ability to establish, regulate, or limit employee work breaks, whether for smoking or otherwise.

**Source**

T.C.A. § 49-8-203, T.C.A. § 49-7-135

**Related**

**Exhibits**

# SYSTEMWIDE STUDENT RULES

## CHAPTER 0240-2-1

### ALCOHOLIC BEVERAGES

#### 0240-2-1-.01 ALCOHOLIC BEVERAGES.

a. Definitions. As used in this rule,

1. "Alcoholic Beverage" means and includes intoxicating liquors, wine and beer as defined by T.C.A. § 57-3-101 and T.C.A. § 57-5-101;

-2. "Institution Property" means property owned or controlled by an institution governed by the Tennessee Board of Regents.

b. The ~~use and/or~~ possession and/or consumption of alcoholic beverages by students under the age of twenty-one on university, community college, technical institute and area vocation-technical school owned or controlled institution property ~~shall be~~ is absolutely prohibited.

c. The possession and/or consumption of alcoholic beverages by students age twenty-one and over on property owned or controlled by an institution governed by the Tennessee Board of Regents is prohibited except:

1. Students who are at least twenty-one years of age may possess unopened containers of alcoholic beverages within their personal vehicles, provided that they may not open the containers or consume the contents while on institution property and the alcoholic beverage must be stored out of plain sight. When the student is not in the vehicle, the vehicle must remain locked.

2. Students who are at least twenty-one years of age may consume alcoholic beverages at an event on institution property for which the President has approved the serving and consumption of alcoholic beverages by those invited to the event and to which the student is an invited guest.

d. Disciplinary Action

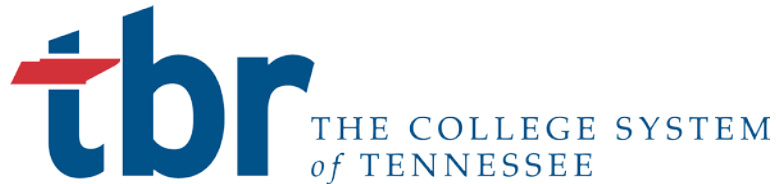
1. Students violating this rule and/or any related system or institution policy shall be subject to discipline in accordance with the institution's disciplinary policy.

2. Violations of this rule by students under the age of twenty-one shall be reported to campus law enforcement.

3. Except as prohibited by the Family Educational Rights and Privacy Act (FERPA) 20 U.S.C. § 1232(g), the institution shall notify a parent or legal guardian of a student under twenty-one years of age if the student has committed a disciplinary violation with respect to the use or possession of alcoholic beverages.

Authority: T.C.A. § 49-8-203; T.C.A. § 49-7-146.

DRAFT



**Presidents Meeting – November 14, 2017**

---

**SUBJECT:** Approval of TBR Policy  
Public Records Policy

**PRESENTER:** Mary G. Moody, General Counsel

**ACTION REQUIRED:** Requires Vote

---

In 2016, the General Assembly amended the Public Records Act to require every governmental entity subject to establish a written policy implementing the Act. The Office of Open Records Counsel was required to develop a model policy and procedures to be followed. The proposed policy follows that model.

Once adopted by the Board, we will hold training sessions on the policy for the Public Record Request Coordinators and Records Custodians.

*Attachment: Proposed Public Records Policy*

## **Policy Area**

1 – Governance, Organization, and General Policies

### **Number -**

**Name: Public Records Policy**

### **Purpose**

In accordance with T.C.A. § 10-7-503(g), this policy is adopted to provide economical and efficient access to public records as provided under the Tennessee Public Records Act (TPRA) in T.C.A. §§ 10-7-501, et seq.

### **Applies To**

System Office and Colleges

### **Definitions**

*FERPA:* The Family Educational Rights and Privacy Act, codified in 20 U.S.C. § 1232(g).

*Institution:* All community colleges and colleges of applied technology governed by the Tennessee Board of Regents and the system office.

*Public Records:* 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. See Tenn. Code Ann. § 10-7-503(a)(1)(A).

*Records Custodian:* The office, official or employee lawfully responsible for the direct custody and care of a public record. See Tenn. Code Ann. § 10-7-503(a)(1)(C). The records custodian is not necessarily the original preparer or receiver of the record.

*Requestor:* A person seeking access to a public record, whether it is for inspection or duplication.

## **Policy**

### **I. General Accessibility of Public Records**

- A. The TPRA provides that all state, county and municipal records shall, at all times during business hours, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law. See Tenn. Code Ann. § 10-7-503(a)(2)(A). Accordingly, the public records of the institutions governed by the Tennessee Board of Regents



are presumed to be open for inspection during the regular hours of the institution's business office, unless otherwise provided by law.

- B. Institution personnel shall provide timely and efficient access and assistance to persons requesting to view or receive copies of public records. No provisions of this Policy shall be used to hinder access to open public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the institution shall be protected as provided by current law. Concerns about this Policy should be addressed to the Public Records Request Coordinator for The Tennessee Board of Regents or to the Tennessee Office of Open Records Counsel ("OORC").
- C. This Policy is posted online at \_\_\_\_\_. This Policy shall be reviewed annually.
- D. This Policy shall be applied consistently throughout the institutions and the system office.
- E. Each institution shall designate a Public Records Request Coordinator ("PRRC") and notify the System PRRC of that person's name and contact information.

## II. Requesting Access to Public Records

- A. Public record requests must be communicated to the appropriate Public Records Request Coordinator ("PRRC") or his/her designee to ensure public record requests are routed to the appropriate records custodian and fulfilled in a timely manner. The Institution and System Office PRRC's are identified in Exhibit 1.
- B. A PRRC must not require that requests **for inspection only** be made in writing. However, the PRRC may request a written request to facilitate recordkeeping and ensure accuracy in fulfilling the request. The PRRC should request a mailing [or email] address from the requestor for providing any written communication required under the TPRA.
- C. Requests for inspection may be made orally or in writing using the Public Records Request Form, attached as Exhibit 2. Requests for inspection may be made in person or by mail, phone, fax, email or internet portal, if the PRRC maintains one.
- D. Requests for copies, or requests for inspection and copies, shall be made in writing using the attached Form. Requests for copies may be made in person or by mail, phone, fax, email or internet portal, if the PRRC maintains one.

- E. Proof of Tennessee citizenship by presentation of a valid Tennessee driver's license (or alternative acceptable form of ID) is required as a condition to inspect or receive copies of public records.
- F. The meeting materials, minutes and webcasts of the meetings of the Board of Regents and its Committees held since November 2013 are available for viewing on the TBR website at <https://www.tbr.edu/board/board-meeting-schedule-and-materials>.

### **III. Responding to Public Records Requests**

#### **A. Public Record Request Coordinator**

- 1. The PRRC shall review public record requests and make an initial determination of the following:
  - a. If the requestor provided evidence of Tennessee citizenship;
  - b. If the records requested are described with sufficient specificity to identify them; and
  - c. If the Institution is the custodian of the records.
- 2. The PRRC shall acknowledge receipt of the request and take any of the following appropriate action(s):
  - a. Advise the requestor of this Policy and the elections made regarding:
    - i. Proof of Tennessee citizenship;
    - ii. Form(s) required for copies;
    - iii. Fees (and labor threshold and waivers, if applicable); and
    - iv. Aggregation of multiple or frequent requests.
  - b. If appropriate, deny the request in writing, providing the appropriate ground such as one of the following:
    - i. The requestor is not, or has not presented evidence of being, a Tennessee citizen.

- ii. The request lacks specificity. (Offer to assist in clarification)
  - iii. An exemption makes the record not subject to disclosure under the TPRA. (Provide the exemption in written denial)
  - iv. The Institution is not the custodian of the requested records.
  - v. The records do not exist.
- c. If appropriate, contact the requestor to see if the request can be narrowed.
  - d. Forward the records request to the appropriate records custodian in the Institution.
  - e. If requested records are in the custody of a different institution, and the PRRC knows the correct Institution, advise the requestor of the correct Institution and PRRC for that entity if known.
- 3. See Exhibit 1 to this policy for the names and contact information of the PRRCs for each TBR institution and the System Office.
  - 4. The PRRCs shall report to the Board of Regents on an annual basis about the Institution's compliance with the TPRA pursuant to this Policy and shall make recommendations, if any, for improvement or changes to this Policy.

#### B. Records Custodian

- 1. Upon receiving a public records request, a records custodian shall promptly make requested public records available in accordance with Tenn. Code Ann. § 10-7-503. If the records custodian is uncertain that an applicable exemption applies, the custodian may consult with the PRRC, counsel, or the OORC.
- 2. If not practicable to promptly provide requested records because additional time is necessary to determine whether the requested records exist; to search for, retrieve, or otherwise gain access to records; to determine whether the records are open; to redact records; or for other similar reasons, then a records custodian shall, within seven (7) business days from the records custodian's receipt of the request, send the requestor a completed Public Records Request Response Form which is attached as Exhibit 3.

3. If a records custodian denies a public record request, he or she shall deny the request in writing as provided in Section III.A.2.b using the Public Records Request Response Form.
4. If a records custodian reasonably determines production of records should be segmented because the records request is for a large volume of records, or additional time is necessary to prepare the records for access, the records custodian shall use the Public Records Request Response Form to notify the requestor that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable. If appropriate, the records custodian should contact the requestor to see if the request can be narrowed.
5. If a records custodian discovers records responsive to a records request were omitted, the records custodian should contact the requestor concerning the omission and produce the records as quickly as practicable.

#### C. Redaction

1. If a record contains confidential information or information that is not open for public inspection, the records custodian shall prepare a redacted copy prior to providing access. If questions arise concerning redaction, the records custodian should coordinate with counsel or other appropriate parties regarding review and redaction of records. The records custodian and the PRRC may also consult with the OORC or with the Office of Attorney General and Reporter.
2. Whenever a redacted record is provided, a records custodian should provide the requestor with the basis for redaction. The basis given for redaction shall be general in nature and not disclose confidential information.

#### **IV. Inspection of Records**

- A. There shall be no charge for inspection of open public records.
- B. The location for inspection of records within the offices of the Institution should be determined by either the PRRC or the records custodian.
- C. The PRRC determines the location for the inspection of public records and may require an appointment for the inspection of public records. The PRRC must not allow a requestor to inspect original records outside the presence of an Institution employee designated by the PRRC. The PRRC must take reasonable precautions to ensure that the integrity of the public records is maintained during the inspection of the records.

## **V. Copies of Records**

- A. A records custodian shall promptly respond to a public record request for copies in the most economic and efficient manner practicable.
- B. Copies will be available for pickup at a location specified by the records custodian.
- C. Upon pre-payment for postage in addition to the cost of the copies, copies will be delivered to the requestor's home address by the United States Postal Service. Another means of delivery, such as a commercial delivery service, may be chosen by the requestor, subject to the pre-payment of the cost of delivery.
- D. A requestor will not be allowed to make copies of records with personal equipment if the cost of production of the records exceeds fifty dollars (\$50).
- E. If copies are to be provided by the Institution in an electronic format, the Institution must provide the flash drive or other device used to store the media, at the expense of the requestor. Under no circumstances may a requestor provide a data storage device that will be connected to the institution's IT system.
- F. Electronic records will be produced only in a read-only format.

## **VI. Fees and Charges and Procedures for Billing and Payment**

- A. Fees and charges for copies of public records should not be used to hinder access to public records. No charges will be assessed for copies and duplicates unless the production costs exceed fifty dollars (\$50).
- B. Records custodians shall provide requestors with an itemized estimate of the charges, using the form attached as Exhibit 4, prior to producing copies of records and may require pre-payment of such charges before producing requested records.
- C. When fees for copies and labor do not exceed one hundred dollars (\$100), the fees may be waived.

Requests for waivers for fees above \$50 must be presented to the Institution's chief finance officer, who is authorized to determine if such waiver is in the best interest of the institution and for the public good. Fees associated with aggregated records requests will not be waived.

D. Fees and charges for copies are as follows:

1. \$0.15 per page for 8 ½ “ x 11” and 8 ½” x 14” black and white copies.
2. \$0.50 per page for 8 ½ “ x 11” and 8 ½” x 14” color copies. Prior to copying records in color, the requestor must be advised that the record can be produced in color for the higher cost and consent to paying for the color copies.
3. The charge for a duplex copy must be the same as the charge for two (2) separate copies.
4. If a copy of a public record is produced on a medium other than for 8 ½ “ x 11” or 8 ½” x 14” paper, then the PRRC must assess a copy charge equal to the actual cost of producing a copy of the public record, taking into consideration the amount of material, equipment costs and the cost of the alternative medium.
5. If the requested records exist electronically, but not in the format requested or a new or modified computer program of application is necessary to put the records in a readable and reproducible format or it is necessary to access backup files, the PRRC must charge the requestor the actual costs incurred in producing the records in the format requested or in creating or modifying a computer program or application necessary to put the records in a readable and reproducible format or in accessing backup files.
6. The TPRA does not require the Institution to provide public records to a requestor in the format requested by the requestor (e.g., a format that can be manipulated; paper instead of electronic).
7. When providing electronic copies of public records, the PRRC may charge per-page copying costs only when paper copies that did not already exist were required to be produced in responding to the request, such as when an electronic public record must be printed and redacted.
8. The PRRC may charge the actual costs for flash drives or similar storage devices on which electronic copies are provided.
9. If an outside vendor is used, the actual costs assessed by the vendor must be charged to the requestor.

E. Fees for Labor Costs

1. The PRRC must charge the requestor the hourly wage of the employee(s) reasonably necessary to produce the requested records above the labor threshold.
  - a. The “labor threshold” is the labor of the employee(s) reasonably necessary to produce requested records for the first hour incurred by the Institution in producing the records.
  - b. “Labor” means the employee time reasonably necessary to produce the requested records and includes the time spent locating, retrieving, reviewing, redacting, and reproducing the records.
  - c. The “hourly wage” is based upon the employee(s) base salary and does not include benefits.
2. In calculating the labor costs to be charged to the requestor:
  - a. First, determine the number of hours each employee spent producing the requested public records;
  - b. Second, subtract the one (1) hour labor threshold from the number of hours the highest paid employee spent producing the request;
  - c. Third, multiply the total number of hours to be charged for the labor of each employee by that employee’s hourly wage; and
  - d. Fourth, add together the totals for all the employees involved in the request to determine the total amount of the labor costs to be charged to the requestor.
3. Labor costs should be tracked based on tenths of an hour, rounded down.
4. The PRRC should strive to ensure that current employees with the lowest practicable hourly wage be used to fulfill public records requests. However, the PRRC has the discretion to determine that is more cost effective to utilize a higher-compensated employee if he/she can accomplish the task more efficiently, which may result in lower total labor costs.

F. The PRRC has the discretion to determine how payment for production costs must be made (e.g., cash, check credit/debit card).

G. Payment in advance will be required when costs are estimated to exceed fifty dollars (\$50).

## **VII. Aggregation of Frequent and Multiple Requests**

A The Institution will aggregate record requests in accordance with the Frequent and Multiple Request Policy promulgated by the OORC when more than (4) requests are received within a calendar month (either from a single individual or a group of individuals deemed working in concert).

B. When Aggregating:

1. The level at which records requests will be aggregated is at the institution level.
2. The PRRC is responsible for making the determination that a group of individuals are working in concert. The PRRC or the records custodian must inform the individuals that they have been deemed to be working in concert and that they have the right to appeal the decision to the OORC.
3. Routinely released and readily accessible records excluded from aggregation include, but are not limited to:
  - a. Materials for meetings of the Board of Regents and Board committees
  - b. Other records determined by the PRRC.

## **VII. Confidentiality Exceptions**

Exceptions to the right to inspect or copy public records include, without limitation: (1) records made confidential by the TPRA itself or by other state law; and (2) records the Institution is required to keep confidential by federal statute or regulation as a condition for receipt of federal funds or for participation in a federally funded program.

### **Sources**

T. C. A. § 49-8-203; T. C. A. § 10-7-503(g); Tennessee Office of Open Records Counsel's Model Public Records Policy, Best Practices & Guidelines document, the Safe Harbor Policy, the Schedule of Reasonable Charges, and the Reasonable Charges for Frequent and Multiple Requests Policy, see: [https://comptroller.tn.gov/open\\_records/](https://comptroller.tn.gov/open_records/).

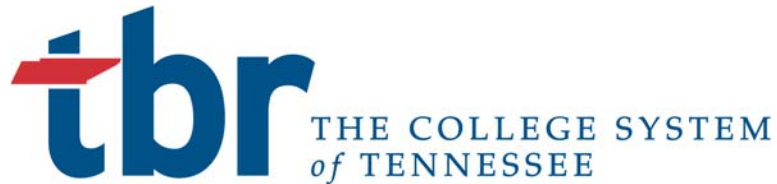
### **Related**



## **Exhibits**

1. List of Public Records Request Coordinators
2. Public Records Request Form
3. Response to Public Records Request Form
4. Estimate of Production and Copying Costs Form

DRAFT



---

**Presidents Meeting – November 14, 2017**

---

**SUBJECT:** Method of Administration for Compliance with Office of Civil Rights Guidelines, Title VI, Title IX, & Section 504: G-120

**PRESENTER:** Dr. Heidi Leming, Interim Vice Chancellor for Student Success

**ACTION REQUIRED:** Requires Vote

---

The purpose of this guideline is to establish the operational guidelines for compliance with Office of Civil Rights Guidelines as well as Title VI, Title IX, Title II of the ADA and Section 504 at institutions governed by the Tennessee Board of Regents.

# Method of Administration for Compliance with Office of Civil Rights Guidelines, Title VI, Title IX, & Section 504: G-120

## Guideline Area

---

General Guidelines

### Applicable Divisions

---

TCATs, Community Colleges, ~~Universities~~, System Office

### Purpose

---

The purpose of this guideline is to establish the operational guidelines for compliance with Office of Civil Rights ~~Guidelines~~ as well as Title VI ~~and~~, Title IX, Title II of the ADA and Section 504 at institutions governed by the Tennessee Board of Regents.

## Guideline

---

### I. Introductory Information

- A. This Method of Administration (MOA) for Compliance with Office of Civil Rights Guidelines, Title VI, Title IX, and Section 504 as applied to the Tennessee Colleges of Applied Technology and TBR Community Colleges offering vocational technical education was developed in 1985 in accordance with federal laws and regulations.

### II. Organization to Meet Civil Rights Responsibilities

#### A. Organization of Compliance Program

##### 1. Administrative Unit Directing Compliance Program

- a. The ~~Division of Organizational Effectiveness and Strategic Initiatives~~Division of Policy and Strategy, Office of Student Success, Tennessee Board of Regents, will be responsible for implementing and directing the compliance program. The division personnel will utilize resources of other divisions and agencies as the MOA dictates.

##### 2. Compliance Director

- a. TBR Director of ~~Diversity and Equity~~Student Initiatives, Tennessee Board of Regents 1 Bridgestone Park Nashville, TN 37214
3. Line of authority of Compliance Director
  - a. Chancellor, Tennessee Board of Regents
  - b. Vice Chancellor for ~~Organizational Effectiveness and Strategic Initiatives~~Student Success Tennessee Board of Regents
    1. The line of authority represented above is a direct line from the Compliance Director to the agency administering the MOA to the governing body for postsecondary vocational technical education in Tennessee.
4. Organizational Plan
  - a. Review of internal policies and procedures
    1. TBR Senior Staff members review policy matters relating to their respective areas and facilitate further review by the appropriate Sub-Councils of institutional representatives.
    2. Following review of the various sub- councils, policy matters are then transmitted to the Presidents' Council ~~or the Tennessee College of Applied Technology Directors' Sub-Council.~~
    3. If approved by the Presidents' Council ~~or TCAT Directors' Sub-Council~~ and the Chancellor, policy additions or revisions are transmitted to the Tennessee Board of Regents for approval.
  - b. Development of a Civil Rights Compliance Program
    1. The Compliance Director will coordinate activities of appropriate TBR staff and institutional personnel to ensure an effective civil rights compliance program is in place for all postsecondary vocational technical education in Tennessee.
  - c. Development of technical assistance activities
    1. The Vice Chancellor for ~~Organizational Effectiveness and Strategic Initiatives~~Student Success will work with appropriate members of TBR

System Staff to provide technical assistance to all institutions offering postsecondary vocational technical education in Tennessee.

d. Coordination of three components

1. The Compliance Director will coordinate the selection of staff to provide the above-mentioned functions.

B. Personnel Assigned to Implement the Compliance Program

1. Vice Chancellor ~~Organizational Effectiveness and Strategic Initiatives~~ Student Success, Tennessee Board of Regents 1 Bridgestone Park Nashville, Tennessee 37214 (615) 366-~~3920~~3948
2. ~~Vice Chancellor Tennessee Colleges of Applied Technology~~ Special Assistant to the Chancellor, Tennessee Board of Regents 1 Bridgestone Park Nashville, Tennessee 37214 (615) 366-~~4460~~4473
3. Director ~~Organizational Effectiveness and Strategic~~ Student Initiatives, Tennessee Board of Regents 1 Bridgestone Park Nashville, Tennessee 37214 (615) 365-~~1508~~3929
4. Legal-General Counsel, Tennessee Board of Regents 1 Bridgestone Park Nashville, Tennessee 37214 (615) 366-4438
5. Vice Chancellor Business and Finance, Tennessee Board of Regents 1 Bridgestone Park Nashville, Tennessee 37214 (615) 366-4413
6. Vice Chancellor Academic Affairs, Tennessee Board of Regents 1 Bridgestone Park Nashville, Tennessee 37214 (615) 366-4406
7. ~~Associate Vice Chancellor~~ Executive Director of Facilities Development, Tennessee Board of Regents 1 Bridgestone Park Nashville, Tennessee 37214 (615) 366-4432

III. Review of State Policies and Programs

A. Conduct of State Policy Review

1. Internal Operations of State Agency
  - a. The Vice Chancellor for Business and Finance will be responsible for the review of ~~Executive Order #8 and~~ the Policies and Guidelines of the TBR which govern

employment for all personnel in the system [to ensure their compliance with Presidential Executive Order 11246, as amended.](#)

- b. The Compliance Director will be responsible for the review of state operated programs to assure that policies and procedures do not discriminate against target populations as to race, color, national origin, sex, and handicap.
    1. The Legal Counsel for the TBR will assist in the review.
  - c. Results of the review will be reported in the annual report according to the guidelines outlined in Part V of the MOA.
2. Formulas for Distribution
    - a. Each year, the Vice Chancellor for ~~Organizational Effectiveness and Strategic Initiatives~~ Student Success will be responsible for the review of the five year plan, annual plan, appropriate state records and laws which outline the formulas for distribution of federal and state funds.
    - b. The formulas will be reviewed to assure that identified factors, computation of factors, and importance (weighting) assigned to factors utilized in funding formulas do not discriminate against target populations.
    - c. All formulas used to distribute federal and state funds to any institution will be reviewed annually for discriminatory factors.
    - d. The Legal Counsel and Vice Chancellor for Business and Finance for the TBR will assist in the review of funding formulas.
    - e. The formulas reviewed will affect funding to institutions for the following programs:
      1. Tennessee Colleges of Applied Technology
      2. Community colleges
    - f. Results of the review will be reported in the annual report according to the guidelines outlined in Part V of the MOA.
  3. Requirements for Admission and Administration

- a. The Tennessee Board of Regents will review the establishment of requirements for admission to and the administration of vocational education programs to assure that discriminatory factors do not exist and to assure compliance with Title VI, Title IX, and Section 504 of the Rehabilitation Act.
  - b. The Vice Chancellors for ~~Organizational Effectiveness and Strategic Initiatives,~~ ~~Colleges of Applied Technology~~Student Success, and Academic Affairs will take responsibility for such reviews.
4. Competitive Grants
- a. Each year, the Vice Chancellor for ~~Vocational/Technical Education,~~ Student Success and Vice Chancellor for Academic Affairs will review criteria utilized for awarding competitive grants to assure that no factors are included which discriminate against target populations.
  - b. Methods of disseminating information, providing technical assistance, and awarding competitive grants will be reviewed for discriminatory factors.
  - c. The Legal Counsel for the Tennessee Board of Regents will assist in the review of the policies and procedures.
  - d. Results of the review will be reported in the annual report according to guidelines outlined in Part V of the MOA.
5. Approval of Action by Local Entities
- a. Actions initiated by local entities, including community colleges, and colleges of applied technology, are reviewed by members of the TBR System Office Staff to ensure that local entities do not discriminate against target populations.
  - b. The Legal Counsel of the TBR will assist in the review.
  - c. Results will be reported in the annual report according to guidelines outlined in Part V of the MOA.
6. State Operated Institutions
- a. Each year, the Vice Chancellors for ~~Tennessee Colleges of Applied Technology~~Student Success and Academic Affairs will be responsible for the

review of the policies and guidelines for colleges of applied technology and community colleges to assure that policies and procedures do not discriminate against target populations and that the same are in compliance with Sections IV - IX of the OCR guidelines.

~~b. The Vice Chancellor for Academic Affairs will be responsible for the review of policies and guidelines for community colleges and colleges of applied technology to assure that they do not discriminate against target populations and that the same are in compliance with Sections IV—IX of the OCR guidelines.~~

e.b. The Director of Diversity and Equity Student Initiatives and Legal Counsel of the TBR will assist in the review.

e.c. Results will be reported in the annual report according to guidelines outlined in Part V of the MOA.

B. Method of Review for State Policies and Procedures

1. The staff member assigned responsibility for each review will examine each policy and guideline in relation to the OCR guidelines and Title VI, Title IX and Section 504 of the Rehabilitation Act and develop any recommendations for change.
2. The Compliance Director shall coordinate the review of all state policies and be responsible for preparing the annual report to be submitted July 1 each year.

C. State Policy Review Schedule

1. The schedule for policy review will begin on September 1 annually and the annual report will be submitted on July 1.
2. The report will identify any significant changes in policies or guidelines that could affect civil rights compliance.

D. Review of State Institutions

1. The Tennessee Board of Regents operates 27 Tennessee Colleges of Applied Technology, and 13 Community Colleges which are state institutions.
2. These state institutions will comprise a pool of sub recipients which will follow the procedures and schedule outlined in Part IV.



3. The Compliance Director will be responsible for assigning staff to conduct the reviews. Staff from institutions will participate in reviews of institutions other than their own.
4. If a state operated institution is found to be in non-compliance, the TBR will assume the responsibility to assure voluntary compliance.
5. Results of the reviews will be reported in the annual report according to guidelines outlined in Part V of the MOA.

#### IV. Ensuring Compliance by Sub-recipients

##### A. Statement of Objectives

1. To implement a systematic agency level review procedure to ensure that all institutions are reviewed within a five year period in order to identify possible discrimination through periodic review of available state and local data.
2. To design a system for conducting on-site reviews for at least 11% of the systems in the agency level review pool.
3. To develop an on-going technical assistance program for institutions to assist in preventing and eliminating discriminatory policies and procedures.
4. To develop a process for voluntary compliance by institutions found to be in non-compliance.

##### B. Identification of Possible Institutional Violations through Agency Level Reviews

1. Agency level reviews or desk audits will be conducted by the ~~Division of Organizational Effectiveness and Strategic Initiatives~~Office of Student Success, Tennessee Board of Regents.
  - a. Annually, at least 11% of the sub recipient pool will be scheduled for an agency level review.
  - b. The Divisions ~~of Tennessee Colleges of Applied Technology, the Division of Academic Affairs,~~ and the Division of Facilities Management will assist with the audits.

2. The TBR will schedule reviews to reach, at the earliest possible date, those institutions most likely to have compliance problems.
3. Beginning with a pool of all sub recipients, the following will be omitted:
  - a. Those previously reviewed (if any) in the five year cycle;
  - b. Those that are subjects of pending litigation in Federal or State Courts because of alleged discrimination on the basis of race, color, national origin, sex, or handicap; and
  - c. Those that are subjects of pending or recent investigations or enforcement proceedings by OCR.
4. From those remaining in the pool, the Compliance Program Director will select at least 11% of the total number of institutions using the following factors to determine which are most in need of immediate review:
  - a. Knowledge of an institution's practices that raise potential civil rights compliance problems;
  - b. Reports of possible non-compliance obtained from complaints filed by parents, students, civil rights groups or others;
  - c. Reports from State Civil Rights Agencies or State Advisory Committees that raise questions about potential civil rights compliance problems; and
  - d. information or reports on institutions from OCR that indicate possible compliance problems.
5. Conducting the reviews
  - a. The Tennessee Board of Regents Staff will conduct agency level reviews of institutions using data and documents already available in its system office.
  - b. Following are documents and data to be examined in the review:
    1. VEDS enrollment data.
    2. Annual program evaluation reports.
    3. Annual accountability reports.
    4. Annual appropriations requests.

5. Capital Outlay requests.
  6. Quarterly enrollment reports.
  7. Annual analysis of faculty salaries by sex and race.
  8. Annual affirmative action reports.
  9. Annual budget analysis detailing promotions and salary distribution.
  10. Request for new programs.
  11. Five year plan data, and annual update.
  12. Job Training Coordination Plan and update.
  13. Information derived from complaints or reports from consumer groups, public agencies, parents, or students.
  14. Letters of findings issued by OCR.
  15. EEO complaints.
  16. Audit reports.
- c. The agency level review will use the following information as indicators of compliance:
1. Enrollment ratios comparable to target populations in the service area.
  2. Constant or positive enrollment trend among target populations.
  3. Positive trend in employment of target populations.
  4. Positive trends in data related to graduates or completers among target populations.
  5. Positive trends in opportunities available to target populations in activities and programs of the institution.
  6. The per-student appropriation of Federal and State funds with respect to the number of minority students in vocational education programs.
  7. Participation of race, color, national origin (including student of limited English skills), sex, and handicap in apprentice-related programs.
6. Notification of Institutions

- a. At the commencement of the agency level review, the Vice Chancellor for ~~Organizational Effectiveness and Strategic Initiatives~~Student Success will send a letter to each institution that will undergo an agency level review at least 30 days prior to the start of the review.
    1. The letter will outline the purpose of the review, the areas to be reviewed and the date for completion of the review.
    2. The letter will also ask the institution to cooperate by supplying any information not in possession of the TBR.
  - b. Following completion of all agency level reviews and a determination of which institutions will be scheduled for on-site reviews, the Vice Chancellor for ~~Organizational Effectiveness and Strategic Initiatives~~Student Success will notify each institution of one of the following courses of action:
    - ~~1. That because no violations were shown by the review, there will be no on-site review of the institution that year; but the institution has a continuing obligation to ensure that its programs are operated in compliance with civil rights requirements and may be reviewed by OCR during the year;~~
    - 2.1. That although the agency level review revealed no apparent problems, the institution will, nevertheless, be the subject of an on-site review; or
    - 3.2. That the agency level review revealed some possible violations (to be listed), and that these specific problem areas, as well as a general review of the institution's operations, will be the subject of an on-site review.
7. Timetable for Agency Level Review
- ~~a.~~ July: Selection of institutions to be reviewed and notification sent to President ~~or Director.~~
  - b.a. July-August: Information gathered and file prepared on each institution being reviewed.
  - e.b. September: Analysis of information as to compliance.

d.c. November: Letters of notification issued indicating results of agency level reviews.

C. Identification of Institutional Violations through On-Site Reviews

1. Number of Reviews per Year

- a. An on-site review will be conducted for a minimum of 11% of the institutions in each of the agency level review pools.
- b. The agency level review criteria will assign institutions points according to an indicated degree of possible non-compliance.
- c. After ranking all institutions by point totals, the sub recipients chosen for an on-site review will be those which receive the lowest point total.
- d. Letters of notification will include any areas of concern and offer technical assistance even if the institution is not chosen for an on-site review.

2. Selection of Institutions for On-Site Review

- a. All institutions having indicators of compliance problems during the agency level review will be targeted for on-site review.
- b. Agency level findings that will trigger an on-site review include:
  1. Enrollment Ratios - The enrollments of target populations at an institution will be compared to the identified target populations to be served from the service area. This comparison should determine positive or negative ratios of overall service.
  2. Enrollment Trends - Enrollment changes for target populations from 1980-85 will be considered. A positive or negative trend for a particular program area should be determined.
  3. Feeder School Ratios - Concentrations of target populations sent from a feeder high school in relation to available populations at that school will be examined. A positive or negative availability rate will be determined.

4. Employment Trends - A review of changes in employment of target populations will be made by comparing 1980-85 staffing ratios. A positive or negative trend for employment will be determined.
  5. Planning Reports - A review of the data in the five year strategic plan and annual updates which indicates that an institution is not meeting criteria for serving target populations.
  - c. If the number of institutions selected for on-site reviews does not equal at least 11% of those selected for agency level reviews, the balance will be selected randomly from the pool of those reviewed at the agency level in that year.
3. Conducting the Review
- a. The on-site review is designed to further examine the indicators of possible non-compliance and verify indicators of compliance from the agency level review and to consider factors beyond the data examined to determine compliance or non-compliance.
  - b. The data utilized in the agency level review only indicate possible non-compliance by an institution.
  - c. The on-site review will be designed to investigate related factors in order to determine compliance or non-compliance.
  - d. Examples of areas of further investigation for each criterion are outlined below:
    1. Investigation Criteria Problem Areas;
    2. Enrollment ratios;
    3. Disproportionate Methods of enrollments and registration;
    4. Recruitment procedures;
    5. Enrollment trends;
    6. Decreasing enrollments;
    7. Changes in target populations;
    8. Registration procedures;
    9. Changes in school admission policy;

10. Feeder School Ratios;
  11. Exclusion of target populations methods of recruitment and registration;
  12. Employment Trends;
  13. Reduction in target population employed;
  14. Employment policies and procedures;
  15. Recruitment and position announcement policies;
  16. Planning Analysis and Reports;
  17. Any signal of non-compliance;
  18. Recommendations for changing institutional procedures.
4. Problem areas not addressed in the agency level review
- a. Depending on the data indicating possible non-compliance, the Compliance Program Director and staff assigned for the on-site review will determine areas of inquiry for the on-site review.
  - b. The following indicators are examples of areas of inquiry for the on-site review.
    1. Discriminatory faculty assignments;
    2. Failure to provide handicapped student access to programs;
    3. Procedures for faculty selection;
    4. Procedures used for notifying the public of the sub recipient's nondiscriminatory policies and practices;
    5. Numerical limitations for admission of students to vocational education programs;
    6. Apprentice or other institution limitations for enrollment;
    7. Criteria for admission to vocational education programs where admission depends on, for example, past academic performance, record of disciplinary infractions, counselors' approval, faculty recommendations, interest inventories, high school diplomas, or standardized tests;
    8. Relationships with unions or other agencies providing training;

9. Special provisions or programs for handicapped students or other special needs students;
10. Relationship of programs for special needs students to total vocational programs;
11. Programs of financial assistance for students;
12. Guidance and counseling procedures and activities;
13. Written policies and procedures for recruitment and enrollment;
14. Placement procedures and opportunities;
15. All agency level review findings of compliance will be verified.

5. Timetable

- a. November: Notification of on-site review
- b. February - April: On-site reviews conducted and institution notified of results
- c. May - June: Voluntary compliance plans due.

D. Use of Technical Assistance as a Means of Preventing Civil Rights Violations

1. A technical assistance program will assist in preventing and detecting discrimination and seeking corrective action.
  - a. The assistance will be provided by the Tennessee Board of Regents Staff to all levels of postsecondary vocational instruction within the TBR system.
  - b. The Compliance Program Director will coordinate requests for technical assistance.
  - c. The program will be designed to provide institutions assistance in the following areas:
    1. Content and purpose of OCR guidelines.
    2. Components and purpose of MOA.
    3. Data and information requested by institutions relative to discriminatory practices and corrective options.
    4. Information and guidelines to assist in achieving compliance.



2. Institutions will be notified of the availability of assistance through correspondence, presentations at meetings, and on an individual basis.
  - a. The frequency of notification will vary but will occur at least once a year when notification of approval for funding is sent.
  - b. Technical assistance will be offered as visits from TBR specialists, written information being provided, programs at sub-council or presidents' meetings, training sessions, and questions answered on an individual basis.
3. Technical assistance will be available to all institutions chosen for an agency level review. Institutions found to be in non-compliance as a result of an on-site review will be offered technical assistance with the development of a voluntary compliance plan.
4. The following staff of the Tennessee Board of Regents will be responsible for technical assistance activities:
  - a. Vice Chancellor for ~~Organizational Effectiveness and Strategic Initiatives~~Student Success,
  - b. Director of ~~Diversity and Equity~~Student Initiatives,
  - c. ~~Vice Chancellor for Tennessee Colleges of Applied Technology~~Special Assistant to the Chancellor,
  - d. Legal Counsel; Tennessee Board of Regents,
  - e. Vice Chancellor for Business and Finance,
  - f. Vice Chancellor for Academic Affairs,
  - f.g. Executive Director of Facilities Management

E. Obtaining Voluntary Compliance

1. Development of the Voluntary Compliance Plan
  - a. Institutions found to be in violation of the guidelines as a result of an on-site review must agree to take steps to eliminate the violations.
  - b. The Compliance Program Director will determine if the violations are major or minor and the institutions will comply as follows:

1. Minor Violations - The Compliance Program Director will have an informal discussion with the institution as to corrective action. The institution may be found to be in compliance by submitting a letter describing corrective action to the Compliance Program Director.
  2. Major Violations - Institutions found to have major violations must submit a voluntary compliance plan describing actions to be taken to eliminate violations and a timeframe for completion. The plan will assume the format of an audit report (findings, recommendations, system reply) and will be submitted to the Compliance Program Director within 60 days of the on-site compliance review notification of findings. The discussions between institutions and Compliance Program Director will be formal and may involve other staff as deemed necessary. The Compliance Program Director will be responsible for assigning appropriate personnel for technical assistance.
  3. Follow-up of Violations - One year after an institution has agreed to remedy violations, the Compliance Program Director will assign the necessary staff to monitor the progress of the institution. Each violation identified in the voluntary compliance plan will be reviewed for progress in meeting desired outcomes. Specifically, indicators identified in Part IV: B.3.b. will be targeted for review.
2. Notification to OCR
- a. The Compliance Program Director will notify the OCR regional office if the following conditions are in existence:
    1. An institution is not in compliance and fails to take corrective action;
    2. The institution fails to submit a voluntary compliance plan (notification of OCR will occur no later than 90 days after on-site review);
    3. The institution submits a plan that is inadequate but is working in good faith with the TBR to remedy deficiencies (notification of OCR will occur no later than 120 days after TBR issued on-site compliance review of findings)

- b. In all cases of notification of OCR, the Compliance Director will describe the efforts made by the Tennessee Board of Regents to secure voluntary compliance.

V. Annual Civil Rights Compliance Report

- A. A report will be submitted by the Tennessee Board of Regents ~~each July 1~~every other July 1 to the U.S. Office of Education, ~~Bureau of Occupational and Adult Education for their review and their submission to the~~ Office of Civil Rights.
  - 1. Compliance Organization and Staff
    - a. Any changes in present personnel as to authority or responsibility.
    - b. Any changes in organization or personnel.
  - 2. State Policy Review
    - a. Findings of state policy review.
    - b. Action taken by the Tennessee Board of Regents to amend and correct any policies or procedures found to have discriminatory effects.
  - 3. Review of State Operated Institutions and Programs
    - a. Identification of state operated institutions having agency level review.
    - b. Findings of review of institutions and list of institutions receiving on-site reviews.
    - c. Copy of voluntary compliance plans for each institution involved.
    - d. Action taken by the Tennessee Board of Regents to correct any problems identified.
  - 4. Technical Assistance
    - a. List of institutions requesting technical assistance.
    - b. Summary of other technical assistance.
  - 5. Institutions Referred to OCR
    - a. List of institutions referred to OCR for failure to achieve voluntary compliance.
    - b. Any response from OCR.
  - 6. Monitoring Activities

- a. Outline of activities by the Tennessee Board of Regents to monitor corrective action taken by institutions.
- b. Any correspondence with OCR as a result of monitoring activities.

### **Sources**

---

June 28, 1985, Tennessee Board of Regents Meeting; May 19, 2009 Presidents Meeting.

# Method of Administration for Compliance with Office of Civil Rights Guidelines, Title VI, Title IX, & Section 504: G-120

## Guideline Area

---

General Guidelines

### Applicable Divisions

---

TCATs, Community Colleges, , System Office

### Purpose

---

The purpose of this guideline is to establish the operational guidelines for compliance with Office of Civil Rights Guidelines as well as Title VI, Title IX, Title II of the ADA and Section 504 at institutions governed by the Tennessee Board of Regents.

## Guideline

---

- I. Introductory Information
  - A. This Method of Administration (MOA) for Compliance with Office of Civil Rights Guidelines, Title VI, Title IX, and Section 504 as applied to the Tennessee Colleges of Applied Technology and TBR Community Colleges offering vocational technical education was developed in 1985 in accordance with federal laws and regulations.
- II. Organization to Meet Civil Rights Responsibilities
  - A. Organization of Compliance Program
    1. Administrative Unit Directing Compliance Program
      - a. The Division of Policy and Strategy, Office of Student Success, Tennessee Board of Regents, will be responsible for implementing and directing the compliance program. The division personnel will utilize resources of other divisions and agencies as the MOA dictates.
    2. Compliance Director

- a. TBR Director of Student Initiatives, Tennessee Board of Regents 1 Bridgestone Park Nashville, TN 37214
- 3. Line of authority of Compliance Director
  - a. Chancellor, Tennessee Board of Regents
  - b. Vice Chancellor for Student Success Tennessee Board of Regents
    - 1. The line of authority represented above is a direct line from the Compliance Director to the agency administering the MOA to the governing body for postsecondary vocational technical education in Tennessee.
- 4. Organizational Plan
  - a. Review of internal policies and procedures
    - 1. TBR Senior Staff members review policy matters relating to their respective areas and facilitate further review by the appropriate Sub-Councils of institutional representatives.
    - 2. Following review of the various sub- councils, policy matters are then transmitted to the Presidents' Council.
    - 3. If approved by the Presidents' Council and the Chancellor, policy additions or revisions are transmitted to the Tennessee Board of Regents for approval.
  - b. Development of a Civil Rights Compliance Program
    - 1. The Compliance Director will coordinate activities of appropriate TBR staff and institutional personnel to ensure an effective civil rights compliance program is in place for all postsecondary vocational technical education in Tennessee.
  - c. Development of technical assistance activities
    - 1. The Vice Chancellor for Student Success will work with appropriate members of TBR System Staff to provide technical assistance to all institutions offering postsecondary vocational technical education in Tennessee.
  - d. Coordination of three components

1. The Compliance Director will coordinate the selection of staff to provide the above-mentioned functions.

B. Personnel Assigned to Implement the Compliance Program

1. Vice Chancellor Student Success, Tennessee Board of Regents 1 Bridgestone Park Nashville, Tennessee 37214 (615) 366-3948
2. Special Assistant to the Chancellor, Tennessee Board of Regents 1 Bridgestone Park Nashville, Tennessee 37214 (615) 366-4473
3. Director Student Initiatives, Tennessee Board of Regents 1 Bridgestone Park Nashville, Tennessee 37214 (615) 365-3929
4. General Counsel, Tennessee Board of Regents 1 Bridgestone Park Nashville, Tennessee 37214 (615) 366-4438
5. Vice Chancellor Business and Finance, Tennessee Board of Regents 1 Bridgestone Park Nashville, Tennessee 37214 (615) 366-4413
6. Vice Chancellor Academic Affairs, Tennessee Board of Regents 1 Bridgestone Park Nashville, Tennessee 37214 (615) 366-4406
7. Executive Director of Facilities Development, Tennessee Board of Regents 1 Bridgestone Park Nashville, Tennessee 37214 (615) 366-4432

III. Review of State Policies and Programs

A. Conduct of State Policy Review

1. Internal Operations of State Agency
  - a. The Vice Chancellor for Business and Finance will be responsible for the review of the Policies and Guidelines of the TBR which govern employment for all personnel in the system to ensure their compliance with Presidential Executive Order 11246, as amended.
  - b. The Compliance Director will be responsible for the review of state operated programs to assure that policies and procedures do not discriminate against target populations as to race, color, national origin, sex, and handicap.
    1. The Legal Counsel for the TBR will assist in the review.

- c. Results of the review will be reported in the annual report according to the guidelines outlined in Part V of the MOA.
- 2. Formulas for Distribution
  - a. Each year, the Vice Chancellor for Student Success will be responsible for the review of the five year plan, annual plan, appropriate state records and laws which outline the formulas for distribution of federal and state funds.
  - b. The formulas will be reviewed to assure that identified factors, computation of factors, and importance (weighting) assigned to factors utilized in funding formulas do not discriminate against target populations.
  - c. All formulas used to distribute federal and state funds to any institution will be reviewed annually for discriminatory factors.
  - d. The Legal Counsel and Vice Chancellor for Business and Finance for the TBR will assist in the review of funding formulas.
  - e. The formulas reviewed will affect funding to institutions for the following programs:
    - 1. Tennessee Colleges of Applied Technology
    - 2. Community colleges
  - f. Results of the review will be reported in the annual report according to the guidelines outlined in Part V of the MOA.
- 3. Requirements for Admission and Administration
  - a. The Tennessee Board of Regents will review the establishment of requirements for admission to and the administration of vocational education programs to assure that discriminatory factors do not exist and to assure compliance with Title VI, Title IX, and Section 504 of the Rehabilitation Act.
  - b. The Vice Chancellors for Student Success and Academic Affairs will take responsibility for such reviews.
- 4. Competitive Grants



- a. Each year, the Vice Chancellor for Student Success and Vice Chancellor for Academic Affairs will review criteria utilized for awarding competitive grants to assure that no factors are included which discriminate against target populations.
  - b. Methods of disseminating information, providing technical assistance, and awarding competitive grants will be reviewed for discriminatory factors.
  - c. The Legal Counsel for the Tennessee Board of Regents will assist in the review of the policies and procedures.
  - d. Results of the review will be reported in the annual report according to guidelines outlined in Part V of the MOA.
5. Approval of Action by Local Entities
- a. Actions initiated by local entities, including community colleges, and colleges of applied technology, are reviewed by members of the TBR System Office Staff to ensure that local entities do not discriminate against target populations.
  - b. The Legal Counsel of the TBR will assist in the review.
  - c. Results will be reported in the annual report according to guidelines outlined in Part V of the MOA.
6. State Operated Institutions
- a. Each year, the Vice Chancellors for Student Success and Academic Affairs will be responsible for the review of the policies and guidelines for colleges of applied technology and community colleges to assure that policies and procedures do not discriminate against target populations and that the same are in compliance with Sections IV - IX of the OCR guidelines.
  - b. The Director of Student Initiatives and Legal Counsel of the TBR will assist in the review.
  - c. Results will be reported in the annual report according to guidelines outlined in Part V of the MOA.
- B. Method of Review for State Policies and Procedures

1. The staff member assigned responsibility for each review will examine each policy and guideline in relation to the OCR guidelines and Title VI, Title IX and Section 504 of the Rehabilitation Act and develop any recommendations for change.
2. The Compliance Director shall coordinate the review of all state policies and be responsible for preparing the annual report to be submitted July 1 each year.

C. State Policy Review Schedule

1. The schedule for policy review will begin on September 1 annually and the annual report will be submitted on July 1.
2. The report will identify any significant changes in policies or guidelines that could affect civil rights compliance.

D. Review of State Institutions

1. The Tennessee Board of Regents operates 27 Tennessee Colleges of Applied Technology and 13 Community Colleges which are state institutions.
2. These state institutions will comprise a pool of sub recipients which will follow the procedures and schedule outlined in Part IV.
3. The Compliance Director will be responsible for assigning staff to conduct the reviews. Staff from institutions will participate in reviews of institutions other than their own.
4. If a state operated institution is found to be in non-compliance, the TBR will assume the responsibility to assure voluntary compliance.
5. Results of the reviews will be reported in the annual report according to guidelines outlined in Part V of the MOA.

IV. Ensuring Compliance by Sub-recipients

A. Statement of Objectives

1. To implement a systematic agency level review procedure to ensure that all institutions are reviewed within a five year period in order to identify possible discrimination through periodic review of available state and local data.

2. To design a system for conducting on-site reviews for at least 11% of the systems in the agency level review pool.
  3. To develop an on-going technical assistance program for institutions to assist in preventing and eliminating discriminatory policies and procedures.
  4. To develop a process for voluntary compliance by institutions found to be in non-compliance.
- B. Identification of Possible Institutional Violations through Agency Level Reviews
1. Agency level reviews or desk audits will be conducted by the Office of Student Success, Tennessee Board of Regents.
    - a. Annually, at least 11% of the sub recipient pool will be scheduled for an agency level review.
    - b. The Divisions of Academic Affairs and the Division of Facilities Management will assist with the audits.
  2. The TBR will schedule reviews to reach, at the earliest possible date, those institutions most likely to have compliance problems.
  3. Beginning with a pool of all sub recipients, the following will be omitted:
    - a. Those previously reviewed (if any) in the five year cycle;
    - b. Those that are subjects of pending litigation in Federal or State Courts because of alleged discrimination on the basis of race, color, national origin, sex, or handicap; and
    - c. Those that are subjects of pending or recent investigations or enforcement proceedings by OCR.
  4. From those remaining in the pool, the Compliance Program Director will select at least 11% of the total number of institutions using the following factors to determine which are most in need of immediate review:
    - a. Knowledge of an institution's practices that raise potential civil rights compliance problems;

- b. Reports of possible non-compliance obtained from complaints filed by parents, students, civil rights groups or others;
  - c. Reports from State Civil Rights Agencies or State Advisory Committees that raise questions about potential civil rights compliance problems; and
  - d. information or reports on institutions from OCR that indicate possible compliance problems.
5. Conducting the reviews
- a. The Tennessee Board of Regents Staff will conduct agency level reviews of institutions using data and documents already available in its system office.
  - b. Following are documents and data to be examined in the review:
    - 1. VEDS enrollment data.
    - 2. Annual program evaluation reports.
    - 3. Annual accountability reports.
    - 4. Annual appropriations requests.
    - 5. Capital Outlay requests.
    - 6. Quarterly enrollment reports.
    - 7. Annual analysis of faculty salaries by sex and race.
    - 8. Annual affirmative action reports.
    - 9. Annual budget analysis detailing promotions and salary distribution.
    - 10. Request for new programs.
    - 11. Five year plan data, and annual update.
    - 12. Job Training Coordination Plan and update.
    - 13. Information derived from complaints or reports from consumer groups, public agencies, parents, or students.
    - 14. Letters of findings issued by OCR.
    - 15. EEO complaints.
    - 16. Audit reports.

- c. The agency level review will use the following information as indicators of compliance:
  - 1. Enrollment ratios comparable to target populations in the service area.
  - 2. Constant or positive enrollment trend among target populations.
  - 3. Positive trend in employment of target populations.
  - 4. Positive trends in data related to graduates or completers among target populations.
  - 5. Positive trends in opportunities available to target populations in activities and programs of the institution.
  - 6. The per-student appropriation of Federal and State funds with respect to the number of minority students in vocational education programs.
  - 7. Participation of race, color, national origin (including student of limited English skills), sex, and handicap in apprentice-related programs.
- 6. Notification of Institutions
  - a. At the commencement of the agency level review, the Vice Chancellor for Student Success will send a letter to each institution that will undergo an agency level review at least 30 days prior to the start of the review.
    - 1. The letter will outline the purpose of the review, the areas to be reviewed and the date for completion of the review.
    - 2. The letter will also ask the institution to cooperate by supplying any information not in possession of the TBR.
  - b. Following completion of all agency level reviews and a determination of which institutions will be scheduled for on-site reviews, the Vice Chancellor for Student Success will notify each institution of one of the following courses of action:
    - 1. That although the agency level review revealed no apparent problems, the institution will, nevertheless, be the subject of an on-site review; or

2. That the agency level review revealed some possible violations (to be listed), and that these specific problem areas, as well as a general review of the institution's operations, will be the subject of an on-site review.

7. Timetable for Agency Level Review

- a. July: Selection of institutions to be reviewed and notification sent to President. July-August: Information gathered and file prepared on each institution being reviewed.
- b. September: Analysis of information as to compliance.
- c. November: Letters of notification issued indicating results of agency level reviews.

C. Identification of Institutional Violations through On-Site Reviews

1. Number of Reviews per Year

- a. An on-site review will be conducted for a minimum of 11% of the institutions in each of the agency level review pools.
- b. The agency level review criteria will assign institutions points according to an indicated degree of possible non-compliance.
- c. After ranking all institutions by point totals, the sub recipients chosen for an on-site review will be those which receive the lowest point total.
- d. Letters of notification will include any areas of concern and offer technical assistance even if the institution is not chosen for an on-site review.

2. Selection of Institutions for On-Site Review

- a. All institutions having indicators of compliance problems during the agency level review will be targeted for on-site review.
- b. Agency level findings that will trigger an on-site review include:
  1. Enrollment Ratios - The enrollments of target populations at an institution will be compared to the identified target populations to be served from the service area. This comparison should determine positive or negative ratios of overall service.

2. Enrollment Trends - Enrollment changes for target populations from 1980-85 will be considered. A positive or negative trend for a particular program area should be determined.
  3. Feeder School Ratios - Concentrations of target populations sent from a feeder high school in relation to available populations at that school will be examined. A positive or negative availability rate will be determined.
  4. Employment Trends - A review of changes in employment of target populations will be made by comparing 1980-85 staffing ratios. A positive or negative trend for employment will be determined.
  5. Planning Reports - A review of the data in the five year strategic plan and annual updates which indicates that an institution is not meeting criteria for serving target populations.
- c. If the number of institutions selected for on-site reviews does not equal at least 11% of those selected for agency level reviews, the balance will be selected randomly from the pool of those reviewed at the agency level in that year.
3. Conducting the Review
    - a. The on-site review is designed to further examine the indicators of possible non-compliance and verify indicators of compliance from the agency level review and to consider factors beyond the data examined to determine compliance or non-compliance.
    - b. The data utilized in the agency level review only indicate possible non-compliance by an institution.
    - c. The on-site review will be designed to investigate related factors in order to determine compliance or non-compliance.
    - d. Examples of areas of further investigation for each criterion are outlined below:
      1. Investigation Criteria Problem Areas;
      2. Enrollment ratios;
      3. Disproportionate Methods of enrollments and registration;

4. Recruitment procedures;
  5. Enrollment trends;
  6. Decreasing enrollments;
  7. Changes in target populations;
  8. Registration procedures;
  9. Changes in school admission policy;
  10. Feeder School Ratios;
  11. Exclusion of target populations methods of recruitment and registration;
  12. Employment Trends;
  13. Reduction in target population employed;
  14. Employment policies and procedures;
  15. Recruitment and position announcement policies;
  16. Planning Analysis and Reports;
  17. Any signal of non-compliance;
  18. Recommendations for changing institutional procedures.
4. Problem areas not addressed in the agency level review
- a. Depending on the data indicating possible non-compliance, the Compliance Program Director and staff assigned for the on-site review will determine areas of inquiry for the on-site review.
  - b. The following indicators are examples of areas of inquiry for the on-site review.
    1. Discriminatory faculty assignments;
    2. Failure to provide handicapped student access to programs;
    3. Procedures for faculty selection;
    4. Procedures used for notifying the public of the sub recipient's nondiscriminatory policies and practices;
    5. Numerical limitations for admission of students to vocational education programs;
    6. Apprenticeship or other institution limitations for enrollment;



7. Criteria for admission to vocational education programs where admission depends on, for example, past academic performance, record of disciplinary infractions, counselors' approval, faculty recommendations, interest inventories, high school diplomas, or standardized tests;
8. Relationships with unions or other agencies providing training;
9. Special provisions or programs for handicapped students or other special needs students;
10. Relationship of programs for special needs students to total vocational programs;
11. Programs of financial assistance for students;
12. Guidance and counseling procedures and activities;
13. Written policies and procedures for recruitment and enrollment;
14. Placement procedures and opportunities;
15. All agency level review findings of compliance will be verified.

5. Timetable

- a. November: Notification of on-site review
- b. February - April: On-site reviews conducted and institution notified of results
- c. May - June: Voluntary compliance plans due.

D. Use of Technical Assistance as a Means of Preventing Civil Rights Violations

1. A technical assistance program will assist in preventing and detecting discrimination and seeking corrective action.
  - a. The assistance will be provided by the Tennessee Board of Regents Staff to all levels of postsecondary vocational instruction within the TBR system.
  - b. The Compliance Program Director will coordinate requests for technical assistance.
  - c. The program will be designed to provide institutions assistance in the following areas:
    1. Content and purpose of OCR guidelines.

2. Components and purpose of MOA.
    3. Data and information requested by institutions relative to discriminatory practices and corrective options.
    4. Information and guidelines to assist in achieving compliance.
  2. Institutions will be notified of the availability of assistance through correspondence, presentations at meetings, and on an individual basis.
    - a. The frequency of notification will vary but will occur at least once a year when notification of approval for funding is sent.
    - b. Technical assistance will be offered as visits from TBR specialists, written information being provided, programs at sub-council or presidents' meetings, training sessions, and questions answered on an individual basis.
  3. Technical assistance will be available to all institutions chosen for an agency level review. Institutions found to be in non-compliance as a result of an on-site review will be offered technical assistance with the development of a voluntary compliance plan.
  4. The following staff of the Tennessee Board of Regents will be responsible for technical assistance activities:
    - a. Vice Chancellor for Student Success,
    - b. Director of Student Initiatives,
    - c. Special Assistant to the Chancellor,
    - d. Legal Counsel; Tennessee Board of Regents,
    - e. Vice Chancellor for Business and Finance,
    - f. Vice Chancellor for Academic Affairs,
    - g. Executive Director of Facilities Management
- E. Obtaining Voluntary Compliance
1. Development of the Voluntary Compliance Plan
    - a. Institutions found to be in violation of the guidelines as a result of an on-site review must agree to take steps to eliminate the violations.

- b. The Compliance Program Director will determine if the violations are major or minor and the institutions will comply as follows:
  - 1. Minor Violations - The Compliance Program Director will have an informal discussion with the institution as to corrective action. The institution may be found to be in compliance by submitting a letter describing corrective action to the Compliance Program Director.
  - 2. Major Violations - Institutions found to have major violations must submit a voluntary compliance plan describing actions to be taken to eliminate violations and a timeframe for completion. The plan will assume the format of an audit report (findings, recommendations, system reply) and will be submitted to the Compliance Program Director within 60 days of the on-site compliance review notification of findings. The discussions between institutions and Compliance Program Director will be formal and may involve other staff as deemed necessary. The Compliance Program Director will be responsible for assigning appropriate personnel for technical assistance.
  - 3. Follow-up of Violations - One year after an institution has agreed to remedy violations, the Compliance Program Director will assign the necessary staff to monitor the progress of the institution. Each violation identified in the voluntary compliance plan will be reviewed for progress in meeting desired outcomes. Specifically, indicators identified in Part IV: B.3.b. will be targeted for review.
- 2. Notification to OCR
  - a. The Compliance Program Director will notify the OCR regional office if the following conditions are in existence:
    - 1. An institution is not in compliance and fails to take corrective action;
    - 2. The institution fails to submit a voluntary compliance plan (notification of OCR will occur no later than 90 days after on-site review);

3. The institution submits a plan that is inadequate but is working in good faith with the TBR to remedy deficiencies (notification of OCR will occur no later than 120 days after TBR issued on-site compliance review of findings)
- b. In all cases of notification of OCR, the Compliance Director will describe the efforts made by the Tennessee Board of Regents to secure voluntary compliance.

V. Annual Civil Rights Compliance Report

- A. A report will be submitted by the Tennessee Board of Regents every other July 1 to the U.S. Office of Education, Office of Civil Rights.
  1. Compliance Organization and Staff
    - a. Any changes in present personnel as to authority or responsibility.
    - b. Any changes in organization or personnel.
  2. State Policy Review
    - a. Findings of state policy review.
    - b. Action taken by the Tennessee Board of Regents to amend and correct any policies or procedures found to have discriminatory effects.
  3. Review of State Operated Institutions and Programs
    - a. Identification of state operated institutions having agency level review.
    - b. Findings of review of institutions and list of institutions receiving on-site reviews.
    - c. Copy of voluntary compliance plans for each institution involved.
    - d. Action taken by the Tennessee Board of Regents to correct any problems identified.
  4. Technical Assistance
    - a. List of institutions requesting technical assistance.
    - b. Summary of other technical assistance.
  5. Institutions Referred to OCR
    - a. List of institutions referred to OCR for failure to achieve voluntary compliance.
    - b. Any response from OCR.

6. Monitoring Activities

- a. Outline of activities by the Tennessee Board of Regents to monitor corrective action taken by institutions.
- b. Any correspondence with OCR as a result of monitoring activities.

**Sources**

---

June 28, 1985, Tennessee Board of Regents Meeting; May 19, 2009 Presidents Meeting.