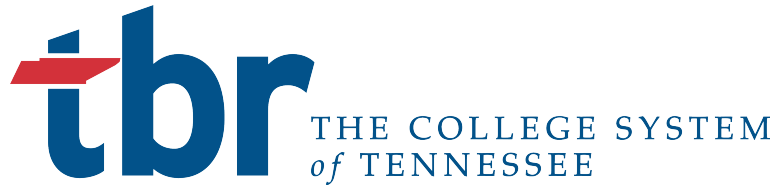


Presidents Quarterly Meeting Agenda

Wednesday, May 5, 2021

1. Opening Remarks – Chancellor Tydings
2. TRANSFRVR – Introductions, Russ Deaton
3. Revisions to TBR Policy 2.03.01.01 Undergraduate Academic Retention & GPA Standards (attachment) – Heidi Leming
4. New Employee Discipline Policy (attachment) – April Preston
5. Revisions to General Personnel Policy 5:01:00:00 (attachment) – April Preston
6. Revisions to Employee Appointment Letter - Exhibit to P010 Personnel Transactions and Recommended Forms (attachment) – April Preston
7. Revisions to TBR Policy 7.01.00.00, Firearms and Other Weapons (attachment) – Brian Lapps
8. Revisions to TBR Policy 6.03.00.00, Sexual Misconduct (attachment) – Brian Lapps
9. Revisions to TBR Policy 1.06.00.05, Procedures for Cases Subject to the Uniform Administrative Procedures Act (attachment) – Brian Lapps
10. New TBR Policy 7.04.00.00, Parking and Traffic (attachment) – Brian Lapps
11. Revisions to TBR Policy 3.02.00.01, Student Conduct and Disciplinary Procedures (attachment) – Brian Lapps
12. Updates on The Black Male Success Initiative and Achieving the Dream – Wendy Thompson
13. Legislative Update – Kim McCormick
14. Other Business and Adjournment



**Presidents Quarterly Meeting
May 5, 2021**

SUBJECT: Revisions to TBR Policy 2.03.01.01: Undergraduate Retention & GPA Standards

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

ACTION REQUIRED: Requires Vote

Summary:

This policy establishes minimum criteria for undergraduate academic retention standards at the community colleges under the governance of the Tennessee Board of Regents. Revisions to the policy have been unanimously supported by the Academic Affairs and Student Affairs Subcouncils at their spring quarterly meeting. Proposed changes in the policy are to align policy with institutional student academic progress (SAP) processes that all 13 community colleges will uniformly follow.

Attachment

Undergraduate Academic Retention & GPA Standards: 2.03.01.01

Policy/Guideline Area

Academic Policies

Applicable Divisions

Community Colleges

Purpose

The Tennessee Board of Regents will establish minimum criteria for undergraduate academic retention standards at the institutions under the governance of the Tennessee Board of Regents.

Policy/Guideline

This policy establishes minimum criteria for undergraduate academic retention standards at the community colleges under the governance of the Tennessee Board of Regents.

Procedures

I. Establishment of Criteria

- A. Each institution will develop specific criteria, in compliance with this policy, to be implemented and enforced as the undergraduate academic retention standards of the institution.
- B. Initial institutional standards and all subsequent revisions will be submitted to the Chancellor for review and approval.
- C. The approved undergraduate academic retention standards of the institution are to be clearly expressed in the catalog, uniformly applied to all students, and promptly enforced at the close of each semester.

II. GradePoint System

- A. The following grade point system is to be used in determining averages:
 1. For each credit hour of A: 4 grade points.
 2. For each credit hour of B: 3 grade points.
 3. For each credit hour of C: 2 grade points.
 4. For each credit hour of D: 1 grade point.
 5. For each credit hour of F: 0 grade points.
- B. The grade point average is determined by dividing the total number of grade points earned by the total number of credit hours which the student attempted except for credit hours in courses from which the student withdraws in good standing (see Drop and Withdrawal Standards) or for courses in which the student receives grades such as pass/fail and which are not considered when determining the GPA.
- C. If an institution elects to award grades which are not considered in computing the GPA, it must describe these in the catalog or bulletin and explain the application of such grades.
- D. In addition, it must provide a statement within the catalog which limits the number of hours of such grades per semester and the maximum number of such hours a student may receive in toto.

- E. Finally, a single student transcript will include term and cumulative GPA calculations which ensure that all TBR institutions treat learning support hours alike in calculating GPA. The transcript will include the following:
1. A GPA comprised only of hours taken in courses numbered college level courses 1000 and above ("college only" GPA) and
 2. A GPA comprised of hours taken in college level courses 1000 and above and hours taken in learning support courses ("combined" GPA).
- F. The following uses are based on each calculation:
1. The "college only" GPA will be used in calculating the required GPA for graduation.
 2. The "college only" GPA will be used in determining graduation honors.
 3. The "college only" GPA will be used in determining term honors.
 4. The "combined" GPA will be used in determining suspension and probation.
 5. The "combined" GPA will be used in determining financial aid eligibility.
 6. The "combined" GPA will be used in determining athletic eligibility.
- G. For the purpose of increasing mastery in a course when such is necessary for successful performance in a subsequent course or for the purpose of increasing the grade point average (and only for these purposes) institutions may permit students to repeat courses in which their final grades are C or lower.
- H. Thus, in computing the grade point average, the question of how to count repeat courses must be specifically addressed in the catalog or bulletin of each institution, and courses may not be repeated more than twice (three attempts) unless the grades in the third and subsequent attempts are used in calculating the quality point average.
- I. Students may be permitted to repeat a course in which a grade of B or higher was earned only with the approval of the chief academic officer as an exception to this policy.

III. Retention Standards

A. GPA Community Colleges

1. The minimum quality point average required to achieve the associate degree is 2.0.
2. In addition, a student who fails during any term to attain a cumulative GPA of at least 2.0 for the credit hours attempted will be placed on academic probation for the subsequent term.
3. At the end of the next term of enrollment, a student on academic probation who has failed to attain a 2.0 GPA for that term will be suspended for a minimum of one term. The summer term may not be counted as the term of suspension, unless institutional policies provide for multiple term suspension.
4. Each institution may develop specific readmission policies to enable the suspended student to appeal for readmission.
5. The policies shall be based on factors of extenuating circumstances and hardship.

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Deleted: <#>Required Semester System
Cumulative Hours Attempted GPA

... 1

Deleted: <#>either the above cumulative
standard or

IV. Minimum Criteria for Institutional Academic Fresh Start Policies

- A. "Academic Fresh Start" is a plan of academic forgiveness which allows undergraduate students who have experienced academic difficulty to make a clean start upon returning to college after an extended absence.
- B. The Academic Fresh Start allows eligible students to resume study without being penalized for his/her past unsatisfactory scholarship and signals the initiation of a new GPA/GPA to be used for determining academic standing.
- C. Readmitted students who were formally enrolled in the institution as well as transfer students who meet institutional requirements for admission and who have been separated from all institutions of higher education for a minimum of four (4) years are eligible for the Fresh Start.
- D. Institutional policies governing the readmission of former students and admission of transfer students must be in compliance with TBR policy 2.03.00.00 Admissions.
- E. This policy requires that the "transfer applicant's grade point average on transferable courses must be at least equal to that which the institution requires for the readmission of its own students.
- F. Applicants who do not meet the institution's standards may be admitted on scholastic probation or other appropriate condition. (2.03.00.00 Section II.B.3.)
- G. Each institution may establish an Academic Fresh Start provision which must meet the following minimum criteria:
 - 1. Student Requirements
 - a. Separation from all collegiate institutions for at least four (4) years.
 - b. Anytime after the readmission or admission as a degree-seeking student, file a formal application to the office as defined by the institution's catalog requesting the Academic Fresh Start and describing an academic plan.
 - 2. Terms of the Academic Fresh Start
 - a. Once the student has satisfied the above requirements, the institution may grant the Academic Fresh Start. The student may be granted a Fresh Start only once.
 - b. The student's permanent record will remain a record of all work; however, courses taken and previously failed will be excluded from the calculation of the GPA. Courses with a D grade will also be excluded from the calculation when a grade of C or better is required in the student's current major. GPA and credit hours will reflect courses for which passing grades were earned and retained.
 - 1) Retained grades will be calculated in the Fresh Start GPA.
 - 2) Courses with D or F grades must be repeated at the institution when they are required in the student's current major. All remaining courses for the current degree objectives must be completed at the institution. No transient credit will be accepted after invoking Academic Fresh Start.
 - 3) The application of retained credit toward degree requirements will be determined by the requirements currently in effect at the time the academic renewal status is conferred on the student. Specific program regulations must also be met.

Deleted: GPA,

- 4) Previously satisfied and approved standardized test requirements will not be forfeited.
- c. Upon degree admission, Fresh Start applicants who did not satisfy approved standardized test requirements at the time of previous enrollment and whose academic plan includes completion of a college-level English or mathematics course must meet current approved standardized test requirements regarding enrollment in college English and mathematics courses.
- d. The student's transcript will note that the Fresh Start was made and the date of the Fresh Start.
- e. The student will apply for the Fresh Start with the understanding that all TBR institutions will honor a Fresh Start provision granted at another TBR institution. The student should also signify understanding that non-TBR institutions may not accept the GPA as it is calculated with the Fresh Start.
- f. This policy is independent of financial aid regulations. Financial aid requirements at the time of application will apply. Therefore, a Fresh Start applicant should check with his/her financial aid counselor for guidance.

V. Drop and Withdrawal Standards

- A. After the official registration period is over, students may make adjustments in their schedule through the process of adding and/or dropping courses.
- B. The last date for students to add or drop a course without a penalty is to be clearly indicated and expressed in the catalog or bulletin of each institution.
- C. After the last day to add or drop a class without a penalty, and not later than two-thirds into the part-of-term, a student may officially drop a course(s) or withdraw from the institution and receive a "W" or other appropriate symbol/grade.
 - 1. When calculating two-thirds, calendar days shall be used, not just class or working days.
- D. In general, such symbol/grade counts as no hours attempted.
 - 1. Community Colleges
 - a. A student who is withdrawn after two-thirds of the part-of-term is complete will receive a "W" or other appropriate symbol in the course or courses passing.
 - b. However, the student will receive a failing grade (usually denoted by an "F") in the course or courses failing unless it can be clearly demonstrated that an unusual condition or hardship exists.
 - c. Each institution must develop institutional guidelines outlining specific types of conditions or hardships which will be considered as acceptable.
- E. Students who desire to drop a course(s) or withdraw from the institution before the established deadline must do so according to the published procedure defined by the institution.
- F. A student who does not officially drop or withdraw from a course, but receives a failing grade, will receive an "F" if their last day of attendance was not earlier than two-thirds into the part-of-term.
- G. A student who does not officially drop or withdraw from a course, but receives a failing grade, will receive an "FA" if their last day of attendance was earlier than

Deleted:

two-thirds into the part-of-term. The student will be considered as an unofficial withdrawal from the course.

Sources**Authority**

T.C.A. § 49-8-203

History

TBR Meetings, June 24, 1977; March 20, 1981; September 30, 1983; June 24, 1988; September 20, 1991; March 15, 2002; Board Meeting June 20, 2014; Revised at Board Meeting, March 31, 2017; Revised at Board Meeting, September 28, 2018.

Required Semester System	Cumulative Hours Attempted	GPA
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0-14	No minimum	
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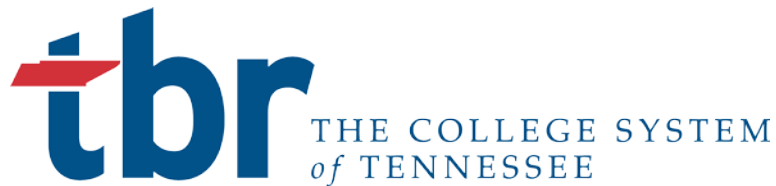
14.1 - 26.0	1.0	
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26.1 - 40.0	1.4	
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40.1 - 48.0	1.7	
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48.1 - 56.0	1.9	
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56.1 - and above	2.0	
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**Presidents Quarterly Meeting
May 5, 2021**

SUBJECT: Addition of Employee Discipline Policy 5:XX:XX:XX

PRESENTER: April Preston, Associate Vice Chancellor for HR & Payroll

ACTION REQUIRED: Requires Vote

Summary:

The Employee Disciplinary policy is a new proposed policy. The intent is to provide a fair and equitable means to address the unsatisfactory work performance or work-related behavior, including gross misconduct, of employees (other than faculty and other instructional personnel) who have completed any required initial probationary period. To provide fair and uniform procedures including due process if required by law, to correct, discipline, or terminate employees for unsatisfactory work performance or work-related behavior or for gross misconduct.

Related TBR Policy/Guideline:

P-080- Discrimination & Harassment – Complaint & Investigation Procedure

P-110 – Employee Grievance Complaint Guideline

P-111 – Support Staff Grievance

Attachment: Copy of proposed Employee Discipline Policy

Policy Area

Personnel Policies

Number – 5:XX:XX:XX

Name: Employee Disciplinary Action

Purpose

To provide a fair and equitable means to address the unsatisfactory work performance or work-related behavior, including gross misconduct, of employees (other than faculty and other instructional personnel) who have completed any required initial probationary period. To provide fair and uniform procedures including due process if required by law, to correct, discipline, or terminate employees for unsatisfactory work performance or work-related behavior or for gross misconduct.

Applies To

System Office; Community Colleges; & Colleges of Applied Technology

Policy

I. Unsatisfactory Work Performance or Work-Related Behavior

- A. Disciplinary or other action to improve performance is to be taken with care to assure fairness and equity. Disciplinary action includes the following actions: oral warning, written warning, and performance improvement plan, suspension without pay, demotion, and termination. As warranted by circumstances, an employee may be terminated at any point in the disciplinary process.
- B. Supervisors must contact the human resources (HR) officer prior to taking any disciplinary action other than an oral warning. HR will ensure that such action is appropriate and consistent with college and/or System Office policy. The HR officer may consult with the TBR Office of General Counsel, as appropriate.
- C. Unsatisfactory work performance or work-related behavior is the failure or refusal to carry out job responsibilities, failure to follow college, department, or unit policies or rules.
- D. Reasonable efforts should be made to secure acceptable work performance and work-related behavior. When disciplining an employee, supervisors should consider the nature of the unsatisfactory work performance or work-related behavior, the past record of the employee, and the appropriate corrective action and/or level of discipline. Therefore, as a general rule, corrective and/or

disciplinary action taken for unsatisfactory work performance or work-related behavior should generally begin with an oral or written warning and may be followed by additional oral or written warnings. Written warnings and performance improvement plans should be presented to the employee and should describe the unsatisfactory work performance or work-related behavior and the action necessary to correct the performance or behavior. Should an employee fail to attain a satisfactory level of work performance or work-related behavior despite such warning, additional disciplinary action up to and including termination of employment may be taken. HR should be provided with and retain copies of all disciplinary action, including written warnings and performance improvement plans.

- E. Depending upon the nature of the unsatisfactory work performance or work-related behavior, warnings prior to disciplinary action, including but not limited to termination of employment, may not be required.

II. **Gross Misconduct:** Gross misconduct includes, but is not limited to, the following: theft or dishonesty; gross insubordination; willful destruction of institution or system office property; falsification of records; acts of moral turpitude; reporting for duty under the influence of intoxicants; the illegal use, manufacturing, possessing, distributing, purchasing or dispensing of controlled substances or alcohol; disorderly conduct; provoking a fight; certain violations of policies prohibiting discrimination, retaliation, sexual harassment, and sexual misconduct; and other similar acts involving intolerable behavior by the employee. In a case of gross misconduct, immediate disciplinary action up to and including discharge may be taken. During the investigation of alleged gross misconduct, an employee may be placed on administrative leave with pay.

- A. An employee suspected of theft of institution property may not resign as an alternative to discharge unless the Vice Chancellor of Business and Finance approves in advance.
- B. An employee terminated for gross misconduct or who resigns to avoid dismissal for gross misconduct will not receive payment for accrued unused annual leave. An employee terminated for gross misconduct is not eligible for state Consolidated Omnibus Benefits Rights Act (COBRA) benefits. State Treasury determines eligibility for state retirement benefits if an employee is discharged for gross misconduct.

III. **Pre-termination/Suspension Meeting.** Before suspending without pay or discharging an employee, the supervisor or other authorized institution official must:

- 1) Consult with the HR office,
- 2) Advise the employee, orally or in writing, of the charge(s) against the employee; and
- 3) Provide the employee an opportunity to respond to the HR office.

IV. **Appeal Process.** Employees wishing to contest disciplinary action may do so consistent with applicable procedures for filing complaints and grievances.

Source

Authority

TCA 8-50-807

History

New policy 2021

Related

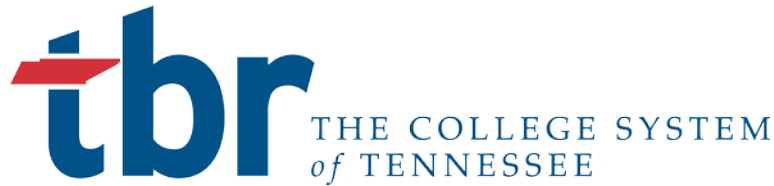
P-110- Employee Grievances - Complaints

<https://policies.tbr.edu/guidelines/employee-grievance-complaint-guideline>

P-111 – Support Staff Grievances

<https://policies.tbr.edu/guidelines/support-staff-grievance>

Exhibits



**Presidents Quarterly Meeting
May 5, 2021**

SUBJECT: Revisions to General Personnel Policy 5:01:00:00

PRESENTER: April Preston, Associate Vice Chancellor for HR & Payroll

ACTION REQUIRED: Requires Vote

Summary:

The General Personnel Policy has not had major revisions since 2013. There are several proposed changes including:

- Inclusion of employment at will language, elimination of employment contracts;
- Moving the part-time instructional faculty rates to an exhibit, so they may be updated as needed;
- Clarification of additional compensation for additional administrative duties and return to faculty;
- Inclusion of sample calculation for transitioning from a 12 month administrative position to a 9-month faculty position during the academic year;
- Reference to new Employee Disciplinary Policy;
- Clarification on Budget Reduction Actions.

To see all the changes, please refer to the tracked changes version attached.

Related TBR Policy/Guideline:

(new) Employee Disciplinary Policy

P-010- Personnel Transactions & Recommended Forms

Attachments: Tracked changes and Clean Copy of proposed revisions to General Personnel Policy

General Personnel Policy: 5.01.00.00

Policy Area

Personnel Policies

Applicable Divisions

TCATs, Community Colleges, System Office

Purpose

The following General Personnel Policy of the Tennessee Board of Regents is hereby adopted to delegate to the presidents- and Chancellor of community colleges, the authority and responsibility hereinafter specified concerning personnel, which the Board finds to be necessary and appropriate for the efficient administration of the institutions, and to establish standards, guidelines, and reporting requirements for the exercise of the delegated authority. ~~The policy also cites specified authority and responsibility concerning personnel assigned to presidents of the Tennessee Colleges of Applied Technology and the Chancellor.~~

Definitions

- ~~• Promotion - is defined as an increase in position or rank brought about by means of assuming the duties of a new or vacant position of higher classification, or assuming duties which warrant a reclassification of present position to one at a higher level.~~
- ~~• Demotion - is defined as a decrease in position or rank brought about by means of assuming the duties of a vacant position of lower classification, the realignment of duties presently performed which warrant a reclassification of present position to one at a lower level, or the assignment of a position at a lower classification subsequent to the disciplinary procedure or disqualification from present duties as a result of mental or physical incapacity to perform the required work.~~
- ~~• Reclassification - when an employee's duties and responsibilities change and may include an appropriate salary adjustment.~~
- ~~• Lateral Transfer - is defined as the assumption of duties of another position at the same level.~~
- Immediate family - is defined as any of the following named members of the employee's household at the time the employee reports for duty at their new official station: spouse, children (including stepchildren, adopted children, or foster children)

~~unmarried and under 21 years of age or physically or mentally incapable of supporting themselves regardless of age, or dependent parents of the employee and the employee's spouse.~~

- ~~• Define staff and administrative staff.~~

Policy

I. Scope of Delegation

A. Presidents

1. The appointments and terminations which require the prior approval of the ~~community college~~ president and the Chancellor include:
 - a. All Vice Presidents or other executives reporting directly to the President (academic, business, student affairs, etc.), including all interim appointments; and
 - b. ~~Directors and chairs of the Centers of Emphasis and Excellence, including interim appointments; and~~
 - c. Any other positions which may be designated by the Chancellor.

~~B. TCAT Presidents~~

- ~~1. The appointments, changes of status, compensation, and termination of the TCAT assistant directors shall be subject to the prior approval of the Chancellor.~~
- ~~2. No offer of employment can be made for positions requiring the Chancellor's approval until the on-line appointment form has been signed by the Chancellor or designee. and the monitor, where required~~
~~_____.~~
3. The president has the authority to establish institutional policy or practice for appointments and terminations not requiring the Chancellor's approval, provided that any Such practices or polices shall not be inconsistent with TBR guidelines and policies.

C.B. Chancellor

- ~~1. The Chancellor has the authority to employ professional and staff employees as appropriate for the efficient discharge of official duties of the System Office.~~
- ~~2. The Chancellor shall adopt appropriate procedures to govern the recruitment, selection, promotion and reassignment of System Office employees, such procedures to be consistent with relevant Board policies.~~

3.1. Appointments for Positions Reporting to the Chancellor - All appointment recommendations for positions reporting directly to the Chancellor shall be subject to the following approval process:

- a. Recommendations for the positions of General Counsel, ~~Chief Information Officer~~, and ~~all~~ Vice Chancellors reporting to the Chancellor, including interim appointments, shall be submitted to the Board Committee on ~~Compensation and Personnel~~ and Compensation and the full Board of Regents for prior approval before employing a candidate; and
- b. For recommendations related to all other positions reporting directly to the Chancellor, the Chancellor may employ the individual without prior notice to or approval by the Board.

~~For appointments requiring Board approval, The Committee on Personnel and Compensation shall approve interim appointments for permanent positions that require Board approval. if an emergency situation arises, appropriate measures will be taken to approve appointments in the interim through the Committee on Compensation and Personnel and Compensation, which will have full authority to act on behalf of the Board.~~

D.C. ~~The president of a community college, or a Tennessee College of Applied Technology~~ Presidents is are authorized to appoint, determine the compensation ~~and~~ change of status of, and terminate all other employees at the institution

subject to the TBR Bylaws and provisions of this and other relevant Board, and institution, policies and procedures, ~~and the Board approved Compensation Plan Guideline.~~

- ~~1. The president may delegate the foregoing authority to a designated person or persons at the institution provided that all appointments and compensation of faculty and administrative personnel executives shall be subject to the approval of the president.~~

Subsequent ~~r~~References to the president of an institution include the president or appropriate designee.

- ~~E. Notwithstanding any other policy or agreement, in the event of a severe state budget shortfall or state impoundment, the Chancellor may give specific written authorization to presidents upon their request to reduce payroll costs, including, but not limited to, reducing compensation across the board for the remainder of the fiscal year, to mandating furloughs without pay and/or to reducing the amount of time to be worked, on an institution by institution basis.~~

- ~~1. Any request submitted by presidents shall include a description of the campus constituent groups represented on the presidents committee advising on the budget reduction process. (See also Section V. H below regarding reductions in force).~~

- ~~F. The President of a Tennessee College of Applied Technology may not delegate the foregoing authority.~~

~~II. Appointments~~

~~Presidents of a community college, or a Tennessee College of Applied Technology (TCAT) Presidents, are authorized to appoint and employ personnel within the scope of delegation provided in Section IA for positions at the institution which have been approved by the Board in an operating budget (work~~

program) at a level of compensation which does not exceed the amount specified in the operating budget; provided that new appointments to approved positions may be made at a level of compensation in excess of the amount specified where funds are available, subject to confirmation of the transfer of budgeted funds by the Chancellor.

A. ~~No employment agreement, or contract, or letter of agreement shall be used in the appointment or employment of personnel unless the form of agreement, contract, or letter has been approved by the Chancellor or designee.~~

~~New administrative positions shall not be established in an institution's administrative organization, by including them in the budget cycle. only filled following approval. To add positions out of cycle, a request is to be submitted for Chancellor approval, using the on-line form available on the TBR-HR website. and no major change in the administrative organization of an institution shall be made, unless approved by the Chancellor.~~

B. ~~The minimum qualifications for the appointment of faculty at community colleges shall be the Minimum Rank Criteria for Professional Personnel in Instruction, Public Service, and Research set forth in Board Policy No. 5.02.02.30, which is incorporated herein by reference.~~

1. ~~The minimum criteria for tenure-track or tenure appointments at Tennessee Colleges of Applied Technology are specified in Board Policy No. 5.02.02.10.~~

~~2.1. All part time or temporary faculty must be appointed according to the provisions of Board Policy.~~

C. ~~The minimum qualifications for the appointment of all personnel other than faculty shall be determined by the president or designee, based upon the duties and responsibilities of the position, and shall be recorded and maintained by the~~

~~institution, subject to any minimum qualifications for personnel positions which may be established by the Board.~~

II. Nature of Appointments

A. Faculty, including part-time and temporary faculty, at community colleges shall be employed pursuant to the types of appointments specified in Board Policy No. 5.02.02.30, ~~which is incorporated herein by reference.~~

B. Faculty, including part-time and temporary faculty, at Tennessee Colleges of Applied Technology shall be employed pursuant to the types of appointment specified in Board Policy No. 5.02.02.10, ~~which is incorporated herein by reference.~~

C. ~~Employees Personnel~~ other than faculty, i.e., “staff,” are employed on an at-will basis. This means that staff are free to terminate/resign from their employment at any time, either with or without a reason and with or without notice. TBR and TBR institutions also have the right to terminate staff at any time, with or without a reason and with or without notice, provided that the basis for termination is not because of: participation in protected activities, unlawful discrimination, or other considerations prohibited under federal/state law-. Supervisors shall consult with Human Resources and/or TBR Office of General Counsel prior to terminating the employment of any staff employee. Although TBR and TBR institutions may choose to terminate a staff employee for cause and/or gross misconduct, neither cause nor gross misconduct is required.

1. Only the Board and Chancellor have the authority to enter into staff employment contracts for a specified period of time, or to make any agreement contrary to this at-will arrangement. Any such agreement must be in writing and signed by an appropriate Board Member or by the Chancellor.

2. Any staff employment contract in effect at the time of this policy revision (~~December 10, 2020~~ June 30, 2021) shall terminate upon its expiration, and the institution shall not renew it. ~~upon its expiration.~~

3. Appointment letters for staff shall be substantially consistent with Exhibit ~~2~~— within TBR Guideline P-010. Any variations to the existing template provided, must be reviewed and approved by the Office of General Counsel. ~~shall be appointed to serve at the pleasure of the president or, at the System Office, the Chancellor.~~

~~D. All part-time or temporary faculty must be appointed according to the provisions of Board Policy.~~

~~E.D.~~ All full-time personnel, including faculty, shall be required to devote a minimum of 37.5 hours per week to their duties institution or college, and shall maintain appropriate office hours as determined by the president ~~or designee~~.

1. Presidents are authorized to use flexibility as appropriate in determining the structure of the work week for faculty to recognize variations from traditional instructional formats such as afforded by online instruction, distance education, or other unique methods of instructional delivery.
2. Implementation Calculation of the 37.5-hour work week is governed by Procedure P-020.~~shall follow such guidelines as promulgated by the Chancellor.~~

~~F.E.~~ Within the requirement of a minimum of 37.5 hours per week, faculty at community colleges shall be required to carry a full teaching load, which shall be fifteen (15) credit hours or the equivalent per term for undergraduate courses, twelve (12) credit hours or the equivalent per term for graduate courses, two hundred and twenty-five (225) non-credit contact hour or the equivalent per term. All equivalent teaching load activities shall be subject to prior review and approval by the president or designee. Within the requirement of a minimum of

37.5 hours per week, faculty at Tennessee Colleges of Applied Technology shall normally be required to carry thirty (30) contact hours per week of teaching.

G.F. ~~In addition to the requirement of Section III.D above, full-time administrative personnel shall be required to devote sufficient time to complete their assigned duties and responsibilities. When administrative personnel are appointed on an academic year basis, such personnel shall be required to devote sufficient time to fully perform the administrative responsibilities for the academic year, including periods preceding or following the academic year.~~

H.G. Personnel at community colleges who are appointed on an academic year basis shall be on duty for not less than nine months, which shall commence from the time designated by the president prior to the institution's registration first day of class for the fall term of each year through the time designated by the president at the end of the spring term, and shall be subject to call for duty during that period regardless of whether classes are in session.

III.II. Compensation

- A. The president is responsible for compliance with all federal and state laws and regulations, and all Board policies and directives, concerning compensation for employees, ~~and~~ Compensation for employees shall be subject to limitations imposed by the Board or the General Assembly.
- B. All regular full-time ~~salaried~~ personnel, whether on an academic or fiscal year appointment, shall be paid twelve (12) monthly installments each year, provided that exceptions may be made upon termination, or as approved by the Chancellor.
- C. All full-time and part-time employees are required to participate in the automatic deposit program for the direct deposit of their salaries or wages. Each campus has the option to require student workers to participate in the direct deposit program ~~as long as there is no charge to the student~~ unless ~~exempted~~

prohibited by Federal Work Study Guidelines. Institutions shall not charge employees or students for direct deposit.

- D. Part-time instructional personnel shall be paid on the basis of the credit or non-credit hours taught at community colleges and on the basis of clock hours taught at TCATs, pursuant to the rates set forth ~~below~~ in exhibit 1 (?) which shall be considered maximum rates for compensation of part-time faculty.

~~1. Community Colleges~~

~~a. Level Rate per Semester Credit Hour~~

- ~~1. \$700~~
- ~~2. \$750~~
- ~~3. \$800~~
- ~~4. \$850~~

~~2. Colleges of Applied Technology~~

~~a. Level Rate per Clock Hour~~

- ~~1. \$30~~
- ~~2. \$32~~
- ~~3. \$35~~
- ~~4. \$40~~

- ~~E. Each institution will develop criteria for assigning part-time faculty to the four levels. The criteria may include such factors as educational qualifications, market differentials, and professional experience.~~

- ~~F. Exceptions to the schedule may be approved by presidents based on bona fide market conditions.~~

- ~~G. The president shall ensure that all employees shall be paid equal wages or salaries for equal work in positions the performance of which requires equal skill,~~

effort and responsibility, and which are performed under similar working conditions, ~~except where pay differentials are based upon:~~

- ~~1. — market factors,~~
- ~~2. — a merit or evaluation system,~~
- ~~3. — length of service, or~~
- ~~4. — any other proper, non-discriminatory basis.~~

~~When any of the foregoing bases are relied upon to justify pay differentials for employees in similar positions as described above, the basis and the attendant circumstances shall be substantiated in writing and maintained by the institution.~~

~~H. Overtime payments and compensatory time are available to employees not-
exempt employees under from the FLSA. Procedure P-020, Implementation of
the 37.5 hour work week provides detailsThe Chancellor is authorized to issue
guidelines relative to the use of compensatory time and payment of overtime and
the rates pertinent to each.~~

~~I.F.~~ Each institution shall develop policies and procedures for the administration of the compensation system at the institution ~~subject to the approval of the Chancellor,~~
~~and~~ subject to the Compensation Plan Guideline promulgated by the Board. This includes reclassifications and degree changes.

G. Temporary Administrative Duties For Faculty

1. Faculty members may be asked to temporarily assume administrative responsibilities which entail moving from an academic year to a fiscal year ~~appointment~~contract with the assignment of additional duties. This temporary appointment may be on a long-term or short-term basis but is still considered a temporary appointment subject to this policy. Temporary appointments are distinct from ~~This does not apply when a faculty member is hired into a~~ permanent at will administrative positions.

~~such as a deanship or Vice President position that~~ which requires a ~~twelve-month appointment~~contract.

2. Temporary administrative responsibilities may ~~justify~~necessitate the ~~awarding of~~ an administrative stipend in addition to ~~regular~~the ~~previously established~~ salary. The stipend amount or any other understanding concerning compensation must be set out in a new ~~appointment letterly-executed contract~~. The appointment letter~~:contract~~;

- a. Should include a statement that the stipend is awarded as compensation for the additional administrative responsibilities and will be removed at the time the administrative responsibilities end; or
- b. Should otherwise address how compensation will ~~would~~ be affected at the end of an administrative appointment.

3. If the appointment letter does not identify the means for calculating a salary upon the end of the administrative appointment, the stipend shall be removed, and the employee shall receive a salary of 80% of the ~~administrative annual salary, if returning to an academic year appointment~~. The institution may choose to exceed the 80% number on the basis of comparable faculty salaries, including rank, merit, length of service, experience, degrees and yearly percentage increase in salary. ~~The limitations on maximum salary set out in subsection ____ shall apply.~~ Unless the Chancellor approves an exception, an employee returning or moving to a 9-month faculty position shall not receive a salary greater than the highest paid 9-month faculty member in the department.

- 3.4. The awarding of an administrative stipend is an issue separate from that of conversion from an academic year to a fiscal year

basis. When the conversion from an academic year to a fiscal year ~~is to~~ takes place, the institution should ~~just~~ convert the salary from the academic year contract by adding 25% and then adding any administrative stipend amount determined necessary.

4.5. The following illustrates the procedure defined above.

- a. A faculty member making \$~~26~~0,000 on an academic contract is converted to a fiscal year contract at a salary of \$~~27~~5,000.
- b. In addition, a \$~~1,4~~,500 administrative stipend is added and so indicated because of additional duties. The total amount of salary is then \$~~26,500~~79,500.
- c. At the time the faculty member serving as administrator returns to a faculty position on an academic year basis, the administrative stipend will end.
- d. Then the base faculty salary is reduced to an academic year contract at a rate of no less than 80% of the fiscal year salary contract. ~~The institution may choose to exceed the 80% number on the basis of comparable faculty salaries, including rank, merit, length of service, experience, degrees and yearly percentage increase in salary.~~

H. Faculty ~~Appointed to Regular Accepting and Returning to a 12-month~~
Administrative Position and Return to Faculty Assignment (non-Temporary)

1. When a faculty member ~~is offered~~ appointed on a regular 12-month administrative position ~~returns to regular faculty, unless otherwise agreed to in writing, the manner for determining the 9-month faculty salary shall take into account the following considerations: faculty salary at time of moving into administrative position, rank, merit, length of service, experience, performance, degrees and any across the board increase in salary awarded to faculty while the individual serviced as an administrator.~~ ~~on a~~

permanent, at will basis, the appointment letter should identify the salary for the position and the manner of calculating an appropriate 9-month salary should the faculty member return to a 9-month teaching position.

—If no appointment letter identifies the means of calculating a salary upon returning to the faculty, the president shall base the salary on comparable faculty salaries in the department, including rank, merit, length of service, experience, performance, degrees and yearly percentage increase in salary.

2. Unless the Chancellor approves an exception, an administrator returning or moving to a 9-month faculty position shall not receive a salary greater than the highest-paid 9-month faculty member in the department.

3. For individuals transitioning from a twelve (12) month administrative position or salary basis to a 9-month faculty position, or for new faculty hires that begin service after the start of an academic year or an academic term, institutions should apply the following process to establish the employee's monthly salary for the remainder of the fiscal year:

- a. Divide the previously determined academic year (9- month) salary by the number of workdays in the academic year to get the daily rate.
- b. Multiply the daily rate by the number of workdays that have passed in the academic year without the faculty member working in the 9-month position.
- c. Subtract that amount from the annual salary.

d. Pay the remainder of the total academic year salary amount in equal monthly installments over the remaining fiscal year period.

e. Example

1. \$54,000 academic year salary/166 days in academic year = \$325/day

2. 50 days elapsed in the academic year prior to faculty assignment

3. \$325 X 50 days into academic year = \$16,250

5.4. \$54,000-\$16,250 = \$37,750 owed to faculty in equal monthly installments over remainder of the fiscal year.

IV.III. Changes of Status and Terminations

- A. The president is authorized to approve changes of status (i.e., transfers, promotions, demotions, or other changes in duties or responsibilities) of personnel within the scope of the delegation provided for in Section I.A, provided that when a change of status would cause the employee to be within the scope of positions subject to approval of the Chancellor, the change of status will be subject to the Chancellor's approval.
- B. ~~The president of each TBR college may establish procedures for accomplishing promotions, demotions, and transfers between institutions within the Tennessee Board of Regents System, in such manner as to ensure fair and equitable treatment to all personnel, and in accordance with established TBR policies. Any such action must be taken within the parameters of the institution's or system office's Affirmative Action Plan, and must be reviewed and certified by the institutional Affirmative Action Officer.~~
- C. Inter-institutional promotions, demotions, and transfers must be discussed and approved by the appointing authorities of the two institutions concerned prior to ~~any discussion with~~ making an offer to the candidate. ~~Any candidate~~ An

employee promoted must meet all established minimum qualifications as determined by the appointing authority.

D. Promotion of Faculty - The promotion of faculty shall be subject to Board Policy No. 5.02.02.30 for community colleges, and Board Policy No. 5.02.02.10 for Tennessee Colleges of Applied Technology.

E. Promotion of ~~Staff~~~~Non-faculty~~ - Promotions of ~~staff personnel other than faculty~~ should be made pursuant to any established and written criteria developed by the institution. Promotions and transfers are an acceptable means of filling vacancies. However, such promotions and transfers must be achieved within the parameters of applicable policies and institutional affirmative action plans. In addition, any vacant position created by that promotion, if filled, must be filled within the provisions of applicable policies~~y this Policy~~ and applicable guidelines.

F. Terminations and Transfers - The president is authorized to terminate and transfer all personnel within the scope of the delegation of authority provided for in Section IA, provided that terminations of faculty shall be pursuant to the provisions of Board Policy No. 5.02.03.70 for community colleges, or Board Policy No. 5.02.03.10 for Colleges of Applied Technology. Terminations of staff and other non-faculty shall be pursuant to the provisions of Board Policy – Employee Discipline 5.XX.XX.XX

F.G. Absence from Duty - An employee who is absent from duty for three (3) consecutive business days without giving notice to the appropriate manager concerning the reason for such absence and without securing permission to be on leave is considered as having resigned not in good standing effective at the end of the third business day.

G. Termination for Gross Misconduct

1. Gross misconduct may include, but is not necessarily limited to:

a. Any act or omission which may seriously disrupt or disturb the normal operation of the institution/System Office;

- ~~b. Any work-related conduct which would subject the employee to criminal conviction;~~
 - ~~c. Theft or dishonesty;~~
 - ~~d. Gross insubordination;~~
 - ~~e. Willful dDestruction of institution/System Office property;~~
 - ~~f. Falsification of records;~~
 - ~~g. Acts of moral turpitude;~~
 - ~~h. Reporting for duty under the influence of intoxicants;~~
 - ~~i. The illegal use, manufacture, possession, distribution, or dispensing of controlled substances or alcohol;~~
 - ~~j. Disorderly conduct;~~
 - ~~k. Provoking a fight;~~
 - ~~l. And/or such other similar acts involving intolerable behavior by the employee.~~
- ~~2. In determining eligibility for unemployment compensation benefits, the definition of gross misconduct utilized by the Tennessee Department of Employment Security is not affected by the definition outlined in this section.~~
- ~~3. In the case of gross misconduct, immediate disciplinary action, up to and including termination, should be taken.~~
- ~~4. An employee suspected of theft of institutional property may not resign as an alternative to discharge after the investigation has been completed. Unless advance approval of the~~
- ~~5. Any exceptions to this requirement must be made by the institution's President, after consultation with the Vice Chancellor for Business and Finance, is obtained.~~
- ~~6. If the employee resigns during the investigation, the employment records must reflect the situation at the date of resignation and the outcome of the investigation.~~

- ~~7. Refer to Annual Leave Policy 5.01.01.01 and Sick Leave Policy 5.01.01.07 regarding the loss of unused leave if termination of employment is due to gross misconduct. Refer to T.C.A. §§ 8-35-124 and 8-50-807(d) for the loss of retirement benefits related to gross misconduct termination.~~

H. Budget Reduction Actions -- Reductions in Force (RIF) and Furloughs (Applicable to employees other than tenured faculty)

1. In the event of a budget shortfall, state impoundment, ~~or other~~ substantial revenue reduction, or other need to reduce personnel costs, an institution shall consult with the Chancellor and the Office of General Counsel and prior to beginning the planning process for significant personnel-related budget reduction measures (e.g., across-the-board compensation reductions, furloughs without pay, reductions in time worked by employees, and reductions in force) a president shall consult with the Chancellor and obtain legal advice from the Office of General Counsel. The Chancellor must approve of any such actions.
2. A reduction in force (RIF) is a layoff for an indefinite period of time, generally with no expectation of recall, of one or more employees resulting from the elimination of one or more positions due to lack of funding, reorganization, restructuring or ~~similar~~ other reason.
3. A furlough is a temporary reduction of hours, days, or weeks, resulting in a proportional reduction in pay, generally for a finite period of time and with retention of benefits.
4. After consultation with ~~seeking legal advice from the~~ Office of General Counsel, an institution ~~college~~ must provide a written rationale for a RIF or furlough. The written rationale should explain the basis for the decision and identify the functional area(s) affected, review the budgetary implications, and include specific written criteria to identify the duties that will be reassigned

and/or eliminated. The rationale must include the reasons why the positions proposed for RIF or furlough were selected.

5. The factors used in determining which positions to furlough and/or eliminate and which employees to furlough and/or lay off include, but are not limited to:
 - a. The department or area that is being affected;
 - b. Length of service in the position and/or length of service at the institution or college;
 - c. Past written performance appraisals and disciplinary action;
 - d. Functions that will be eliminated and functional needs of the unit; and
 - e. Qualifications and skills needed to perform remaining duties of the affected units.
6. Written notification to the affected employees must be given as far in advance of the effective date as possible.
7. Employees affected by a RIF must receive notification when vacancies occur for like positions at their former campuses within 12 months of the RIF.
- I. Nothing in this policy should be construed to preclude the use of other budget reduction tools, including, but not limited to, reductions in hours worked and reductions in compensation. Colleges should consult the Office of General Counsel when considering use of such tools.

~~Each institution shall develop a consistent and equitable method of notifying and terminating faculty and non-faculty employees in the event that a reduction in force, reorganization or elimination of any occupational classification within a unit becomes necessary.~~

- ~~8. The college, after seeking legal advice from the Office of General Counsel, must provide method should include a written rationale for to the reduction that includes, review of the institution's operations, identification of the functional area(s) affected, a review of the budgetary implications involved,~~

~~and development of the specific written criteria to be used in identifying the duties that will be reassigned and/or eliminated in the event of a reduction. The rationale must include the reasons why the positions proposed for layoff were selected.~~

~~9. Only after specified functions/duties have been identified by unit heads and approved by the president, does the review of individual personnel begin.~~

~~10.1. Unit heads in consultation with human resources' staff will assess the specified areas and the employees in those areas in order to make recommendations to the President/Director relative to the specific personnel changes to be made.~~

~~11. In making personnel recommendations to the President, t~~The factors used in determining which positions to eliminate and which employees to lay off~~ reaching the recommended decisions may include, but are not limited to:
— The department or area that is being affected;~~

~~12. Length of service in the position and/or length of service at the institution or college;~~

~~13. Past written performance appraisals and disciplinary action;~~

~~14. Functions that will be eliminated and functional needs of the unit; and~~

~~15.2. Qualifications and skills needed to perform remaining duties of the affected units.~~

~~16. Prior to a final decision by the president and notification to the employees and in consultation with the staff of General Counsel, the impact of the recommendations shall be considered in light of non-discriminatory requirements, listed in Section F of this policy.~~

~~17.3. In the event of one of the above actions, ilt is permissible to transfer qualified individuals to vacancies at other departments/divisions, or institutions within the System.~~

- ~~18. Written notification to the affected employees must be given as far in advance of the effective date as possible.~~
- ~~19. Employees affected by a RIF must receive notification when vacancies occur for like positions at their former campuses within 12 months of the RIF.~~
- ~~H. Absence from Duty - An employee who is absent from duty for more than three (3) consecutive business days without giving notice to the appointing authority or appropriate manager concerning the reason for such absence and without securing permission to be on leave or who fails to report for duty or to the immediate supervisor or the appointing authority within two (2) business days after the expiration of any authorized leave of absence, absent unusual circumstances causing the employee's absence or preventing the employee's return, is considered as having resigned not in good standing effective at the end of the third business day, or in the case of failure to return from an authorized leave, effective at the end of the second business day.~~

~~V.~~IV. Non-Discrimination Requirements

- A. ~~The president shall ensure that~~ All appointments, changes of status, compensation, and terminations must be made ~~are all~~ in compliance with Board Policy No. 5.01.02.00 (EEO Affirmative Action) ~~which is incorporated herein by reference, and that~~ No person shall be ~~is~~ discriminated against on the basis of race, sex, religion, creed, age (as applicable), disability, sexual orientation, gender identity/expression, status as a covered veteran, genetic information, color, ethnic or national origin, and any other category protected by federal or state rights law in any area of employment.
- ~~B. An annual compliance audit will be conducted by the System Affirmative Action Officer/AA/Equity Officer.~~

~~VI.~~V. Employment Practice Complaints

- A. Upon receipt ~~by an institution~~ of any charge or claim alleging violations of state or federal laws or regulations in any area of employment by any state or federal

agency, or by any attorney, a copy of the notice of the charge or claim shall immediately be transmitted to the Office of ~~the~~ General Counsel.

~~B. The president shall initiate an investigation of the charge, and shall report to the General Counsel the results of the investigation.~~

~~C. The Office of the General Counsel will coordinate and approve all responses to the appropriate agency.~~

~~D.~~B. The ~~institution~~president shall transmit to the Office of General Counsel copies of all correspondence from or to the state or federal agency involved.

~~E.~~C. All responses to and interactions with the state or federal agency shall be coordinated through the Office of ~~the~~ General Counsel.

~~F.~~D. Internal complaints, charges, or claims concerning matters of employment shall be handled through the established procedures at the institution, subject to approval by the president.

~~G. In any case where the president makes a decision which is adverse to the charge or claim of the person, the president shall advise the person of any right of appeal provided by Board policy.~~

~~VII.~~VI. Academic Credentials to comply with T.C.A § 49-7-133

A. It is a Class A misdemeanor to misrepresent academic credentials.

1. A person commits the offense of misrepresentation of academic credentials who, knowing that the statement is false and with the intent to secure employment at or admission to an institution of higher education in Tennessee, represents, orally or in writing that such person:

- a. Has successfully completed the required course work for and has been awarded one (1) or more degrees or diplomas from an accredited institution of higher education;
- b. Has successfully completed the required course work for and has been awarded one (1) or more degrees for diplomas from a particular institution of higher education; or

- c. Has successfully completed the required course work for and has been awarded one (1) or more degrees or diplomas in a particular field or specialty from an accredited institution of higher education.

~~VIII.~~VII. Records and Reporting Requirements

- A. The institution president shall maintain full and complete records on all personnel, including all appointments, compensation, change of status, and termination as specified in Policy 1.12.01.00, Records Retention and Disposal of Records.

~~IX.~~VIII. Exceptions

- A. The Chancellor is authorized to approve exceptions to the provisions of this policy; or to suspend the provisions of this policy -as to any or all institutions when necessary to ensure proper compliance with Board policies, guidelines, and procedures-

Exhibits

Exhibit 1 – Temporary Faculty Compensation Rates **Related Policies**

- Equal Employment Opportunity and Affirmative Action
- Faculty Rank & Promotion at TCATs
- Faculty Promotion at Community Colleges
- Academic Freedom, Responsibility, & Tenure at the Tennessee Colleges of Applied Technology
- Academic Tenure for Community Colleges
- Contracts Guideline
- Personnel Transactions and Recommended Forms

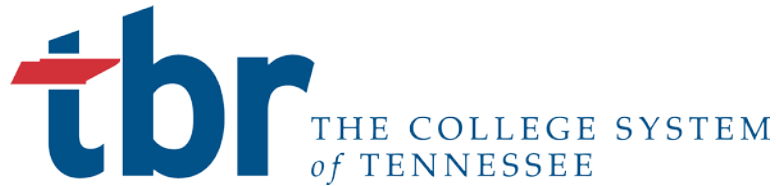
Sources

Authority

T.C.A. §§ 49-8-203, 49-7-133; T.C.A. §§ 8-35-124, 8-50-807

History

TBR Meetings: June 25, 1976; March 4, 1977; June 26, 1981; September 18, 1981; September 30, 1983; September 16, 1988; March 17, 1989; September 21, 1990; December 7, 1990; March 19, 1993; September 20, 1996; December 6, 1996; June 20, 1997; June 29, 2001; March 15, 2002; December 5, 2003; September 24, 2004; March 30, 2007; September 26, 2008; June 19, 2009 to take effect July 1, 2009; June 24, 2010; Revised September 20, 2013; Revised at Board Meeting June 20, 2019; [Revised at Board Meeting](#) -



**Presidents Quarterly Meeting
May 5, 2021**

SUBJECT: Employee Appointment Letter – Exhibit to P010
Personnel Transactions and Recommended Forms

PRESENTER: April Preston, Associate Vice Chancellor for HR & Payroll

ACTION REQUIRED: Informational

Summary:

A revised appointment letter for staff was drafted that complements the changes in the General Personnel policy and emphasizes the employment at will status of staff employees. It also doesn't require a certain notice period for separation, although the college may still provide one.

Related TBR Policy/Guideline:

P-010 – Personnel Transactions and Recommended Forms
5:01:00:00 General Personnel Policy

Attachment: Copy of proposed Employee Appointment Letter

TENNESSEE BOARD OF REGENTS OF THE COLLEGE SYSTEM OF TENNESSEE

Institution

APPOINTMENT LETTER

Employee Name

Address

City, TN zip

Dear Employee,

This is to confirm your appointment to a position as [POSITION TITLE] at a salary of \$_____ per year/month payable in accordance with institutional and TBR policies. This appointment is as an at will employee as defined by TBR General Personnel Policy 5:01:00:00 and is made subject to the laws of the State of Tennessee, the policies and requirements of the Tennessee Board of Regents, the policies and requirements of [INSTITUTION], and your acceptance of this letter.

This appointment and the above-stated salary are in consideration of your performance of the duties and responsibilities assigned to you. You must notify Human Resources should you become employed at another state agency/institution.

This appointment does not include any assurance, obligation, or guarantee of continued employment.

You are required to abide by the terms of the Drug-Free Workplace Act of 1988 as defined in published institution statements and policy. You must notify Human Resources of any criminal drug conviction for a violation occurring in the workplace no later than five days after such conviction.

Employment is contingent upon completion of the Form I-9 as required by law to certify work eligibility. The Form I-9 is required to be completed and signed on or before the first day of employment for new hires. Failure to do so may result in termination of employment.

As a further condition of employment you must comply with the policies of the TBR and of this Institution regarding Intellectual Property, and hereby acknowledge your responsibilities under those policies to disclose and possibly assign (as required under policy) Intellectual Property developed by you, either solely or jointly with others, during the term of your employment, and to otherwise assist the Institution as required by policy in protecting rights it may have in that Intellectual Property.

Special employment notes/duties, etc. _____

[For appointments requiring a probationary period, insert:] An initial probationary period of six (6) months of observable performance is required of all newly appointed employees. The institution reserves the right to impose a probationary period any time during the term of your employment.

[For appointments requiring academic credentials, i.e. a degree, insert:] It is a Class A misdemeanor to misrepresent academic credentials. A person commits the offense of misrepresentation of academic credentials who, knowing that the statement is false and with the intent to secure employment at or

admission to an institution of higher education in Tennessee, represents, orally or in writing, that the person:

(1) Has successfully completed the required course work for and has been awarded one (1) or more degrees or diplomas from an accredited institution of higher education;

(2) Has successfully completed the required course work for and has been awarded one (1) or more degrees or diplomas from a particular institution of higher education; or

(3) Has successfully completed the required course work for and has been awarded one (1) or more degrees or diplomas in a particular field or specialty from an accredited institution of higher education.]

You must signify your acceptance of this appointment under the terms and conditions set forth by signing this notice and returning it to the office of Human Resources within fifteen days after the date of this notice.

I accept the appointment described above under the terms and conditions set forth.

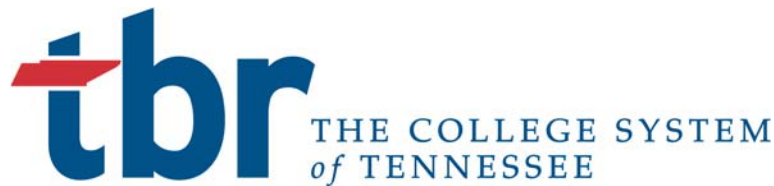
New Employee

Date

Chancellor/President

Date

TBR does not discriminate on the basis of race, color, religion, ethnic or national origin, sex, disability, age, status as a covered veteran, or genetic information in its programs and activities. The following person has been designated to handle inquiries regarding the nondiscrimination policies: NAME/TITLE/CONTACT INFO



**Presidents Quarterly Meeting
May 5, 2021**

SUBJECT: Revisions to TBR Policy 7.01.00.00, Firearms and Other Weapons

PRESENTER: Brian Lapps, General Counsel

ACTION REQUIRED: Requires Vote

Proposed revisions to the TBR Policy 7.01.00.00, Firearms and Other Weapons, are attached in tracked changes format. Instead of review by a subcouncil, the Campus Police Chiefs reviewed and approved the revisions at their April 20, 2021 meeting.

The “permitless carry” or “constitutional carry” legislation effective July 1, 2021 does not require changes to this policy—Tennessee law regarding the ability to carry a handgun on a campus remains the same.

The policy revisions are:

1. Section I.A. is amended to state that the permitless/constitutional carry legislation does not apply to TBR property.
2. Section II.A.8.g. is removed so that full-time employees who are permitted to carry a firearm on campus are now permitted to carry it in a state-owned vehicle. The rationale is that the change will increase safety by allowing employees who are required to drive a campus vehicle, e.g., maintenance staff, to keep the firearm on their person at all times.
3. Section II.B. is amended to clarify that an employee need not have a permit to keep a firearm secured in the employee’s vehicle.
4. Rather than referencing a “handgun carry permit,” the revised policy references a “handgun carry permit/enhanced handgun carry permit” to reflect current terminology in T.C.A. § 39-17-1351.

Please note although neither the constitutional/permitless carry legislation nor other legislation that TBR is tracking mandates policy changes, if the General Assembly unexpectedly were to pass legislation affecting this policy, further revisions would be submitted to the Presidents Council.

Attachment

Firearms and Other Weapons: 7.01.00.00

Policy Area

Safety and Security

Applicable Divisions

TCATs, Community Colleges, System Office, Board Members

Purpose

To maintain a safe educational and working environment for students and employees by establishing rules for possessing and carrying firearms and other weapons on TBR institution property.

Definitions

As used in this policy:

- “Carry” means to physically transport a firearm or other weapon on or about the body.
- “Concealed” means not visible to ordinary observation.
- “Employee” means all faculty, executive, administrative, professional and support staff employed in the service of and whose compensation is paid by a TBR institution.
“Employee” does not include independent contractors who provide goods or services to the institution or student workers as defined in TBR Policy 5.01.01.00.
- “Full-time Employee” includes all faculty, executive, administrative, professional and support staff who are employed on a full-time basis by a TBR institution, but does NOT include a person who is enrolled as a student at the institution, regardless of whether the person is also an employee. A full-time employee is one who has a regular work week of at least 37.5 hours, or who is scheduled to carry a full teaching load or its equivalent. This includes full-time modified fiscal year (MODFY) employees, temporary employees and term appointees who have a regular work week of at least 37.5 hours or are scheduled to carry a full teaching load or its equivalent. “Full-time Employee” does NOT include independent contractors who provide goods or services to the institution. For example, if an institution contracts for custodial services or food services, the contractor’s employees are NOT allowed to carry a handgun on the premises, even if they work on the premises full time.
- “Enrolled as a Student” as used in the definition of “Full-time Employee” means to be registered for an academic offering at the TBR institution where one is employed, whether

or not the academic offering is offered for credit or is not for credit. “Enrolled as a Student” does not include being registered for an academic offering that is delivered solely online, with no requirement for the student to appear on campus in order to complete the course.

- “Firearm” means any weapon designed, made or adapted to expel a projectile by the action of an explosive or any device readily convertible to that use.
- “Handgun” means any firearm with a barrel length of less than twelve inches (12”) that is designed, made or adapted to be fired with one (1) hand.
- “Institution Property” means all land, ground, structures, and any other real property owned, operated or controlled by a TBR institution.
- “Motor Vehicle” means a motor vehicle as defined in T.C.A. § 55-1-103.
- “On or About the Person” means carried concealed on the person or carried concealed in a handbag, briefcase or other carrying case that remains within an arm’s reach of the person at all times.
- “Parking Area” means property provided by the TBR institution for the purpose of permitting employees, students, or invitees to park motor vehicles.
- “Possess” means either: (1) direct physical control over a firearm or other weapon at a given time; or (2) the power and intention at any given time to exercise dominion and control over a firearm or other weapon. Examples of possessing a firearm or other weapon include, without limitation, the presence of a firearm or other weapon on or about the person of the employee or in the employee’s motor vehicle, desk, lunch box, locker, tool kit, bag, purse, cabinet, or office.
- “Student” means any person who is admitted and/or registered for study at a TBR institution for the current academic period. This shall include any period of time following admission and/or registration, but preceding the start of classes for any academic period. It will also include any period which follows the end of an academic period through the last day for registration for the succeeding academic period, and during any period while the student is under suspension from the institution.

- “Valid Handgun Carry Permit” [or “Enhanced Handgun Carry Permit”](#) means a current handgun carry permit issued by the State of Tennessee under T.C.A. § 39-17-1351 or issued by another state that has been given reciprocity under T.C.A. § 39-17-1351(r).
- “Weapon” means firearm; explosive; explosive weapon; bowie knife; hawk bill knife; ice pick; dagger; slingshot; leaded cane; switchblade knife; blackjack; metal knuckles; razors and razor blades, except those used solely for personal shaving; any sharp pointed or edged instrument, except unaltered nail files and clips and tools used solely for preparation of food instruction and maintenance; or any other weapon of like kind, not used solely for instructional or school-sanctioned ceremonial purposes.

Policy

I. [General Prohibition.](#)

- Except as otherwise provided in this policy, possession of firearms or other weapons on institution property is prohibited. (T.C.A. § 39- 17-1309). (See Exhibit 1, Guide to Gun Laws on Campus.) [The permitless/constitutional carry legislation enacted by PC effective July 1, 2021 does NOT apply to TBR property. The requirements of T.C.A. § 39-17-1309 and this policy remain in effect.](#)

II. [Exceptions for Employees with Valid Handgun Carry Permits/Enhanced Handgun Carry Permits.](#)

- In accordance with T.C.A. § 39-17-1309(e)(11) and subject to the limitations set forth in this policy, full-time employees who possess a valid handgun carry permit/[enhanced handgun carry permit](#) and are authorized to carry a handgun under T.C.A. § 39-17-1351 may carry a handgun on property owned, operated, or controlled by the TBR institution at which they are employed, provided that they are not permitted to carry a handgun openly or in any manner in which the handgun is visible to ordinary observation, unless the employee is carrying, displaying, or employing the handgun in justifiable self-defense or in justifiable defense of another during the commission of a crime in which the employee or other person defended was a victim.

1. Full-time employees who intend to exercise this right to carry a handgun must first register with the law enforcement agency or agencies designated by their employing institution to receive that registration. If an institution has locations in more than one jurisdiction, the employee must register with the law enforcement agency in each jurisdiction where they intend to carry on campus. (See Exhibit 2, Handgun Carry Notification & Summary of Campus Concealed Carry Rights & Responsibilities)
2. The registering employees' names and other identifying information shall be confidential, not open for public inspection and shall not be disclosed except to the administrative officer of the institution responsible for security of the institution. However, that administrative officer will not be provided with the names or other identifying information of employees under their direct supervision or for whom they evaluate job performance.
3. The institution's designated law enforcement agency shall develop and implement policies and procedures regarding the registration and confidentiality.
4. Registered employees may not carry a handgun on the property of any TBR institution other than their employing institution. If two or more institutions share a property, properly registered employees of all sharing institutions may carry on the shared property.
5. Full-time employees who elect to carry a handgun under T.C.A. § 39-17-1309(e)(11) shall have their valid hand-gun carry permit [enhanced handgun carry permit](#) in their immediate possession at all times when carrying a handgun and shall display the permit on demand of a law enforcement officer.
6. Part-time employees may not carry a handgun on institution property, even if they have carry permits.
7. The institution's designated law enforcement agency may develop and implement a course or courses to be offered to employees electing to carry a handgun under T.C.A. § 39-17-1309(e)(11). Firearm safety shall be a component of any such

course offered. Institutions are not required to offer such courses. Employees are not required to participate in such courses if they are offered.

8. Employees who elect to carry a handgun under T.C.A. § 39-17-1309(e)(11) are not permitted to carry a handgun at the following times and at the following locations:
 - a. Stadiums, gymnasiums, and auditoriums when school-sponsored events are in progress, such as ball games; pep rallies; convocations; graduations; concerts, plays and other entertainment; etc. This includes such events that are sponsored by recognized student organizations.
 - b. Formal meetings regarding employee or student disciplinary matters.
 - c. Formal meetings regarding tenure issues.
 - d. A hospital, or an office where medical or mental health services are the primary services provided, such as a clinic, student health center or a mental health counseling center.
 - e. Any location where a provision of state or federal law prohibits the carrying of a handgun on that property, including, but not limited to:
 1. On the premises of a child care agency, in any vehicle used by a child care agency to transport children, or in the presence of a child being cared for by a child care agency, such as a campus day care center. (*Source: Rules of the Tennessee Department of Human Services, Chapter 1240-04-03, Licensure Rules for Child Care Centers*);
 2. In or on any public K-12 school building, bus, school campus, grounds, recreation area, athletic field or any other property owned, operated, or while in use by any K-12 board of education, school, or directors for the administration of any public or private K-12 educational institution. This includes buildings or parts of buildings that are dedicated to use by a campus K-12 school, middle college, etc. (*Source: T.C.A. § 39-17-1309*);
 3. In or on any building, bus, campus, grounds, recreation area, athletic field or any other property owned, operated, or while in use by a private institution of

higher education that prohibits possession of firearms on its property. For example, if ~~a TBR~~ your institution operates in a facility shared with a private institution of higher education that prohibits firearms on its property, a TBR employee will not be able to carry a handgun into the portion of the facility controlled by the private institution. (*Source: T.C.A. § 39-17-1309*);

4. A public park, playground, civic center or other building facility, area or property which, at the time of the employee's possession of a handgun, the employee knows or should know is being used by board of education, school, college or university board of trustees, regents, or directors for the administration of any public or private educational institution for the purpose of conducting an athletic event or other school-related activity on an athletic field, permanent or temporary, including but not limited to, a football or soccer field, tennis court, basketball court, track, running trail, Frisbee field, or similar multi-use field (*Source: T.C.A. § 39-17-1311*); and
5. A federal facility. (*Source: 18 United States Code § 1930*)
- f. Property leased to the institution, if the lessor has prohibited the possession of firearms on the premises.
- ~~g. In any motor vehicle that is owned, operated, or controlled by a TBR institution and that is provided to an employee for use during the course of employment. The Chancellor may grant an exception to this prohibition to Presidents who are provided a TBR vehicle under the terms of their employment agreement.~~
9. The employee shall not possess a handgun:
 - a. While under the influence of alcohol or any controlled substance or controlled substance analogue (*Source: T.C.A. § 39-17-1321*); or
 - b. While consuming liquor, wine, beer, or other alcoholic beverage within the confines of an establishment open to the public where liquor, wine, beer, or other alcoholic beverages are served for consumption on the premises. (*Source: T.C.A. § 39-17-1321*)

10. Employees who elect to carry a handgun under T.C.A. § 39-17-1309(e)(11) shall not disclose the fact that they are carrying a handgun with the intent to intimidate or threaten other employees, students or third parties.

B. Any employee who is [legally permitted to possess a firearm under Tennessee law](#)~~the holder of a valid handgun carry permit recognized in Tennessee~~ may, unless expressly prohibited by federal law, transport and store a firearm or firearm ammunition in the permit holder's motor vehicle while on or utilizing a parking area if:

1. The employee's motor vehicle is parked in a location where it is permitted to be, and
2. The firearm or ammunition being transported or stored in the motor vehicle:
 - a. Is kept from ordinary observation if the employee is in the motor vehicle; or
 - b. Is kept from ordinary observation and locked within the trunk, glove box, or interior of the employee's motor vehicle or a container securely affixed to such motor vehicle if the employee is not in the motor vehicle.
3. An employee transporting, storing or both transporting and storing a firearm or firearm ammunition in accordance with this paragraph does not violate this policy or the law if the firearm or firearm ammunition is observed by another person or security device during the ordinary course of the employee securing the firearm or firearm ammunition from observation in or on a motor vehicle.

C. When on the premises of the TBR institution where they are employed, employees who are registered to carry a handgun on the premises under T.C.A. § 39-17-1309(e)(11) and this policy must have the handgun either:

1. On or about their person, which means that the gun must be carried concealed on the person or it must be carried concealed in a handbag, briefcase or other carrying case that remains within an arm's reach of the person at all times; or
2. Secured in their personal motor vehicle in accordance with T.C.A. § 39- 17-1313.

III. [Other Exceptions to the Prohibition on Weapons](#)

A. A person may possess or carry a firearm or other weapon used solely for instructional or school-sanctioned ceremonial purposes on institution property.

- B. A non-student adult may possess a firearm, if the firearm is contained within a private vehicle operated by the adult and is not handled by the adult, or by any other person, while the vehicle is on institution property.
- C. Persons employed in the Army, Air Force, Navy, Coast Guard or Marine service of the United States or any member of the Tennessee National Guard, when in the discharge of their official duties and acting under orders requiring them to carry arms or weapons, may possess the weapons required by the orders.
- D. Civil officers of the United States in the discharge of their official duties may possess required weapons.
- E. Officers and soldiers of the militia and the National Guard, when called into actual service, may possess required weapons.
- F. POST-certified, active-duty law enforcement officers, whether on or off duty, may possess and carry their service firearm on institution property.

IV. [Right to Search for Weapons](#)

- A. 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.
 - 1. **Such searches may only be conducted by law enforcement officers.**

V. [Sanctions](#)



- A. Violation of the applicable laws regarding possession of firearms or other weapons on TBR institution property shall be reported to the law enforcement agency or agencies having jurisdiction and may result in arrest and prosecution.
- B. Violation of this policy and/or the applicable laws regarding possession of firearms or other weapons on TBR institution property shall result in disciplinary action, up to and including immediate termination of employment or expulsion from the institution.

- C. No TBR institution shall take any adverse employment or disciplinary action against an employee or student based solely on the fact that the person has carried a handgun on TBR institution property in compliance with T.C.A. § 39-17-1309(e)(11) and this policy or stored a firearm or firearm ammunition in a motor vehicle on institution property in compliance with T.C.A. § 39-17-1313.

VI. **Limitations of Liability**

- A. Unless carrying a handgun is a requirement of the employee's job description, the carrying of a handgun as allowed by T.C.A. § 39-17-1309(e)(11) is a personal choice of the employee and not a requirement of the employing institution. Consequently, an employee who carries a handgun on property owned, operated or controlled by the TBR institution at which the employee is employed is not:
1. Acting in the course of or scope of their employment when carrying or using the handgun;
 2. Entitled to workers' compensation benefits under T.C.A. § 9-8-307(a)(1)(K) for injuries arising from the carrying or use of a handgun; or
 3. Immune from personal liability with respect to use or carrying of a handgun under T.C.A. § 9-8-307(h).
- B. A TBR institution is absolutely immune from claims for monetary damages arising solely from or related to an employee's use of, or failure to use, a handgun by an employee of that institution who has elected to carry a handgun under T.C.A. § 39-17-1309(e)(11).

Exhibits

-  [Exhibit 1 - Guide to Gun Laws on Campus](#) (pdf /50.9 KB)
-  [Exhibit 2 - Handgun Notification Form & Summary](#) (pdf /127.91 KB)

Sources

Authority

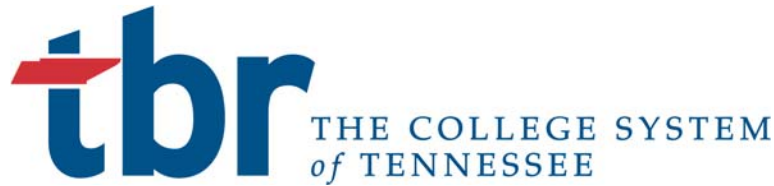
T.C.A. § 49-8-203; All State and Federal Statutes, Acts, Codes, Rules and Regulations referenced in this policy; Tennessee Department of Human Services Rule, Chapter 1240-04-03.

History

NEW Policy Adoption; TBR Board Meeting, June 23, 2016, effective July 1, 2016. Revision approved by Board September 15, 2016. [Revision approved by Board June , 2021.](#)

Related Policies

- [Prevention of Workplace Violence](#)
- [General Policy on Student Conduct & Disciplinary Sanctions](#)



**Presidents Quarterly Meeting
May 5, 2021**

SUBJECT: Revisions to TBR Policy 6.03.00.00, Sexual Misconduct

PRESENTER: Brian Lapps, General Counsel

ACTION REQUIRED: Requires Vote

For the reasons explained in the February 24, 2021 Presidents Meeting materials and at that meeting, TBR is creating and revising four formal rules. At the June Board meeting, the Board will be asked to approve both the rule and the attached, revised policy.

The attached draft policy includes minor revisions to conform to the draft rule. The substantive revisions clarify (1) the meaning of “preponderance of the evidence” and other matters regarding burden of proof and (2) the process for determining when allegations will be investigated consistent with the Sexual Misconduct Policy and when they will be investigated pursuant to another policy.

Because the Board will consider all comments received from the public and may make changes to the rule based on those comments, the final version of the policy may need to be changed to be consistent with the rule.

Because of the length of this policy and the minor nature of the changes, only a “tracked changes” version is provided.

Attachment

Sexual Misconduct : 6.03.00.00

Policy/Guideline Area

Sexual Discrimination/Harassment/Misconduct

Applicable Divisions

TCATs, Community Colleges, System Office

Purpose

It is the intent of the Tennessee Board of Regents that the institutions under its jurisdiction shall fully comply with Title IX of the Education Amendments of 1972, §485(f) of the HEA, as amended by § 304 of the Violence Against Women Reauthorization Act of 2013, the regulations implementing these Acts found at 34 CFR §668.41, §668.46, and Appendix A to Subpart D of Part 668. This policy addresses the offenses defined herein as "Sexual Misconduct." Sexual Misconduct is a subset of a broader category of sexual harassment. Allegations of sexual harassment that do not meet the definition of Sexual Misconduct will be handled in accordance with TBR Guideline P-080 and applicable institutional policy. The Tennessee Board of Regents intends for each institution to provide a single, easily accessible and user-friendly document to advise students, employees, and others affected by [S](#)exual [M](#)isconduct of each institution's rules and procedures. Institutions under the Tennessee Board of Regents system shall ensure that the sexual misconduct policy is in a format or formats that make it readily available. The following policy and procedures are adopted by the Board to assist the institutions in such compliance.

Definitions

For the purpose of this policy, the following definitions shall apply:

- Complainant – a person who is alleged to be the victim of conduct that could constitute Sexual Misconduct. A Complainant may also be referred to as a Party.
- Consent - an active agreement to participate in a sexual act. An active agreement is words and/or actions that indicate a willingness to participate in a sexual act. Consent cannot be given by an individual who is asleep; unconscious; or mentally or physically incapacitated,

either through the effect of drugs or alcohol or for any other reason; or, is under duress, threat, coercion, or force. Past consent does not imply future consent. Silence or an absence of resistance does not imply consent. Consent can be withdrawn at any time.

- Dating violence - violence against a person when the accuser and accused are dating, or who have dated, or who have or had a sexual relationship. "Dating" and "dated" do not include fraternization between two individuals solely in a business or non-romantic social context. Violence includes, but is not necessarily limited to,
 - inflicting, or attempting to inflict, physical injury on the accuser by other than accidental means;
 - placing the accuser in fear of physical harm;
 - physical restraint;
 - malicious damage to the personal property of the accuser, including inflicting, or attempting to inflict, physical injury on any animal owned, possessed, leased, kept, or held by the accuser; or,
 - placing a victim in fear of physical harm to any animal owned, possessed, leased, kept, or held by the accuser.
- Domestic violence – includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime occurs, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime occurs. In cases involving allegations of mutual acts or threats of acts of violence, the investigator will, when appropriate, identify the primary aggressor in the situation based on the totality of the information gathered, including without limitation: the history of violence between the Parties; the relative severity of the injuries inflicted on each person; information gathered from the persons involved in the situation and witnesses to the situation; and whether the acts or

threats were done in self-defense. The primary aggressor will be considered the Respondent for purposes of evaluating Domestic Violence.

- Education program or activity - education programs and activities include locations, events, or circumstances over which the TBR or a TBR institution exercises substantial control over both the Respondent and the context in which the alleged Sexual Misconduct occurred. Relevant factors include whether the alleged conduct took place (i) on or off premises owned or controlled by TBR or a TBR institution, (ii) during school or work hours, (iii) as part of an institution-sponsored social activity, and (iv) as part of an activity that advances an educational purpose. Education programs or activities also include any building owned or controlled by a student organization that is officially recognized by a TBR institution. Whether Respondent is a TBR or TBR ~~an~~ institutional employee, and if so, the nature of the Respondent's employment may be relevant. No single factor is determinative, including whether or not the alleged harassment took place on premises owned or controlled by a TBR institution. The Title IX Coordinator, after consulting with the Office of General Counsel, will make a fact-specific decision ~~Determination~~ whether, if proven, the allegations arise out of an education program or activity. Where some alleged Sexual Misconduct took place within a TBR or TBR institution education program or activity and some took place outside of it, the Title IX Coordinator will determine whether to investigate ~~and adjudicate~~ all of the allegations in accordance with this policy. The decision-maker will also make a Determination whether the TBR institution has established by a preponderance of the evidence that Sexual Misconduct took place in an institutional education program or activity.
- Force/Forced - words and/or conduct that, viewed from the perspective of a reasonable person, substantially impair(s) a person's ability to voluntarily choose whether to take an action or participate in an activity. Examples of Force include, without limitation:
 - Physical force (e.g., hitting, punching, slapping, kicking, restraining, choking, kidnapping, using a weapon, blocking access to an exit);
 - Words and/or conduct that would cause a reasonable person to fear:

- Physical force or other harm to the person's health, safety, or property, or a third person's health, safety, or property;
 - Loss or impairment of an academic benefit, employment benefit, or money;
 - Disclosure of sensitive personal information or information that would harm a person's reputation;
 - Disclosure of video, audio, or an image that depicts the person's nudity or depicts the person engaging in a sexual act(s); or
 - Other immediate or future physical, emotional, reputational, financial, or other harm to the person or a third person.
- Formal Complaint - a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Misconduct against a Respondent and requesting that the institution investigate the allegation. At the time of filing a Formal Complaint, a Complainant either must be participating in or attempting to participate in the institution's education program or activity implicated by the Formal Complaint.
 - "Incapacitation" means that a person lacks the ability to actively agree to a sexual act because the person is asleep, unconscious, under the influence of an anesthetizing or intoxicating substance such that the person does not have control over their body, is otherwise unaware that a sexual act is occurring, or their mental, physical, or developmental abilities renders them incapable of making a rational informed judgment. Incapacitation is not the same as legal intoxication. See Clarifications for more information.
 - Respondent – a person who has been alleged to be a perpetrator of conduct that could constitute Sexual Misconduct. A Respondent may also be referred to as a Party.
 - "Retaliation" means to intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing. Intimidation, threats, coercion, or discrimination, including charges against an individual for ~~code of~~ conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the

same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by this policy constitutes retaliation. Retaliation is a violation of this policy regardless of whether the underlying allegation of a violation of this policy is ultimately found to have merit.

- The exercise of rights protected under the First Amendment [and other provisions of the United States Constitution](#) does not constitute retaliation.
- Charging an individual with a policy or ~~code of~~ conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy does not constitute retaliation.
- “Sexual Assault” is an umbrella term that includes rape, fondling, incest, and statutory rape.
 - “Rape” means the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
 - “Fondling” means the touching of the private body ~~p~~Partsy of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental incapacity.
 - “Incest” means sexual intercourse between persons who are related to each other within degrees where marriage is prohibited by law.
 - “Statutory rape” means sexual intercourse with a person who is under the statutory age of consent.
- Title IX Sexual Harassment – conduct on the basis of sex that satisfies either of the following:
 - an employee of an institution conditioning provision of an aid, benefit, or service of an institution on an individual’s participation in unwelcome sexual conduct (quid pro quo);
 - ~~(2)~~unwelcome conduct of a sexual nature determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the institution’s education program or activity. “Reasonable person” means a

reasonable person under similar circumstances as and with similar identities to the Complainant. TBR institutions will consider the totality of the circumstances, including without limitation, the context in which the conduct and/or words occurred, and the frequency, nature, and severity of the words and/or conduct. In no event shall Title IX sexual harassment be construed to prohibit speech protected by the First Amendment to the United States Constitution (e.g., merely offensive or insulting speech). (With respect to conduct by employees, TBR institutions also prohibit sexual harassment in accordance with TBR Guideline P-080 and institutional policy.) See Clarifications for more information.

- Stalking – engaging in a course of conduct directed at a specific person that would cause a reasonable person to either (a) fear for his or her safety or the safety of others or (b) suffer substantial emotional distress. “Course of conduct” means two or more acts, including, but not limited to, acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates with or about another person, or interferes with another person’s property. “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. For the definition of Stalking, “reasonable person” means a reasonable person under similar circumstances and with similar identities to the Complainant.

Policy/Guideline

I. Prohibition of Sexual Misconduct and General Information

A. Sexual Misconduct is a form of sex discrimination prohibited by Title IX. TBR is committed to helping its institutions rid their campuses of any and all acts of Sexual Misconduct. As set forth in this policy, Sexual Misconduct includes Title IX Sexual Harassment, Dating Violence, Domestic Violence, Stalking, and Sexual Assault. TBR and its institutions strictly prohibit these offenses. Each institution shall adopt its own policy that is consistent with this policy. [For purposes of institutional policies, a reference](#)

to the institution includes the TBR System Office for any complaints, investigations, adjudications, and other proceedings that involve the TBR System Office.

1. Because Sexual Misconduct is a subset of the broader category of sexual harassment, not all sexual harassment allegations will be handled according to this policy. Allegations of sexual harassment that do not fall within the more limited definition of Sexual Misconduct or otherwise do not meet the criteria for filing a Formal Complaint will be handled in accordance with TBR Guideline P- 080 and institutional policy.
2. With respect to allegations of Sexual Misconduct against faculty and staff in which a student is not the Complainant, additional laws and policies apply, most notably Title VII and anti-discrimination policies. In such situations and absent unusual circumstances, the Complainant may file a Formal Complaint pursuant to this policy or proceed pursuant to TBR Guideline P-080 and the appropriate institutional policy.
3. With respect to allegations of Sexual Misconduct in which a student is either a Complainant or Respondent and meets the criteria for filing a Formal Complaint, absent unusual circumstances, pursuing a Formal Complaint pursuant to this policy will be the appropriate method of addressing the allegations.
4. Upon receiving and assessing a report of Sexual Misconduct and/or sexual harassment, the Title IX Coordinator will decide whether the criteria for proceeding under this policy are met and whether another policy may apply. If there is a possibility of proceeding pursuant to TBR Guideline P-080 and another institutional policy, the Title IX Coordinator will explain the options.
5. In addition to conduct by students, faculty, and staff, ~~this~~ this policy applies to conduct by third parties. An example of a third party is a vendor with whom the institution contracts to provide services.
6. This policy applies to all students and employees, regardless of sexual orientation or gender identity.

B. Title IX Coordinators

1. Each institution shall clearly identify its Title IX Coordinator's name and contact information (mailing address, phone number, email address, etc.) in its institutional policy and on its website. [A Deputy Title IX Coordinator has the same authority under this policy as the Title IX Coordinator.](#)
2. To view a list of Title IX Coordinators by Institution, follow this link: <https://www.tbr.edu/oesi/office-organizational-effectiveness>

C. Lack of Bias and Equitable Treatment

1. Neither the Title IX Coordinator, any investigator, any decision-maker, any person designated to facilitate an informal resolution process, nor anyone deciding an appeal will have a conflict of interest or bias for or against complainants or respondents generally, or against an individual Complainant or Respondent.
2. The Title IX Coordinator is responsible for appointing investigators, decision-makers, and appellate reviewers, and may appoint someone from another institution or someone not employed by a TBR institution in order to avoid potential bias or for other reasons. In the event of potential bias of the Title IX Coordinator, or if the Title IX Coordinator believes that another person should serve in that role for other reasons, the Title IX Coordinator should report the matter to TBR Central Office.
3. Institutions will provide a prompt, fair, and impartial investigation, adjudication, and, if applicable, disciplinary process. Institutions will treat Complainants and Respondents equitably, which includes an objective evaluation of all relevant evidence, including both evidence that tends to prove or disprove the allegations.
4. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.
5. The investigation will proceed with a presumption that the Respondent is not responsible for the alleged conduct unless and until a Determination of

responsibility for a violation of this policy is made at the conclusion of the decision-making process. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests with the institution. The parties do not carry the burden of proof. It is the institution's responsibility to establish Sexual Misconduct by a preponderance of the evidence.

6. The institution shall provide simultaneous written notification to the Parties of (1) any initial, interim, or final decision by an official authorized to resolve disciplinary matters, (2) any available appeal procedures for that decision, (3) any change to that decision, and (4) when that decision becomes final. The Parties will receive timely and equal access to information.

II. How to Report Sexual Misconduct

A. TBR institutions take seriously all complaints of sexual discrimination, sexual harassment, and Sexual Misconduct. This section explains the various reporting, complaint, and confidential disclosure options available to enable individuals to make informed choices about where to turn should they experience sexual discrimination, sexual harassment, or Sexual Misconduct.

1. TBR institutional policy shall explain how to report Sexual Misconduct to the Title IX Coordinator. Such a report can be made at any time, including during non-business hours, by using the telephone number or electronic mail address, or office mail address listed for the Title IX Coordinator.

2. TBR recommends that reports and complaints of all Sexual Misconduct be made to the Title IX Coordinator so that the institution can respond appropriately. Although reports and complaints of Sexual Misconduct may be made at any time, reports should be made as soon as possible so that the institution is best able to address the allegation.

3. TBR encourages anyone who witnesses, experiences, or has information about possible Sexual Misconduct to take reasonable actions to prevent or stop such actions. This may include speaking up while the behavior is taking place or

immediately afterwards, reporting the behavior (in accordance with the reporting options outlined in this policy), directly intervening when it is safe and reasonable to do so, contacting law enforcement, or other means. A person who has been subjected to any type of Sexual Misconduct need not confront the other Party. The appropriate process to address the conduct is through this or other applicable policy.

B. Supportive and Interim Measures

1. After receiving a report of potential Sexual Misconduct, whether or not the report is a Formal Complaint, the Title IX Coordinator will contact the Complainant to discuss the availability of Interim/Supportive Measures, inform the Complainant of their availability, and consider the Complainant's wishes with respect to potential Interim/Supportive Measures. The Title IX Coordinator will also explain the process for filing a Formal Complaint.
2. The Title IX Coordinator, in conjunction with the appropriate department, may implement interim, supportive, or protective measures while assessing, investigating, and resolving the report. These Interim/Supportive Measures are non-disciplinary, non-punitive, individualized services and are offered without fee or charge to the Complainant or Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed.
3. They are designed to restore or preserve equal access to the institution's programs or activities without unreasonably burdening the other Party and may include measures designed to protect the safety of all Parties or the institution's educational environment or deter Sexual Misconduct.
4. These measures may include, but are not limited to: mutual no-contact directives; access to counseling services and assistance in setting up an initial appointment; changing schedules, assignments, or job/study locations to lessen or minimize contact; extensions of deadlines and course-related adjustments; limiting or barring an individual's or organization's access to certain institutional facilities or

activities; providing an escort to ensure safe movement on campus; providing academic support services, such as tutoring; arranging for a Party to re-take a course or withdraw from a class without penalty; administrative leave; leave of absence; institution-imposed leave or physical separation from individuals or locations.

5. The institution will attempt to maintain the confidentiality of such Interim/Supportive Measures, to the extent that it can do so without impairing its ability to effectuate the Interim/Supportive Measures or to investigate and adjudicate the complaint.

C. Formal Complaint

1. Any person alleging to be ~~who has been~~ a victim of Sexual Misconduct that took place within an education program or activity of a TBR institution in the United States may file a Formal Complaint under this policy.

2. A Complainant who wants a TBR institution to conduct an investigation and take action in accordance with this policy must file a Formal Complaint alleging Sexual Misconduct.

3. A Complainant must submit a written Formal Complaint in person, by mail, or via electronic mail to the Title IX Coordinator. The document must contain the Complainant's physical signature or a "digital signature." (A digital signature is information transmitted electronically that enables the Title IX Coordinator to determine that the Complainant is the person submitting the complaint, including, but not limited to, an email from a TBR institutional account or a typed version of the Complainant's name. A digital signature need not reproduce a written signature.) A Formal Complaint cannot be submitted anonymously. Only the Title IX Coordinator can submit a Formal Complaint on behalf of another person.

4. Although TBR institutions will attempt to consider the wishes of Complainants, including that no investigation be conducted, TBR institutions will also consider their obligations under both TBR policy and applicable law, including

Title VII of the Civil Rights Act of 1964. Thus, when the Title IX Coordinator receives a report of Sexual Misconduct, and especially when the complaint involves an employee, the Title IX Coordinator may decide to investigate the matter pursuant to Guideline P-080 and institutional policy, even if the Complainant does not want the report investigated. If the Title IX Coordinator decides to file a Formal Complaint, the Title IX Coordinator is not a "Party" to any investigation, Determination or hearing process.

5. Complainants should provide as much of the following information as possible: what happened, where, and when; names of all people involved, including witnesses (if any); supporting documentation (if any); and contact information. TBR encourages reporting of Sexual Misconduct even if some or all information is unavailable or cannot be provided. The Title IX Coordinator will explain their role, the options for reporting an incident, potential available Interim/Supportive Measures, and the available resources for assistance.

D. Confidential Resources (who will not share information with Title IX Coordinator)

1. TBR encourages victims of Sexual Misconduct to talk to someone about what happened, whether they want their report to be investigated or not. Institutions should offer Complainants someone to talk to confidentially, so that they can get the support they need. Institutional policy shall explain that some resources are confidential and should be considered if the Complainant does not want the institution to investigate the matter.

2. If the institution employs or contracts with such individuals, confidential resources include licensed professional counselors/mental health providers when acting in that role; pastoral counselors acting in that capacity; and medical professionals when acting in a clinical role. These resources do not report any information about an incident to the Title IX Coordinator without a Complainant's permission. Institutional policies shall identify and provide contact information for any confidential reporting options within the institution.

3. Counselors and health care providers not affiliated with the institution will generally maintain confidentiality and not share information with the institution unless the Complainant requests the disclosure and signs a consent or waiver form. However, these resources may have reporting obligations under state or federal law. For example, healthcare providers and certain other individuals are required to notify law enforcement when a person seeks treatment for injuries related to a violent crime, including injuries resulting from Sexual Misconduct or abuse of a minor.

E. Reporting by Employees

1. Institutional policy shall provide that:
 - a All employees who learn of Sexual Misconduct (or any form of sexual harassment or sex discrimination, or retaliation) are encouraged to report such matters to the Title IX Coordinator.
 - b Supervisors and managers who learn of Sexual Misconduct (or any form of sexual harassment or sex discrimination, or retaliation) must immediately report such concerns to the Title IX Coordinator.

F. Anonymous and Third-Party/Bystander Reporting

1. Institutional policy shall encourage third parties to report incidents of Sexual Misconduct to the Title IX Coordinator. The institution may not be able to move forward with third-party reports if the Complainant does not wish to file a Formal Complaint or cooperate with an investigation.
2. After providing a report, third parties are not entitled to information about the institution's investigation and response due to privacy concerns and applicable federal and state laws.

G. Abuse of Minors

1. Institutional policy shall include a statement that Tennessee law mandates reporting by any person who has knowledge of physical or mental harm to a child if:
 - (1) the nature of the harm reasonably indicates it was caused by brutality, abuse, or

neglect; or (2) on the basis of available information, the harm reasonably appears to have been caused by brutality, abuse, or neglect. Tennessee law also mandates reporting by any person who knows or has reasonable cause to suspect that a child has been sexually abused, regardless of whether the child has sustained any apparent injury as a result of the abuse.

2. In the event of a life-threatening emergency, a report of child abuse or child sexual abuse should be made by calling 911. In other cases, a report of child abuse or child sexual abuse must be made immediately to one of the following authorities:

- a The Tennessee Department of Children's Services (the Central Intake Child Abuse Hotline is 1-877-237-0004);
- b The sheriff of the county where the child resides;
- c The chief law enforcement official of the city where the child resides;
- or
- d A judge having juvenile jurisdiction over the child.

3. In addition, institutional employees shall make a report of child abuse or child sexual abuse in connection with an institutional program or activity to the Title IX Coordinator. Note that a report to an institutional law enforcement or security agency is not sufficient to comply with state law.

H. Law Enforcement

1. The following law enforcement agencies listed in this policy are available for emergency response, facilitating medical transport, investigating incidents of a criminal nature, referrals, and preserving evidence. Law enforcement may be required to report potential violations of this policy to the Title IX Coordinator and to report incidents of sexual assault and other criminal acts of a serious nature to other law enforcement authorities.

2. TBR institutions shall list applicable local law enforcement agencies.

I. Reporting Pursuant to the Nottingham Act.

1. Unless the victim of a rape does not consent to the reporting of an offense, the chief security officer or chief law enforcement officer of each institution shall immediately notify the local law enforcement agency with territorial jurisdiction over the institution if the officer is in receipt of a report from the victim alleging that any degree of rape has occurred on the property of the institution. The chief security officer or chief law enforcement officer shall designate one (1) or more persons who shall have the authority and duty to notify the appropriate law enforcement agency in the absence of the chief security officer or chief law enforcement officer. In the case of an alleged rape, the institution's law enforcement agency shall lead the investigation. After notifying the local law enforcement agency, the institution shall cooperate in every respect with the investigation conducted by the law enforcement agency. T.C.A. § 49-7-129.

2. If the victim does not consent to the reporting, the chief security officer or chief law enforcement officer of each institution shall not report the offense to the local law enforcement agency. T.C.A. § 49-7-2207; T.C.A. § 49-7-129.

III. [Additional Information](#)

A. No Retaliation

1. Retaliation against a person who makes a report or files a complaint, participates or assists in an investigation, encourages another to file a complaint, or opposes Sexual Misconduct (or any other form of discrimination prohibited by institutional policy) is prohibited. Individuals must not interfere with an investigation. Retaliation will result in disciplinary measures, up to and including termination or expulsion.

2. In order to help prevent retaliation, institutional policy is to keep confidential the identity of anyone who has made a report or complaint of sex discrimination, including anyone who has filed a Formal Complaint of Sexual Misconduct, any Complainant, any Respondent, and any witness except as is required to carry out

an institution's responsibilities under this policy, as permitted by FERPA, or as required by law.

3. Anyone who wishes to file a complaint of retaliation should contact the Title IX Coordinator.

B. Emergency Removal/Administrative Leave

1. If it appears, based on an allegation of Sexual Misconduct, that a student may constitute an immediate and direct threat to the physical health or safety of another individual, the institution will conduct an individualized inquiry and risk analysis and may place the student on interim suspension on an emergency basis. If the institution implements an interim suspension, the student shall be given the opportunity at the time of the decision, or as soon thereafter as reasonably possible, to contest the interim suspension. Institutions shall follow the procedures set forth in TBR Policy 3.02.00.01-General Regulations on Student Conduct & Disciplinary Sanctions (and applicable institutional policies) before placing any student on interim suspension.

2. The institution may place employees on administrative leave or similar action while addressing allegations of Sexual Misconduct.

3. Visitors, vendors, and other third Parties may be removed from the premises consistent with applicable policies and procedures.

C. Court Orders

1. Individuals may seek orders of protection, restraining orders, or other similar orders from a court of law.

D. Institutions shall not create a separate procedure for investigating and resolving complaints of Sexual Misconduct involving athletes or any other subgroup of students.

E. Participation in the Formal Complaint process by a Complainant, Respondent, institution, or other person does not waive applicable privileges, including attorney-client privilege, doctor-patient privilege, the peer review/quality improvement privilege, etc. The holder of a privilege may waive it in certain circumstances.

IV. Investigation and Outcomes

A. The Office of General Counsel shall always be consulted prior to investigation.

B. Intake and Assessment of Formal Complaints

1. The Title IX Coordinator will assess the nature of reports and Formal Complaints, including whether one or more allegations meet the criteria for the filing of a Formal Complaint (e.g., whether the allegations include conduct that, if proven, took place in the United States and will constitute Sexual Misconduct in an education program or activity by a participant or someone attempting to participate in the education program or activity). If a Formal Complaints that includes some allegations that, if proved, constitute Sexual Misconduct and some that do not meet that definition, the Title IX Coordinator will decide whether ~~be all allegations will be investigated handled~~ pursuant to this policy or whether the allegations will be investigated according to another policy or guideline. As appropriate, the Title IX Coordinator may initiate proceedings under another policy, refer the matter to another department, and/or inform the Complainant about the availability of other methods to address the allegations.

2. As part of the assessment, the Title IX Coordinator or designee may contact the Complainant and ask for information about the allegations. Supporting documents, such as emails, photos, text messages, and any other evidence should be preserved. If witnesses were present or have relevant knowledge, it is important to identify them, state what they may know, and inform the investigator how they can be contacted.

3. Where Formal Complaints involving more than one Complainant and/or more than one Respondent arise out of the same facts and circumstances, the Title IX Coordinator may consolidate Formal Complaints.

C. Notice of Allegations

1. Upon receipt of a Formal Complaint, the Title IX Coordinator will provide written notice to known Parties. (A Notice of Allegations will be provided even if the

Formal Complaint is dismissed at the same time or shortly after the Notice of Allegations issues (e.g., the allegations if proven do not meet the definition of Sexual Misconduct)). The Notice of Allegations will enable both Parties to appeal the dismissal or to proceed under another policy.) The Notice of Allegations shall contain:

- a an explanation of the investigation and grievance process, including a copy of or link to institutional policy, as well as any other applicable policies;
- b the availability of an informal resolution process;
- c explanation of the allegations potentially constituting Sexual Misconduct in sufficient detail and with sufficient time to prepare a response before any initial interview. A Respondent will have at least three (3) business days after issuance of a Notice of Allegations prior to an initial interview, but depending on the nature of the allegations, additional time may be offered or requested;
- d the identity of the Parties involved in the incident, if known, and the date and location of the alleged incident;
- e a statement that the Respondent is presumed not responsible for the alleged conduct unless and until a Determination of responsibility has been issued;
- f a statement that the Parties may have an advisor of their choice at meetings they are permitted to attend. The advisor may be, but is not required to be, an attorney. (Parties may hire their own attorneys. At a live hearing only, TBR institutions will provide advisors to Parties who do not have their own);
- g any statements in TBR institutional policies, procedures, or guidelines that prohibit knowingly making false statements or knowingly submitting false information during the process; and
- h a statement that retaliation against a person who makes a report or files a complaint, participates or assists in an investigation, encourages

another to file a complaint, or opposes Sexual Misconduct is prohibited and will result in disciplinary measures, up to and including termination or dismissal.

2. If, during the course of an investigation, the institution decides to investigate allegations about the Complainant or Respondent that are not included in the Notice of Allegations, the institution will provide additional written Notice of Allegations to known Parties.

D. Dismissal of Formal Complaints

1. The Title IX Coordinator shall obtain advice from the Office of General Counsel before dismissing a Formal Complaint.

2. If the Title IX Coordinator concludes that the Complainant was not participating in or attempting to participate in an institutional education program or activity at the time of the Formal Complaint or that the conduct alleged in a Formal Complaint would not constitute Sexual Misconduct even if proved, did not occur in an institution's education program or activity, or did not occur against a person while in the United States, the Title IX Coordinator shall dismiss the Formal Complaint.

3. The Title IX Coordinator has discretion to dismiss a Formal Complaint or any allegations in it, if at any time during the investigation or hearing a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations in it; the Respondent is no longer enrolled by, employed by, or associated with a TBR institution; or specific circumstances prevent the TBR institution from gathering evidence sufficient to reach a Determination as to the Formal Complaint or allegations therein.

4. The Title IX Coordinator may decide to dismiss a Formal Complaint of Sexual Misconduct and refer the matter for disposition pursuant to a different policy, guideline, or process when an allegation of Sexual Misconduct is dismissed or when a Formal Complaint ceases to include an allegation of Sexual Misconduct.

5. Upon dismissal of a Formal Complaint for any reason, the Title IX Coordinator will promptly send written notice explaining the reasons for dismissal to the Parties. The dismissal notice will also explain whether the TBR institution will investigate or respond to the allegations under another policy, guideline, or process and the availability of other methods to address the allegations.

E. Informal Resolution

1. Because a full investigation and adjudication process may not be in the best interests of all concerned, the Title IX Coordinator may decide to offer an informal resolution process. The informal resolution process is designed to provide flexibility in crafting a resolution to a Formal Complaint that meets the needs of the Parties and the institution. Informal resolutions may include meetings facilitated by the TBR institution or third parties, resolutions facilitated by the Title IX Coordinator without formal meetings, mediations, and/or restorative justice concepts. Disciplinary action may or may not be part of any informal resolution. Both Parties must agree in writing to participate in any informal resolution process that the Title IX Coordinator may offer.

2. An informal resolution process is only available after the filing of a Formal Complaint and prior to a Determination regarding responsibility. If the Title IX Coordinator believes an informal resolution may be appropriate, the Title IX Coordinator will propose an informal resolution process in either the initial Notice of Allegations or a subsequent written document. The Title IX Coordinator may discuss with the Parties the details of how the process will work. The written notice will contain the allegations or refer to the Notice of Allegations, set out the informal resolution process, explain that at any time prior to agreeing to a resolution, the Complainant, Respondent, or the institution may withdraw from the informal resolution process and resume the investigation and adjudication process under this policy, and identify any records that will be maintained or shared related to the process.

3. The Title IX Coordinator will not offer or facilitate an informal resolution process to resolve allegations that an employee engaged in Sexual Misconduct against a student.

F. Investigation of Formal Complaints

1. The TBR institution will investigate all Formal Complaints, unless dismissed or resolved ~~through an informal resolution~~. During the investigation:

- a The institution will not access, consider, disclose, or otherwise use a Party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional acting in the professional's capacity and made or maintained in connection with the treatment to the Party, unless the Party voluntarily consents in writing;

- b The investigator will conduct an investigation that is appropriate under the circumstances. The investigation will include a review of documents and physical evidence, as well as interviews with the Parties and other witnesses, unless they decline to be interviewed. The investigator may request access to premises, records, and documents deemed relevant. As the investigation progresses, the investigator may seek clarification, including during a subsequent interview, from any person participating in the investigation regarding the incident or their statement. A Party who learns or remembers any additional information should notify the investigator immediately. The Parties will have an equal opportunity to provide evidence and to identify witnesses, including fact and expert witnesses. Parties are encouraged to provide, as soon as possible, any evidence that the Party believes to be relevant and wants the investigator to consider. If at all possible, all evidence should be provided in time for the investigator to make it available for inspection and review;

- c Although the Parties are encouraged to provide the institution with information and evidence related to the allegations, the institution is ultimately

responsible for gathering evidence sufficient to reach a Determination regarding responsibility;

d The institution will not restrict the Parties from discussing the allegations under investigation or from gathering and presenting relevant evidence. Any restrictions on the ability of the Parties to discuss matters related to the proceeding but which are not under investigation will be explained in the Notice of Allegations;

e Each Party will have the opportunity to obtain and to be accompanied to a meeting or proceeding by an advisor of their choice, who may, but is not required to be, an attorney, in accordance with Section IV.H. below;

f When a Party is invited or expected to participate in a meeting, the institution will provide written notice of the date, time, location, participants, and purpose of the meeting, interview, or hearing, with sufficient time for the Party to prepare to participate;

g Both Parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including evidence that is directly related to the allegations but upon which the institution does not intend to rely in reaching a Determination regarding responsibility. The institution will include both evidence that tends to prove and disprove the allegations, whether obtained from a Party or other source, so that each Party can meaningfully respond to the evidence prior to the conclusion of the investigation;

h Prior to the completion of an ~~investigation~~^{onve} report, the institution will send to each Party the evidence subject to inspection and review. Unless a Party requests that the institution not do so, the institution will also send the evidence to each advisor who has been identified. An institution may decide to provide access to evidence through electronic means that is not available for download. In such case, the Parties and their advisors are prohibited from,

directly or indirectly, photographing or reproducing such evidence (unless the Party has ~~independent~~ access to the evidence independent of the portal, e.g., documents submitted by the Party or publicly available information); and

i The institution will provide at least ten (10) calendar days for the Parties to respond to the evidence provided for inspection and review. The investigator will share any written response with the other Party and will consider any written response prior to completing the investigative report.

G. Investigation Report

1. At the conclusion of the investigation, the investigator will prepare written report. The report shall:
 - a identify the allegations;
 - b identify relevant policies, guidelines, and other standards;
 - c explain the procedural steps taken between receipt of the Formal Complaint and the conclusion of the investigation, including all notifications to the Parties, interviews with the Parties, interviews with other witnesses, dates of all interviews, any site visits, and the methods used to gather evidence; and
 - d fairly summarize the relevant evidence.
2. The written report shall not make findings of fact or conclusions regarding the application of facts to this policy.
3. At least ~~(ten)~~ (10) calendar days prior to a hearing, the investigator will send to each Party the investigation report in either electronic or hard copy, for ~~their~~ review and written response. Unless a Party requests that the institution not do so, the institution will also send the investigation report to an advisor whom the Party has been identified.
4. The Parties should provide any written response as soon as possible, as the investigator may issue an amended investigation report if the investigator deems appropriate and if a Party provides comments in sufficient time for the investigator

to do so. The Parties' written responses and any amended investigation report will be sent to the decision-maker.

H. Advisors

1. Both the Complainant and the Respondent will be permitted to have an advisor of their choosing present during meetings where their attendance is permitted or expected. Nothing in this policy shall be read to require that an institution allow a Party to attend an interview of the other Party or of a witness.
2. The advisor may accompany and confer privately with a Party, but the advisor may not interrupt, speak on behalf of a Party, or otherwise actively participate in any meeting, except for conducting cross-examination at a live hearing.
3. An advisor's failure to comply ~~with these guidelines~~ may result in the termination of the meeting or the advisor no longer being permitted to be present.
4. TBR and institutional personnel employed in the offices responsible for the disciplinary proceedings described in this policy, along with those in the chain of command, personnel employed by OGC, and others whose participation could create a conflict of interest with their duties are not eligible to serve as advisors. The institution shall not otherwise limit the choice of an advisor.
5. If there is a question or concern about a possible advisor, the Title IX Coordinator should be consulted. A Party choosing to have an attorney present as an advisor must provide advance notice so that a member of OGC can attend any meeting at which an attorney will be present.

I. Recordings

1. Parties are not permitted to record any meeting conducted pursuant to this policy.
2. When a live hearing is conducted, the institution will create an audio recording, audiovisual recording, or transcript and make it available to the Parties for inspection and review.

J. Past Relationships and Conduct

1. Previous sexual relationships of the Complainant and Respondent with third parties generally are irrelevant.
2. A past sexual relationship between the Complainant and Respondent may or may not be relevant. For example, past sexual encounters may provide insight on communication patterns for purposes of determining whether consent was present.
3. Questions and evidence about a Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to Respondent and are offered to prove consent.

K. Standard of Evidence

1. In determining whether Respondent engaged in Sexual Misconduct, TBR institutions use the preponderance of the evidence standard of evidence in evaluating whether Sexual Misconduct occurred. A "preponderance of the evidence" means the greater weight of the evidence or that, according to the evidence, the conclusion sought by the party with the burden of proof is the more probable conclusion. This standard looks at whether it is "more likely than not" that this policy was violated.
2. The burden of proof will remain with the institution through the Determination.

L. Timeline

1. Formal Complaints typically will be resolved (exclusive of any appeals) within 90 calendar days of filing.
2. Appeals will be resolved within fifteen (15) calendar days of the filing of an appeal.
3. Given the many variables and factors that may arise in such cases, additional time may be needed in some cases. Any departure from these time frames will be

for good cause and communicated in writing or by email to both the Complainant and the Respondent simultaneously, along with a new timeline and explanation of the reasons. Good cause to extend^{dt} the deadlines includes, but is not limited to, the absence of a Party, a Party's advisor, or witness; concurrent law enforcement activity; or the need for language assistance or the accommodation of disabilities.

4. Incompletion of the process within such time frames is not cause for dismissal of a Formal Complaint.

M. Parallel Investigations with Law Enforcement

1. The filing of a police report or the pendency of civil or criminal proceedings does not preclude the institution from proceeding with its investigation and Determination.

2. The investigation and Determination may be delayed until law enforcement has finished gathering evidence and indicated that the institution may proceed with an investigation, but the institution generally will not wait for the conclusion of any criminal proceeding.

3. Civil or criminal proceedings are separate and distinct from internal institutional proceedings, and they may or may not run parallel to one another. However, the institution may be required by law to provide information in civil or criminal proceedings.

4. Institutional policies shall set forth parameters and clarify what information may and may not be shared during a parallel investigation with law enforcement (e.g., via a memorandum of understanding with local law enforcement).

N. Live Hearings

1. The institution will conduct a live hearing of Formal Complaints not dismissed pursuant to this policy in order to make a Determination whether this policy has been violated. The decision-maker appointed by the Title IX Coordinator has the authority to maintain order at the hearing and make all decisions necessary for the fair, orderly, and expeditious conduct of the hearing. The decision-maker shall be

the final decider concerning all aspects of the hearing, including prehearing matters and at the hearing, how evidence is examined and the order of witnesses.

2. At the request of either Party, the institution will provide for the live hearing to be conducted with the Parties located in separate rooms with technology enabling the decision-maker and Parties to simultaneously see and hear the Party or the witness answering questions.

3. In cases involving more than one Respondent, any Party may request separate hearings by submitting a request at least five (5) business days before the hearing. The Title IX Coordinator will decide whether to grant the request.

4. Live hearings may be conducted with all Parties physically present in the same geographic location or, at the institution's discretion, any or all Parties, witnesses and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

5. At least ten (10) business days prior to a live hearing, the institution will provide both Parties with written notice of the following:

- a The time, place, date of the hearing, and electronic access information, if applicable;
- b The name of each witness the institution expects to present or be present at the hearing and those the institution may present if the need arises;
- c The right to request a copy of the investigative file (other than portions that are protected by law or privilege), which includes all of the evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint;
- d The right to request copies of all documents, copies of electronically stored information, and access to tangible evidence that the institution has in its possession, custody, or control and may use to support claims or defenses;
- e The right to have an advisor of the Party's choice, who may be, but is not required to be an attorney, and that if the Party does not have an advisor

present at the hearing, the institution will provide an advisor of the institutions' choice, without fee or charge, to ask the other Party and any witnesses all relevant questions and follow-up questions on behalf of that Party;

f Any Party in need of an institution-provided advisor must inform the Title IX Coordinator at least five (5) business days before the hearing;

g Any cross-examination of any other Party or witness must be conducted by the advisor; and

h Additional ~~Other~~ information may be included in the notice of hearing.

6. When notice is sent by U.S. mail or courier service, the notice is effective on the date the notice is mailed or delivered to the courier service. When notice is hand delivered by the institution, notice is effective on the date that the notice is delivered to a Party~~the Parties~~. When notice is sent by email, the notice is effective on the date that the email is sent to the Parties' institution-provided email account.

7. The decision-maker may conduct a pre-hearing meeting or conference with the Parties and their advisors to discuss pre-hearing issues, including any technology to be used at the hearing and the general rules governing the hearing.

8. The decision-maker may allow a temporary delay of the process or the limited extension of time frames for good cause with written notice to the Parties of the delay or extension and the reasons for the action. Good cause may include, but is not limited to, considerations such as the absence of a Party, a Party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

9. If a Party fails to attend a hearing, the decision-maker may proceed without that Party's participation.

10. During the hearing, the decision-maker will make evidence subject to review and inspection during the investigation phase available to give each Party equal opportunity to refer to that evidence, including for purposes of cross-examination.

11. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to provide that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

12. Only relevant cross-examination and other questions may be asked of a Party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or question from someone other than the decision-maker, the decision-maker will first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

13. The decision-maker will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding the privilege has waived the privilege.

14. The decision-maker will permit each Party's advisor to ask the other Party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing will be conducted directly, orally, and in real time by the Party's advisor and never by a Party personally. Conducting cross-examination will be the advisor's only opportunity to speak. Advisors will not engage in other presentation of arguments or evidence, including opening statements, closing arguments, or direct examinations.

15. If a Party does not have an advisor at the live hearing, the institution will provide without fee or charge to that Party an advisor. The institution will choose the advisor.

16. If a Party or witness does not submit to cross-examination at the live hearing, the decision-maker will not rely on any statement of that Party or witness in reaching a Determination regarding responsibility; provided however, that the

decision-maker cannot draw an inference about the Determination regarding responsibility based solely on a Party's or witness's absence from the live hearing or refusal to answer cross examination or other questions.

17. For good cause shown, a decision-maker may permit the participation of witnesses who were not identified by the Party to the investigator, or the inclusion of evidence not provided by the Party to the investigator.

18. The institution will create an audio or audiovisual recording, or transcript, of a live hearing and make it available to the Parties for inspection and review.

19. The decision-maker may dismiss the Formal Complaint or any allegations therein, if at any time during the hearing a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw a Formal Complaint or any allegations therein, the Respondent is no longer enrolled or employed by the institution, or specific circumstances prevent the institution from gathering evidence sufficient to reach a Determination as to the Formal Complaint or allegations therein.

20. If the decision-maker dismisses the Formal Complaint during the grievance process, the decision-maker will promptly notify the Title IX Coordinator, who will promptly send written notice of the dismissal and reasons therefor simultaneously to the Parties.

O. Written Determination

1. Within fifteen (15) business days of the hearing, the decision-maker will issue a written Determination whether Respondent engaged in Sexual Misconduct, based on a preponderance of the evidence standard, which will be provided to the Parties simultaneously.

2. The Determination becomes final either on the date that the institution provides the Parties with a written result of an appeal, or if an appeal is available but not filed, the day after the deadline to appeal.

3. The Determination will include:

- a Identification of the allegations potentially constituting Sexual Misconduct, as well as identification of any additional allegations that are being resolved but which do not constitute Sexual Misconduct;
- b A description of the procedural steps taken between receipt of the Formal Complaint and the Determination, including all notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence, and any hearings held;
- c Findings of fact supporting the Determination;
- d Conclusions regarding the application of this policy, as well as any other relevant policy, guidelines, or code, to the facts;
- e A statement of, and rationale for, the result as to each allegation before the decision-maker, including a Determination regarding responsibility;
- f Any disciplinary action that the decision-maker imposes on the Respondent, including referral to another process, ~~such as tenure termination proceedings~~;
- g Any remedies that the institution will provide designed to restore or preserve equal access to the Complainant; and
- h The permissible bases and procedures, including timelines, for appeals by the Parties.

P. Remedies and Disciplinary Action Following Determinations of Violations

1. The institution will provide remedies where a Determination of responsibility for Sexual Misconduct has been made. The institution will follow this policy before the imposition of any disciplinary sanctions for Sexual Misconduct that are not supportive/interim measures.
2. Remedies will be designed to restore or preserve equal access to education programs and activities and will include discipline under the applicable policies and procedures. Remedies may include verbal warnings, written warnings, final written warnings, suspension, termination of employment (including of tenured faculty),

non-renewal of appointment, or dismissal from the institution. ~~Faculty may be subject to proceedings under TBR Policies 5.02.03.10 and 5.02.03.30.~~

3. Remedies should also consider improvements to the campus-wide environment. It is the intent of TBR that institutions consider the impact of an incident of Sexual Misconduct on the campus as a whole or specific groups or areas of campus. For example, specific training may be needed for a student group.

4. The Title IX Coordinator is responsible for ensuring effective implementation of the remedies.

Q. Appeals/Post-Determination Procedures

1. Parties are permitted to appeal to the institution's President (or other person appointed by the Title IX Coordinator) from a Determination regarding responsibility (or no responsibility) and from a dismissal of a Formal Complaint or of any allegations in a Formal Complaint on the basis of:

- a procedural irregularity that affected the outcome of the matter;
- b new evidence that was not reasonably available at the time the Determination or dismissal was made, but only if that new evidence could affect the outcome of the matter;
- c The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome.

2. A Party wishing to appeal a Determination regarding responsibility or the dismissal of a Formal Complaint or any allegations therein must file a written appeal with the Title IX Coordinator within seven (7) business days of the date of the Determination or the dismissal. The written appeal must identify the reasons for the appeal.

3. As to all appeals, the Title IX Coordinator will:

- a Notify the other Party in writing when an appeal is filed;
 - b Implement appeal procedures equally for both Parties;
 - c Ensure that the decision-maker(s) for the appeal is not the same person as the investigator, the decision-maker, or Title IX Coordinator;
 - d Provide each Party five (5) business days to provide a written statement in support of, or challenging, the Determination.
4. The decider of the appeal will issue a written decision describing the result of the appeal and the rationale for the result, and will provide the written decision simultaneously to the Parties.

V. **Victim Services**

A. TBR intends for each institution to provide resources and assistance to victims of Sexual Misconduct.

- 1. Institutions Without On-Campus Services
 - a For institutions without medical, counseling, or law enforcement services on their campuses, these institutions should partner with local community organizations that may be able to provide these services for victims of Sexual Misconduct.
 - b Any such partnership shall be clearly communicated to students, faculty, and staff.
 - c Any victim presenting to an institution without on-campus resources shall be informed about the agreement and encouraged to seek services from the partnering community organizations.
- 2. Victim Services Policy
 - a Each institution shall adopt a policy describing the assistance and services it provides to victims. Each policy shall include, at a minimum, the following:

- (1) The identity and contact information for any trained on- and off-campus advocates and counselors who can provide an immediate confidential response in a crisis situation;
- (2) Emergency numbers for on- and off-campus safety, law enforcement, and other first responders, including the Title IX Coordinator;
- (3) A list of health care options, both on- and off-campus, including options to seek treatment for injuries, preventative treatment for sexually transmitted diseases, and where and how to get a rape kit or find a Sexual Assault Nurse Examiner (SANE);
- (4) A statement that it is very important for the Complainant to seek medical attention immediately so that the Complainant can be screened for sexually transmitted diseases/pregnancy/drugs that may have been used to incapacitate, obtain emergency contraception, and receive treatment for any injuries. Valuable physical evidence can be obtained from the Complainant and the Complainant's clothing. Even those who are unsure whether to make a police report or take action may wish to have a forensic examination, which will facilitate the identification and preservation of physical evidence;
- (5) A statement that to help preserve evidence in the event of a sexual assault, it is important for the Complainant not to change clothes or bedding and not take a shower, douche, use the toilet, brush their teeth, or clean up until police have had a chance to gather evidence. However, if a Complainant has already changed clothes or cleaned up/showered, evidence may still be collected. The Complainant should leave any clothes or bedding unfolded and undisturbed, if possible. If clothing or bedding must be moved, items should be kept separate to prevent transfer of body fluids or other trace evidence. Parties should not delete

or destroy any text messages, social media, emails, voicemails, written notes, or any other documents that may be relevant.

(6) A list of locations, including contact information, for any available advocate (e.g., a local rape crisis center, on- campus advocacy program) who can accompany a victim to the hospital or health provider;

(7) A statement that these services are available for victims of Sexual Misconduct whether or not a victim chooses to make an official report or participate in the institutional disciplinary or criminal process.

VI. [Education, Training, and Awareness](#)

A. It is the intent of TBR that its institutions will offer educational programming and training to their students, faculty, and staff that are intended to end Sexual Misconduct.

B. TBR institutions are encouraged to provide user friendly materials to explain the policy and how victims can get help, and provide those materials online and through other strategies appropriate for the campus. Institutional education related to Sexual Misconduct should be provided to incoming students. Institutions should promote awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking. Education should also include information on how to prevent sexual assault, such as information on bystander intervention, as well as how to recognize abusive behavior and avoid potential abusive relationships. Students shall be trained on the procedures for filing a report, as well as procedures for institutional disciplinary action in cases of alleged sexual violence. Institutional education will also inform students of the sanctions and protective measures that the institution may impose once a report of sexual violence has been made.

C. Institutions shall establish procedures for regularly reviewing, evaluating, and updating the policy. Institutional training may provide training to all employees likely to witness or receive reports of sexual harassment, including faculty, school law enforcement, school administrators, school counselors, athletic coaches, and health personnel. Training should ensure that employees with the authority to address sexual

harassment know how to appropriately respond to reports of sexual harassment, that employees know whether they are obligated to report sexual harassment the Title IX Coordinator or other designated official, and that all employees understand how to respond to reports of sexual harassment. Training should also ensure that professional counselors, pastoral counselors, and non-professional counselors or advocates also understand the extent to which they may keep a report confidential.

D. Title IX Coordinators, investigators, decision-makers, institution-provided advisors, any person designated to facilitate an informal resolution process, and any person designated to resolve an appeal will receive training on the definition of Sexual Misconduct, the scope of TBR and institutional education programs and activities, how to conduct an investigation and grievance process, including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Such individuals will receive training on issues of relevance related to creating and/or reviewing an investigative report that fairly summarizes relevant evidence. Training will not rely on sex stereotypes and will promote impartial investigations and adjudications of Formal Complaints.

E. Institutions will notify applicants for admission and employment, students and employees, that it does not discriminate on the basis of sex in its education programs and activities and will provide the name, title, office address, electronic mail address, and telephone number of the Title IX Coordinator in that notification.

VII. [Effective Date](#)

A. This policy is effective August [16, 2021 at community colleges and August 25, 2021 at TCATs~~14, 2020~~](#).

B. If any provision of the Title IX regulations on which this policy is based is enjoined or held invalid as it applies to the TBR institution or the Title IX regulations' application to any person, act, or practice is enjoined or held invalid as it applies to the TBR institution,

the remainder of this policy or the application of its provisions to any person, act, or practice shall not be affected thereby.

C. For conduct that occurs across multiple versions of this policy, complaints of Sexual Misconduct will be addressed utilizing the procedures outlined in the version of this policy in effect as of the date of the Notice of Allegations. The “Definitions” and “Clarifications” sections of the policy in effect as of the date of the alleged incident will be used. Complaints and reports of conduct spanning more than one version of the policy will be addressed using the “Definitions” and “Clarifications” sections in the version of the policy in effect at the time of the most recent alleged incident.

VIII. Clarifications

A. Consent

1. Consent means an active agreement to participate in sexual activity. An active agreement is words and/or conduct that communicate a person’s willingness to participate. The following individuals cannot give valid Consent:

- a A person who is Incapacitated, if either the person claiming to have obtained Consent knows that the other person is Incapacitated or a reasonable person would know that the other person is Incapacitated;
- b A person who is Forced; or
- c A person who is under the age of eighteen (18), unless the person giving Consent is at least the age of thirteen (13) and the other person is less than four (4) years older than the person giving Consent.

2. During a sexual encounter, each person has responsibility for obtaining Consent from the other person. During an investigation, the institution has the burden of obtaining evidence whether Sexual Misconduct occurred without Consent. During any hearing, the institution has the burden of proving that Sexual Misconduct occurred without Consent. (In other words, it is not a Respondent’s burden to prove Consent during an investigation or hearing). Whether a person has communicated Consent generally is evaluated from the perspective of what a

reasonable person who perceived the individual's words and/or nonverbal conduct would have understood; however, in the context of a relationship that has involved sexual activity and a pattern of communicating Consent, whether Consent has been communicated may be evaluated based on a subjective standard (i.e., what did the specific person who initiated the sexual activity conclude based on the pattern of communication?).

3. A verbal "no" (or words equivalent to "no") or the nonverbal communication of "no," even if it sounds or appears insincere or indecisive, means that Consent has not been communicated, or if previously communicated, has been withdrawn. The absence of a verbal "no" or the absence of a nonverbal communication of "no" does not necessarily mean that Consent has been communicated.

4. Consent must exist from the beginning to the end of each sexual encounter and for each sexual act that occurs during a sexual encounter. A person has a right to change their mind; thus, Consent may be withdrawn at any time. A withdrawal of Consent is communicated through clear words and/or conduct that indicate that a person no longer agrees to participate in sexual activity. Once a person's withdrawal of Consent has been communicated, the other person must cease the sexual act for which Consent was withdrawn and must obtain Consent before reinitiating that sexual act. Consent is automatically withdrawn when a person becomes incapacitated or is forced to participate in sexual activity.

5. Consent to one type of sexual activity (e.g., oral sex) does not constitute or imply Consent for another type of sexual activity (e.g., vaginal intercourse), whether during a sexual encounter or based on a previous sexual encounter.

6. The following do not communicate a person's willingness to participate in sexual activity:

- a Silence, unless accompanied by non-verbal conduct conveying a willingness to participate in sexual activity;
- b Consent communicated by the person on a previous occasion;

- c Consent communicated to a third person;
- d The person's failure to resist physical force (however, for purposes of the Policy, the person's resistance to physical force will be viewed as a clear demonstration that the person has not communicated Consent);
- e A current or previous dating, romantic, intimate, or sexual relationship with the other person;
- f Currently or previously cohabitating with the other person;
- g The person's attire, reputation, giving or acceptance of gifts, sexual arousal, or extension or acceptance of an invitation to go to a private residence, room, or other location.
- h One's own use of alcohol, drugs, or other substances does not diminish one's responsibility to obtain Consent from the other person. Another person's use of alcohol, drugs, or other substances does not diminish one's responsibility to obtain Consent from that person.

B. Force

1. Force includes physical force (such as pushing, hitting, pinning down), threats (direct or indirect expressions of intent to inflict harm to self or others), intimidation (implied or indirect threats), and/or other forms of coercion. To coerce is to attempt to cause another person to act or think in a certain way by use of force, pressure, threats, or intimidation; to compel is to coerce.

C. Incapacitation

1. A person violates this policy when they engage in sexual activity with another person who is incapacitated under circumstances in which a reasonable person would have known the other person to be Incapacitated. For evaluating Incapacitation, a "reasonable person" means a sober, objectively reasonable person in the same situation, with ordinary sensitivities, and with similar identities as the Respondent.

2. Incapacitation can be voluntary or involuntary. Signs of Incapacitation may include, without limitation: sleep; total or intermittent unconsciousness; lack of control over physical movements (e.g., inability to dress/undress without assistance; inability to walk without assistance); lack of awareness of circumstances or surroundings; emotional volatility; combativeness; vomiting; incontinence; unresponsiveness; and inability to communicate coherently. Incapacitation is an individualized determination based on the totality of the circumstances.

3. Blacking out is an amnesia-like state that may be brought on by drugs, heavy drinking, or intoxication; blacking out is not necessarily incompatible with the ability to engage in simple or even complex behavior. After blacking out, a person has no recollection of all or part of the events that occurred during the blackout. There is a distinction between passing out (falling asleep or becoming unconscious) due to drug or alcohol use and blacking out in that a person in a blackout remains conscious and operative.

4. Incapacitation or Incapacitated means a person's inability, temporarily or permanently, to communicate a willingness to participate in an activity (e.g., sexual activity) because of mental or physical helplessness, sleep, unconsciousness, or other lack of awareness that the activity is taking place. Incapacitation can be voluntary or involuntary. Signs of Incapacitation may include, without limitation: sleep; total or intermittent unconsciousness; lack of control over physical movements (e.g., inability to dress/undress without assistance; inability to walk without assistance); lack of awareness of circumstances or surroundings; emotional volatility; combativeness; vomiting; incontinence; unresponsiveness; and inability to communicate coherently. Incapacitation is an individualized determination based on the totality of the circumstances. Alcohol and drugs (including "date rape" drugs) are common causes of Incapacitation. When alcohol or drugs are involved, Incapacitation is a state beyond mere drunkenness or intoxication.

D. Severe and Pervasive

1. Severe and Pervasive. Severe means behavior that is more than antagonistic, non-consensual, and crass, even where the behavior is based on differences in sex or gender. Pervasive means systemic or widespread, and it necessarily involves more than one incident of sexual harassment. Sources: Kollaritsch v. Michigan State Board of Trustees, 944 F.3d 613, 620-21 (6th Cir. 2019) (citing Davis v. Monroe County Board of Educ., 526 U.S. 629, 651-53 (1999)); Doe v. Univ. of Kentucky, 959 F.3d 246, 250 (6th Cir. 2020).

Sources

Authority

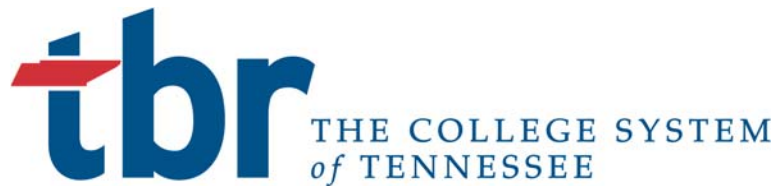
T.C.A. § 49-8-203; All State and Federal Statutes, Acts, Codes, Rules and Regulations referenced in this policy.

History

NEW Policy approved at Board Meeting, September 26, 2014; Revisions approved at August 12, 2020 Special Called Board Meeting; [Revised June __, 2021 Board Meeting \(with an effective date of August 16 for Community Colleges and August 24 for TCATs\).](#)

Related Policies

- [Sex Discrimination, Sexual Harassment or Sexual Misconduct](#)
- [Discrimination & Harassment - Complaint & Investigation Procedure](#)
- [Equal Employment Opportunity and Affirmative Action](#)
- [General Policy on Student Conduct & Disciplinary Sanctions](#)



**Presidents Quarterly Meeting
May 5, 2021**

SUBJECT: Revisions to TBR Policy 1.06.00.05, Procedures for Cases Subject to the Uniform Administrative Procedures Act

PRESENTER: Brian Lapps, General Counsel

ACTION REQUIRED: Requires Vote

For the reasons explained in the February 24, 2021 Presidents Meeting materials and at that meeting, TBR is creating and revising four formal rules. At the June Board meeting, the Board will be asked to approve both the rule and the attached, revised policy, which conforms to and implements the rule. The attached policy is essentially identical to the rule discussed at the February Presidents Meeting, except for formatting.

As previously explained, TBR needs to implement a rule for legal compliance reasons and to defend the results of a contested case hearing. Upon implementation, TBR will use the formal processes of the Administrative Procedures Division (APD) in the Secretary of State's Office. The actual process of the hearing will remain similar to the current, but rarely used, processes under existing TBR policy. The major change is that TBR will use administrative judges from APD to preside over contested cases in most circumstances.

Because the attached draft policy is an almost complete replacement of the current policy, a version tracking the changes would not be helpful, and thus only a clean copy is attached. Because the Board will consider all comments received from the public and may make changes to the rule based on those comments, the final version of the policy may need to be changed to be consistent with the rule.

Attachment

Contested Cases Subject to the Uniform Administrative Procedures Act: 1.06.00.05

Policy Area

Governance, Organization, and General Policies

Applicable Divisions

TCATs, Community Colleges, System Office

PURPOSE

This policy sets forth the procedures that the Tennessee Board of Regents (the TBR) and institutions under the authority of the TBR shall use to conduct hearings in contested cases under the Uniform Administrative Procedures Act, Tennessee Code Annotated §§ 4-5-101 et seq (the UAPA). Contested cases are proceedings in which the legal rights, duties, or privileges of a student, employee, student organization, or other person (collectively referred to as a “person”) are required by any statute or constitutional provision to be determined only after that individual or entity has been provided an opportunity for a hearing.

Policy

I. Scope

- A. These procedures will apply to any case where a contested case hearing is properly requested and required by law to be offered, including:
 1. The suspension or expulsion of students, or revocation of recognition of a student organization, for misconduct or disciplinary reasons;
 2. Suspension of employees for cause, or termination of employee when the termination is potentially in violation of the employee’s contract, e.g., termination prior to expiration of the contract term;
 3. Support staff employees who are demoted, suspended without pay, or terminated and elect to pursue a UAPA hearing instead of an employee panel hearing as the final step of the grievance process; and
 4. Other matters in which the legal rights, duties, or privileges of a person are required by any statute or constitutional provision to be determined by TBR or a TBR institution after an opportunity for a hearing.
- B. This policy is not applicable to termination of faculty for adequate cause. Any such termination is subject to the provisions of T.C.A. § 49-8-302, TBR Policy 5.02.03.70, Academic Tenure for Community Colleges, and TBR Policy 5.02.03.10, Academic Freedom, Responsibility and Tenure at the Tennessee Colleges of Applied Technology: 5.02.03.10.
- C. Prior to offering any hearing pursuant to this policy, the institution shall contact the Office of General Counsel for advice on the applicability of this policy and for possible assistance in the hearing of the case.

II. Administrative Judges and Hearing Officers

- A. In any case where a contested case hearing is available, elected and properly requested, the president (or chancellor for cases arising out of the TBR System Office) or designee may make a request to the office of the secretary of state to have the contested case heard by an administrative judge or hearing officer employed in the office of the secretary of state.
- B. In lieu of asking the secretary of state to have the contested case heard by an administrative judge or hearing officer employed in the office of the secretary of state, the president (or chancellor for cases arising out of the TBR System Office) or designee may determine, in his or her sole discretion, whether the hearing shall be held before:
 - 1. A person who is licensed to practice law and who is not employed as an attorney for a TBR institution or TBR System Office;
 - 2. A former state, county, or municipal judge or a former federal judge or magistrate;
 - 3. An employee of a TBR institution or TBR System Office who has been trained to conduct contested cases, but who does not provide legal representation to TBR or any TBR institution; or
 - 4. An employee of another public institution who has been trained to conduct contested cases.
- C. Any administrative judge or hearing officer who hears a case involving sexual harassment, sexual assault, domestic violence, dating violence, or stalking shall receive training as required by federal and/or state law.

III. Procedures

- A. The UAPA and the Tennessee Department of State's Uniform Rules of Procedures for Hearing Contested Cases before State Administrative Agencies, Tennessee Department of State Rule Chapter 1360-04-01, shall be used for contested case hearings under this rule.
- B. For purposes of review and action following issuance of an initial order, the agency head will be the president or other head of a campus out of which the contested case arises, and the chancellor or chancellor's designee when the contested case arises out of the TBR System Office or when the president or other head of a campus is not available to serve as agency head due to a conflict of interest, recusal, disqualification, or other reason.

Sources

Authority:

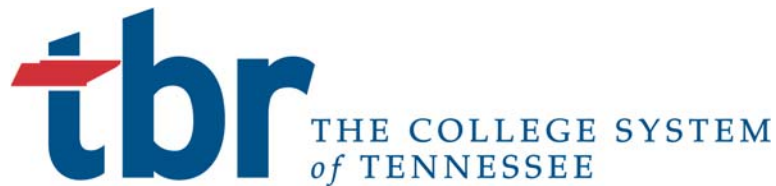
T.C.A §§ 49-8-203 and 49-7-167; all statutes referenced in the policy.

History

TBR Meetings, June 30, 1978; September 30, 1983; December 14, 1984; March 15, 2002; June __ 2021

Related Policies

- [General Policy on Student Conduct & Disciplinary Sanctions](#)



**Presidents Quarterly Meeting
May 5, 2021**

SUBJECT: TBR Policy 7.04.00.00, Parking and Traffic

PRESENTER: Brian Lapps, General Counsel

ACTION REQUIRED: Requires Vote

For the reasons explained in the February 24, 2021 Presidents Meeting materials and at that meeting, TBR is creating and revising four formal rules. At the June Board meeting, the Board will be asked to approve both the rule and the attached, new policy, which conforms to and implements a rule. The attached policy is essentially identical to the rule discussed at the February Presidents Meeting. The differences between the rule and policy relate to formatting. Both a clean copy and a version tracking changes are attached.

These proposed policy provides more detail and specificity than current campus policies, and it applies to students, faculty, staff, and visitors.

Because the Board will consider all comments received from the public and may make changes to the rule based on those comments, the final version of the policy may need to be changed to be consistent with the rule.

Attachment

Traffic and Parking: 7.04.00.00

Policy/Guideline Area

Safety and Security

Applicable Divisions

TCATs, Community Colleges, System Office

Purpose

To facilitate and regulate the safety and orderly operation of motor vehicles on TBR institution property or institution-controlled property and to provide parking facilities for their operation within the limits of available space.

Definitions

As used in this policy:

- “Motor vehicle” means any self-propelled vehicle that is capable of exceeding twenty- five (25) miles per hour.
- “Employee” means all faculty, executive, administrative, professional and support staff employed in the service of and whose compensation is paid by a TBR institution. “Employee” does not include independent contractors who provide goods or services to the institution or student workers as defined in TBR Policy 5.01.01.00.

Policy/Guideline

I. Administration of Policy

- A. Institutions shall identify an administrative unit or administrator responsible for implementation and enforcement of this policy.
- B. Any person operating a motor vehicle on the property of a TBR institution or controlled by a TBR institution is required to obey this policy as a condition of parking or operating a motor vehicle on institution property or institution-controlled property.
- C. The issuance of a parking permit does not guarantee a parking space. The inability to locate a designated parking space does not diminish the responsibility to park in accordance with this policy.
- D. The absence of “no parking” signs or painted curbs/lines does not imply that parking is allowed. Parking in designated lots is restricted to designated spaces only. Motor vehicles parked outside of designated spaces are subject to citation and towing, and the owner/operator may be subject to disciplinary or administrative action.
- E. The institution shall have no responsibility for theft or damage to any motor vehicle or its contents operated or parked on institution property or institution-controlled property.
- F. This policy is enforceable seven (7) days a week, twenty-four (24) hours a day, including holidays and breaks.

II. Registration and Parking Permits

- A. Institutions may require students, employees, and visitors to register motor vehicles and/or obtain parking permits in order to park on institution property or institution-controlled property.
- B. Reasonable costs/fees may be assessed in association with the motor vehicle registration or permit process. Any fees or costs associated with registration of motor vehicles, together with appropriate information sufficient to justify the fee/cost amount, shall be submitted for review and approval by the Chancellor, prior to implementation at any institution.
- C. Institutions choosing to utilize parking permits shall identify locations where parking permits are available for pickup and purchase by students, visitors, and employees.
- D. Lost or stolen parking permits must be reported to the institution.
- E. If the institution utilizes parking permits, only motor vehicles properly displaying a parking permit, visitor pass, or those motor vehicles legally parked where no permit is required may be parked on institution property or institution-controlled property.
- F. Parking permit holders are only eligible for one (1) parking permit at a time. Permits may be moved from one motor vehicle to another. Parking permits may not be transferred from one person to another.

III. Parking Zones

- A. Institutions shall clearly designate lots for which parking permits are required and the types of permits required for such lots.
- B. Persons utilizing disabled parking spaces must have a state-issued disability license plate or disability placard. All students, faculty, and staff who have a state-issued placard or license plate should be registered with the institution to ensure access to the appropriate disabled parking spaces on institution property or institution-controlled property.
- C. Motorcycles, motor bikes, and motor scooters must display a motorcycle permit (if issued by the institution) and are only permitted to park in parking spaces designated as "motorcycle parking" or in other regularly marked parking spaces. Operating these motor vehicles on any surface other than designated streets or parking areas is prohibited.

IV. Motor Vehicle Operation

- A. Operators of motor vehicles on institution property or institution-controlled property, which includes city streets running through campus, must obey all traffic rules, regulations, postings, and directions of law enforcement, regardless of whether the rule, regulation, posting, or direction is included in these rules, and all applicable traffic rules, regulations, postings, or directions.
- B. Violations of posted speed limits, the reckless operation of a motor vehicle on institution property or institution-controlled property, including but not limited to, squealing tires or sliding the motor vehicle.
- C. All persons operating motor vehicles are responsible for maintaining proper control of the

motor vehicle, safe operation, and observance of traffic control signs, barriers, and devices.

- D. Operating a motor vehicle in any area other than a street or a roadway intended for motor vehicles is prohibited.
- E. Pedestrians have the right of way at established pedestrian crossings, except where regulated by traffic control lights or police officers.
- F. Individuals riding bicycles must comply with all applicable traffic rules, regulations, postings, or directions.

V. Violations.

A. The following are non-exclusive examples of violations of these rules.

1. Registration

- a. Unauthorized possession of a parking permit;
- b. Falsification of registration information; and
- c. Illegal use, unauthorized use, reproduction or alteration of a parking permit or temporary parking permit.

2. Parking

- a. In a no parking zone;
- b. No permit or visitor pass where required;
- c. Improper display of permit or visitor pass;
- d. Parked outside of lines or appropriately marked parking space;
- e. In such a manner as to block or obstruct traffic, street, sidewalk, driveway, fire hydrant, building entrance or exit, or another motor vehicle;
- f. In a fire lane;
- g. Overtime in a metered space;
- h. Illegal entry/exit in an access-controlled or gated parking facility, which includes, but is not limited to, tailgating another motor vehicle;
- i. Non-operative vehicle parked on institution property or institution-controlled property for longer than seven (7) days without permission from the institution;
- j. Breaking the gate in an access-controlled gated parking facility; and
- k. Disability parking violation, as defined by State law (including, but not limited to, unauthorized use of a disabled parking space, ramp, plate, or placard; parking a motor vehicle so that a portion of the motor vehicle encroaches into a disabled space in a manner that restricts, or reasonably could restrict, a person confined to a

wheelchair from exiting or entering a motor vehicle properly parked within a disabled parking space). Fines for violating the disabled parking laws cannot be suspended or waived where prohibited by T.C.A. § 55-21-108.

- B. Campus police officers may issue citations for violations of this policy, city county ordinances, and/or state laws. Individuals who receive a citation for violations of city or county ordinances and/or state laws must appear in court on the court date listed on the citation or pay the citation fine if appearance in court is not required.

C. Fines

1. Fines may be set as determined by each institution but shall not exceed the amounts set by any state law, or any county or municipal ordinance in the institution's jurisdiction for the same offense.
2. Fine amounts must receive prior review and approval by the Chancellor. Proposed fines shall be submitted to the Chancellor together with information sufficient to justify the fine. Fine amounts shall include consideration of state/county/municipal fines for the same offense, fines for the same offense at similarly situated institutions, association to enforcement costs at the institution, and/or the unique parking and traffic considerations at each institution.
3. Once adopted or amended, all fines shall be affirmatively communicated to the faculty, staff, and students of the institution through its website.

VI. Enforcement

- A. An institution, without advance notice, may tow, boot, or remove to a place of storage at the owner's expense any motor vehicle that is parked in a fire lane, designated disabled parking space, spaces reserved for designated motor vehicles, or motor vehicles parked in such a manner as to impede the flow of traffic or disrupt the orderly affairs of the institution.
- B. An institution may tow, boot, or remove to a place of storage at the owner's expense any motor vehicle that has unpaid parking citations as long as advance notice and an opportunity to contest has been given. Windshield notices and/or other methods of notification will be used to provide the operator of the motor vehicle with advance notice of the intent to tow and the operator's right to a contest.
- C. An institution may revoke parking privileges for repeated and/or deliberate parking or moving violations.
- D. Any student who receives \$100.00 or more in traffic and/or parking violations on institution property or institution-controlled property during any semester may be subject to disciplinary action.
- E. Parking permits, if utilized, are issued to persons, not motor vehicles, and are required to be affixed to a motor vehicle. Permit holders are responsible for citations incurred with their permit. Persons will also be held liable for a violation incurred by a motor vehicle without a permit when that motor vehicle is reasonably shown to be associated with the person.
- F. Any student, employee, or visitor who has received an institution-issued citation may appeal the citation within fifteen (15) business days of the date of issuance. Citations issued by the institution and not appealed must be paid within fifteen (15) business days of the issuance.

date of the citation.

VII. Appeals

- A. Any student who has received an institution-issued citation may appeal the citation to the administrator or committee responsible for hearing student appeals within fifteen (15) days of the issuance date of the citation. Each institution shall provide instructions for appeals on its website. Appeals may be filed in person or online. All decisions by the administrator or committee responsible for student appeals are final.
- B. Any employee who has received an institution-issued citation may appeal the citation to the administrator or committee responsible for hearing employee appeals within fifteen (15) days of the issuance date of the citation. Each institution shall provide instructions for appeals on its website. Appeals may be filed in person or online. All decisions by the administrator or committee responsible for employee appeals are final.
- C. Any person not affiliated with the institution who has received an institution-issued citation may appeal the citation within fifteen (15) days of the issuance date of the citation. Each institution shall provide instructions on its website for appeals and the name of the administrator responsible for resolving appeals. Appeals may be filed in person or online. All decisions by the administrator responsible for appeals by unaffiliated individuals are final.

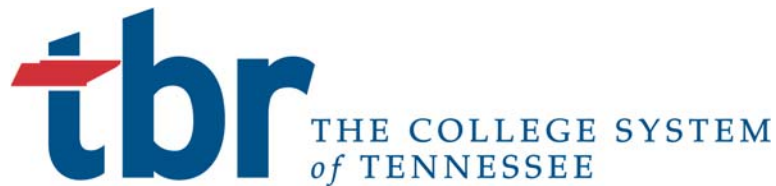
Sources

Authority

T.C.A. § 49-8-203; All State and Federal Statutes, Acts, Codes, Rules and Regulations referenced in this policy.

History

NEW Policy approved at Board Meeting, June 2021.



**Presidents Quarterly Meeting
May 5, 2021**

SUBJECT: Revisions to TBR Policy 3.02.00.01, Student Conduct and Disciplinary Procedures

PRESENTER: Brian Lapps, General Counsel

ACTION REQUIRED: Requires Vote

For the reasons explained in the February 24, 2021 Presidents Meeting materials and at that meeting, TBR is creating and revising four formal rules. At the June Board meeting, the Board will be asked to approve both the rule and the attached, revised policy, which conforms to and implements the rule. The attached policy is essentially identical to the rule discussed at the February Presidents Meeting, except for formatting. Both a clean copy and a version tracking changes to the policy are attached.

The revised policy introduces more detail and specificity, both substantively and procedurally, into the current processes. The revised policy also removes the ability for institutions to make substantive alterations or additions to the policy.

Because the Board may make changes to the rule based on public comments, the final version of the policy may change to be consistent with the rule.

Attachments

General Policy on Student Conduct & Disciplinary Sanctions: 3.02.00.01

Policy Area

Student Policies

Applicable Divisions

TCATs, Community Colleges

Purpose

The Tennessee Board of Regents authorizes the institutions under its jurisdiction to take such action consistent with this policy as may be necessary to maintain campus conditions and preserve the integrity of the institution and its educational environment. Institutional policies [that restate this policy on this subject](#) shall be subject to prior review and approval by the TBR Offices of General Counsel and Academic Affairs.

Definitions

- For the purpose of this policy, a “student” shall mean any person
 - who is admitted, enrolled, and/or registered for study (including for non-credit classes) at a ~~State~~ Board of Regents institution for any academic period. This shall include any period of time following admission and/or registration, but preceding the start of classes for any academic period. ~~It will also include any period which~~ followings the end of an academic period through the last day for registration for the succeeding academic period, and during any period while the student is under suspension from the institution;
 - who engaged in academic misconduct as part of the application process; and/or
 - who previously attended a TBR institution and who was found to have violated the institution’s student conduct and disciplinary standards policy during the time of enrollment.
 - “Student” shall also include any person subject to a period of suspension or removal from campus resulting from a finding of a violation of this policy;
 - Unless explicitly provided otherwise in these rules, the term “student” shall also refer to a student organization.

- Definitions of “Disciplinary Offenses” and “Disciplinary Sanctions” are included in their respective sections, II. and ~~IV.~~

Policy

I. Policy Statement

- A. Students enrolled in a TBR postsecondary educational institutions are citizens of their civic communities as well as the academic community. As such they are expected to conduct themselves as law-abiding members of each community at all times.
- B. Admission to an institution of postsecondary education carries with it special privileges and imposes special responsibilities apart from those rights and duties enjoyed by non-students. In recognition of the special relationship that exists between the institution and the academic community which it seeks to serve, the Tennessee Board of Regents (“TBR” or “the Board”) has authorized the presidents of the institutions under its jurisdiction to take such action as may be necessary to maintain ~~campus~~ conditions on institution-owned and controlled property and to preserve the integrity of the institution and its educational environment.
- C. Pursuant to this authorization and in fulfillment of its duties to provide a secure and stimulating atmosphere in which individual and academic pursuits may flourish, the ~~State Board of Regents~~ has developed the following policy, which is intended to govern student conduct ~~at the institutions on the several campuses~~ under its jurisdiction.
- D. Each institution under the jurisdiction of the TBR is directed to implement policies subject to, and consistent with, this policy.
- E. ~~In student discipline policies, each institution may supplement this policy, subject to prior approval by the TBR Offices of General Counsel and Academic Affairs.~~ In addition, students are subject to all federal, state and local laws and ordinances. If a student’s violation of such laws or ordinances also adversely affects the institution’s pursuit of its educational objectives, ~~an the institutions~~ may enforce ~~its their~~ own policies regardless of

the status or outcome of any external proceedings instituted by other civil or criminal authorities.

F. Students are responsible for compliance with this policy ~~the Student Conduct Policy~~ and with ~~similar~~ institutional policies and regulations ~~at all times~~.

G. Disciplinary action may be taken against a student for violation of ~~the~~ policies and regulations that, which violations occur on institutionally owned, leased or otherwise controlled property, while participating in international or distance learning programs, and off campus, when the conduct impairs, interferes with, or obstructs any institutional activity or the mission, processes, and functions of the institution. In the case of violations that occur off institutionally owned, leased, or controlled property, the institution will take into account whether the violation impairs, interferes with, or obstructs any institutional activity, or the mission, processes, and function of the institution, including, but not limited to, conduct that:

1. occurs in connection with any institutional activity, including but not limited to, international, distance, online, or remote learning programs, athletics events and other extracurricular activities, clinical, internship, practicum, and similar activities;
2. occurs while using institutional resources, such as computers and network systems;
3. involves or affects another member of the TBR community (a student, faculty, staff member, or guest of a TBR institution); or

G.4. poses a credible, serious threat to the health and safety of the TBR community.

H. This policy, and related material incorporated herein by reference, is applicable to student organizations as well as individual students. Whether a student organization will be held responsible for a violation of these rules by one or more of its members will be based on the following considerations: ~~Student organizations are subject to discipline for the conduct and actions of individual members of the organization while acting in their~~

capacity as members of, or while attending or participating in any activity of, the organization.

1. the violation is endorsed by the student organization or any of its officers. “Endorsed by” includes, but is not limited to, active or passive consent or support, having prior knowledge that the conduct was likely to occur, or helping to plan, advertise, or promote the conduct;
2. the violation took place during the course of an activity paid for by the student organization or by members of the student organization to support the activity in question;
3. the prohibited conduct occurred on property owned, controlled, rented, leased, or used by the student organization or any of its members for an organizational event;
4. the prohibited conduct was related to initiation, admission into, affiliation with, or as a condition for continued membership in the student organization; and
- H.5. one or more officers of the student organization had prior knowledge or reasonably should have known the prohibited conduct would likely take place.

I. Confidentiality of Discipline Process. Subject to the exceptions provided pursuant to the Family Educational Rights and Privacy Act of 1974 (FERPA), 20 U.S.C. 1232g, ~~and/or~~ the Tennessee Open-Public Records Act, T.C.A. § 10-7-501 et seq. 504(a)(4), and/or other state and federal law, a student’s disciplinary records and files are considered “educational records” and are confidential in accordance ~~with in the meaning of~~ those statutes Acts.

H.J. Matters within the scope of TBR Policy 6.03.00.00, Sexual Misconduct, which implements 34 C.F.R. Part 106 related to Title IX of the Education Amendments of 1972, shall proceed in accordance with TBR Policy 6.03.00.00, Sexual Misconduct, and not this policy.

II. Disciplinary Offenses

A. ~~Institutional~~ Disciplinary measures shall be imposed according to this policy and the institution's restatement of this policy and applicable procedures and processes.

B. Institutions shall use the "preponderance of the evidence" standard. A preponderance of the evidence means the greater weight of the evidence or that, according to the evidence, the conclusion sought by the party with the burden of proof is the more probable conclusion.

A.C. These rules shall not be used to violate rights guaranteed under the constitution of the State of Tennessee or the constitution of the United States., through appropriate due process procedures, for conduct which adversely affects the institution's pursuit of its educational objectives, which violates or shows a disregard for the rights of other members of the academic community, or which endangers property or persons on property owned or controlled by an institution.

B.D. Institutions shall adopt and publish a non-exclusive list, providing notice of offenses for which both individuals and student organizations may be subject to disciplinary action.

~~The list may include any appropriate offense given the specific needs of the individual institution, subject to prior review and approval by the TBR Offices of General Counsel and Academic Affairs.~~

C.E. Institutions are pre-authorized to implement any or all of the disciplinary offenses, in the form set forth immediately below, without need for prior review or approval. Both students and student organizations may be subject to disciplinary action for the following disciplinary offenses identified in this policy:

1. Threatening or Disruptive Conduct. Any conduct, threatened conduct, or attempted conduct that, which poses a threat to a person's the safety, health, or personal well-being including, but not limited to, endangering the health, safety, or welfare of any person; engaging in conduct that causes a reasonable person to fear harm to his or her health, safety or welfare; or making an oral or written statement that an

objectively reasonable person hearing or reading the statement would interpret as a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals; ~~of others or where the student's behavior is disruptive of the institution's learning environment.~~

4.2. Disruptive Conduct. Any conduct, threatened conduct, or attempted conduct that is disruptive to the institution's learning environment, including, but not limited to, engaging in any action that interferes with the ability of the instructor to teach or other students to learn. Disruptive conduct in the class setting (which includes but is not limited to remote education and off-site [activities and locations](#)) includes, but is not limited to, behavior that obstructs or disrupts the learning environment (e.g., offensive language, harassment of students or instructors, repeated outbursts from a student that disrupt the flow of instruction or prevent concentration, failure to cooperate in maintaining class decorum, etc.), text messaging, and the continued use of any electronic or other noise or light emitting device which disturbs others;

2.3. Hazing. Hazing, as defined in T.C.A. § 49-7-123(a)(1), means any intentional or reckless act, on or off the property, of any higher education institution by an individual acting alone, or with others, which is directed against any other person(s) that endangers the mental or physical health or safety of that person(s), or which induces or coerces a person(s) to endanger such person(s) mental or physical health or safety. Hazing does not include customary athletic events or similar contests or competitions, and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization;

3.4. Disorderly Conduct. Any individual or group behavior which is abusive, obscene, lewd, indecent (including, without limitation, public exposure of one's sex organs, public urinating, and public sexual acts), violent, excessively noisy, disorderly, or which unreasonably disturbs institutional functions, operations, classrooms, other groups or individuals;

4.5. Obstruction of or Interference with institutional activities or facilities. Any intentional interference with or obstruction of any institutional, program, event, or facility including but not limited to the following:

a. Any unauthorized occupancy of facilities owned or controlled by an institution or blockage of access to or from such facilities;

b. Interference with the right of any institution member or other authorized person to gain access to any activity, program, event or facilities sponsored or controlled by an institution;

c. Any obstruction or delay of a ~~campus~~-security officer, public safety officer, police officer, firefighter, EMT, or any official of an institution, or failure to comply with any emergency directive issued by such person in the performance of their duty;

d. Participation in a demonstration that substantially impedes institutional operations; or

e. Obstruction of the free flow of pedestrian or vehicular traffic on property owned, leased or controlled by an institution or at an institutional activity.

5.6. Misuse of or Damage to Property. Any act of misuse, vandalism, malicious or unwarranted damage or destruction, defacing, disfiguring or unauthorized use of property belonging to the institution or a member of the TBR community ~~another~~ including, but not limited to, any personal property, fire alarms, fire equipment, elevators, telephones, institution keys, library materials and/or safety devices;

6.7. Theft, Misappropriation, or Unauthorized Sale of Property;

7.8. Misuse of Documents or Identification Cards. Any forgery, alteration of or unauthorized use of institutional documents, forms, records or identification cards, including the giving of any false information, or withholding of necessary information, in connection with a student's admission, enrollment or status in the institution;

8.9. ~~Firearms and Other Dangerous~~ Weapons. Possessing, carrying, using, storing, or manufacturing any weapon on institution controlled property or in connection with an

institution affiliated activity, unless federal or state law provides a student with an affirmative right to possess or carry a weapon on institution controlled property or in connection with an institution-affiliated activity. ~~Any possession of or use of firearms, dangerous weapons of any kind, or replica/toy guns, e.g. BB guns, pellet guns, paintball guns, water guns, cap guns, toy knives or other items that simulate firearms or dangerous weapons.~~ (Refer to Guidance on Firearms on Campus, Exhibit #1);

9-10. Explosives, Fireworks, ~~and~~ Flammable, and Hazardous Materials. The unauthorized possession, ignition or detonation of any object or article that represents a potential danger to the TBR community, including, but not limited to, explosives, fireworks, flammable materials, ammunition, hazardous liquids, chemicals, or hazardous materials;~~which would cause damage by fire or other means to persons or property or possession of any substance which could be considered to be and used as fireworks;~~

10-11. Alcoholic Beverages and Alcohol-Related Conduct. The use, ~~and/or~~ possession, and/or sale of alcoholic beverages on institution owned or controlled property or in connection with any institutional activity unless expressly permitted by the institution;~~This offense includes the violation of any local ordinance, state, or federal law concerning alcoholic beverages, on or off institution owned or controlled property, where an affiliated group or organization has alcoholic beverages present and available for consumption;~~

11-12. Drugs. The unlawful possession, ~~or~~ use, sale, or manufacture of any drug or controlled substance (including, but not limited to, any stimulant, depressant, narcotic or hallucinogenic drug, or marijuana), ~~sale or distribution of any such drug or controlled substance.~~ This offense includes using or possessing a prescription drug if the prescription was not issued to the student, as well as the violation of any local ordinance, state, or federal law concerning the unlawful possession or use of drugs, ~~on or off institution owned or controlled property;~~

- 42.13. Drug Paraphernalia. The use, ~~or possession,~~ distribution, sale, or manufacture of equipment, products or materials that are used or intended for use in manufacturing, growing, using or distributing any drug or controlled substance. This offense includes the violation of any local ordinance, state, or federal law concerning the unlawful possession of drug paraphernalia, ~~on or off institution owned or controlled property;~~
- 43.14. Public Intoxication. Appearing on institution owned or controlled property or at an institutional sponsored event while under the influence of alcohol, a controlled substance, ~~or~~ of any other intoxicating substance;
- 44.15. Gambling. Unlawful gambling in any form;
- 45.16. Financial Irresponsibility. Failure to meet financial responsibilities to the institution promptly including, but not limited to, knowingly passing a worthless check or money order in payment to the institution;
- 46.17. Unacceptable Conduct Related to in-Disciplinary Proceedings. Any conduct at any stage of an institutional disciplinary proceeding or investigation that is contemptuous, ~~disrespectful,~~ threatening, retaliatory, or disorderly, including false complaints, false testimony or other falsification of evidence, and attempts to influence the impartiality of a person who is involved in the disciplinary process, ~~member of an adjudicatory judicial body,~~ verbal or physical harassment or intimidation of an institutional official, hearing panel-judicial board member, complainant, respondent or witness;
- 47.18. Failure to Cooperate with Institutional Officials. Failure to comply with reasonable directions of institutional officials acting in the performance of their duties. This includes, but is not limited to, failing to respond to a request to report to an institutional administrative office, failing to cooperate in an institutional investigation, and/or failing to appear at an institutional hearing, including, without limitation, a disciplinary hearing;

- ~~18. Violation of General Policies. Any violation of the general policies of the institution as published in an official institutional publication, including the intentional failure to perform any required action or the intentional performance of any prohibited action;~~
19. Attempts, Aiding and Abetting. Any attempt to commit any of the offenses listed under this section or the aiding or abetting of the commission of any of the offenses listed under this section. ~~(a)~~ An attempt to commit an offense is defined as the intention to commit the offense coupled with the taking of some action toward its commission. ~~)-~~ Being present during the planning or commission of any offense listed under this section without having made an immediate report to the institution prior to the commission of the planned offense will be considered as aiding and abetting. Students who anticipate or observe an offense must remove themselves from the situation and are required to report the offense to the institution;
20. Violations of State or Federal Laws. Any conviction of violation of state or federal laws, rules, or regulations ~~proscribing-prohibiting~~ conduct or establishing offenses, ~~if a student's violation of such laws or regulations also adversely affects the institutions' pursuit of its educational objectives;~~
21. Violation of Imposed Disciplinary Sanctions. Intentional or unintentional violation of a disciplinary sanction ~~officially-imposed~~ through an institutional disciplinary proceeding by an institution official or a constituted body of the institution;
22. Sexual Misconduct. Committing any act of ~~s~~sexual assault, rape, sexual battery, domestic violence, or dating violence as defined by state or federal law~~sexual misconduct as defined by TBR Policy 6.03.00.00;~~
23. Harassment, Stalking, or Retaliation. Any conduct that falls within T.C.A. § 39-17-308 (Harassment) or T.C.A. § 39-17-315 (Stalking) or "student-on-student harassment," which means unwelcome conduct directed toward a person that is discriminatory on a basis prohibited by federal, state, or local law, and that is so severe, pervasive, and objectively offensive that it effectively bars the victim's access to educational opportunity or benefit. Engaging in "retaliation," which is an

act or omission committed by a student because of another person's participation in or opposition to a protected activity that would discourage a reasonable person from engaging in or opposing protected activity. Retaliation violates these standards regardless of whether the underlying allegation of a violation of policy is ultimately found to have merit. Retaliation can include, without limitation: an act or omission committed against a person's family, friends, advisors, and or other persons reasonably expected to provide information in connection with an institutional investigation or hearing, and an act or omission committed by a student through a third party; Any act by an individual or group against another person or group in violation of TBR policies, as well as federal and/or state laws prohibiting discrimination, including, but not limited to, TBR policies 5.01.02.00(F), 6.01.00.00, 6.02.00.00, and TBR Guideline P-080;

23.24. Discrimination. Any conduct prohibited by any federal or state law, rule, or regulation related to discrimination, harassment, or retaliation;

24.25. Academic Misconduct. Any action or attempted action designed to provide an unfair academic advantage or disadvantage for oneself or others. Academic misconduct includes a wide variety of behaviors such as pPlagiarism, cheating, fabrication, and other academic dishonesty. For purposes of this policysection the following definitions apply:

- a. Plagiarism. The adoption or reproduction of ideas, words, statements, images, or works of another person as one's own without proper attribution. Examples include but are not limited to copying of passages from works of others into one's own work without acknowledgment; summarizing or paraphrasing ideas from another source without proper attribution, unless such information is recognized as common knowledge; and using facts, statistics graphs, representations, or phrases without proper attribution;
- b. Cheating. Using or attempting to use unauthorized materials, information, or aids in any academic exercise or test/examination. Examples include but are not

limited to copying another's work; obtaining or giving unauthorized assistance; unauthorized collaboration or collusion with another person; having another person take a test for a student; and the use of unauthorized materials or devices. The term academic exercise includes all forms of work submitted for credit or hours; and

- c. Fabrication. Falsifying, fabricating, or misrepresenting data, research results, citations or other information in connection with an academic assignment.

Unauthorized falsification or invention of any information or citation in an academic exercise.

25-26. Unauthorized Duplication or Possession of Keys. Making, causing to be made or the possession of, with the intent to use or make available for use by others, any key for an institutional facility without proper authorization;

26-27. Litter. Dispersing litter in any form onto the grounds or facilities of the campus;

27-28. Pornography. Public display of literature, films, pictures or other materials which an average person applying contemporary community standards would find, (1) taken as a whole, appeals to the prurient interest, (2) depicts or describes sexual conduct in a patently offensive way, and or (3) taken as a whole, lacks serious literary, artistic, political or scientific value;

28-29. Abuse of Computer Resources and Facilities. Misusing and/or abusing campus computer resources including, but not limited to the following:

- a. Use of another person's identification to gain access to institutional computer resources;
- b. Use of institutional computer resources and facilities to violate copyright laws, including, but not limited to, the act of unauthorized distribution of copyrighted materials using institutional information technology systems;
- c. Unauthorized access to a computer or network file, including but not limited to, altering, using, reading, copying, or deleting the file;
- d. Unauthorized transfer of a computer or network file;

- e. Use of computing resources and facilities to send abusive or obscene correspondence;
- f. Use of computing resources and facilities in a manner that interferes with normal operation of the institutional computing system;
- g. Use of computing resources and facilities to interfere with the work of another student, faculty member, or institutional official; and

h. ~~Violation of any published information technology resources policy,~~

i. ~~h.~~ Unauthorized peer-to-peer file sharing;

~~29-30.~~ Unauthorized Access to Institutional Facilities and/or Grounds. Any unauthorized access and/or occupancy of institutional facilities and or grounds is prohibited, including, but not limited to, gaining access to facilities and grounds that are closed to the public, being present in areas of campus that are open to limited guests only, being present in academic buildings after hours without permission, and being present in buildings when the student has no legitimate reason to be present;

~~30-31.~~ Providing False Information. Giving any false information to, or withholding necessary information from, any institutional official acting in the performance of his or her duties in connection with a student's admission, enrollment, or status in the institution;

~~31-32.~~ ~~Unauthorized Surveillance~~ Observation Without Consent. Knowingly spying upon, observing, or otherwise viewing an individual, regardless of whether a photo, video, or recording is made, when the individual is in a place where there is reasonable expectation of privacy, without the prior effective consent of the individual, if the viewing would offend or embarrass an ordinary person if the person knew the person was being viewed. Making or causing to be made unauthorized video or photographic images of a person in a location in which that person has a reasonable expectation of privacy, without the prior effective consent of the individual, or in the case of a minor, without the prior effective consent of the minor's parent or guardian.

This includes, but is not limited to, taking video or photographic images in shower/locker rooms, living quarters, residence hall rooms, and men's or women's restrooms, and storing, sharing, and/or distributing of such unauthorized images by any means;

33. Smoking Violations. Smoking or tobacco use in any institution building or facility, in any state-owned vehicle, or on any institution grounds or property, unless in a designated smoking or tobacco use area. For the purposes of these rules, "tobacco use" includes, but is not limited to, the personal use of any tobacco product, whether intended to be lit or not, which includes smoking tobacco or other substances that are lit and smoked, as well as the use of an electronic cigarette or any other device intended to simulate smoking, and the use of smokeless tobacco, including snuff; chewing tobacco; smokeless pouches; any form of loose-leaf, smokeless tobacco; and the use of unlit cigarettes, cigars, and pipe tobacco; Violation of any TBR and/or institutional smoking or other tobacco use rules or policies.

34. Maintenance of Ethical and Professional Standards. Failure to maintain the high ethical and professional standards of the various disciplines of the health professions may subject a student to suspension from a program, dismissal from a program, or other appropriate remedial action.

a. A student enrolled in a program leading to a degree or credential certificate in a health profession is subject to disciplinary action up to and including suspension and dismissal from a program for engaging in the following acts of misconduct, regardless of location:

(1) Commission of an offense classified as a felony by Tennessee or federal criminal statutes;

(2) Unlawful use, possession, or sale of drugs or narcotics, whether or not felonious;

(3) Other unprofessional or unethical conduct that would bring disrepute and disgrace upon both the student and profession and that would tend to

substantially reduce or eliminate the student's ability to effectively practice the profession in which discipline he or she is enrolled; or

(4) -Conduct that is in violation of either a relevant Tennessee statute establishing professional standards or a rule or regulation of a Tennessee regulatory board or other body responsible for the establishment and enforcement of professional standards.

b. A person applying for admission to a health profession program may be denied admission to the program on the basis of his or her violation of the aforementioned ethical and professional standards;

32.35. Traffic and Parking Fines. Receiving \$100.00 or more in traffic and/or parking violations on institution property or institution-controlled property during any semester.

~~D. Disciplinary action may be taken against a student for violations of the foregoing policies which occur at or in association with enrollment at an institution governed by the State Board of Regents for any academic period.~~

~~E. Each student shall be responsible for his/her conduct from the time of application for admission through the actual awarding of a degree including periods prior to or between semesters.~~

~~Conduct occurring while a student is registered or enrolled at the institution, but not discovered until after the student leaves the institution, including after the awarding of a degree, is actionable under these provisions and may result in the retroactive application of a disciplinary sanction.~~

F. Disciplinary Holds.

1. An institution may place a hold on a student record when the student has
a. Withdrawn from the institution while a disciplinary meeting and/or
proceeding is pending;

session in which the conduct occurred, or further disciplinary action can be effected only through appropriate procedures ~~of the institution.~~

B. Academic Misconduct

1. ~~Plagiarism, cheating, and other forms of a~~Academic misconduct is dishonesty ~~are~~ prohibited. Students guilty of academic misconduct, either directly or indirectly, through participation or assistance, are immediately responsible to the instructor of the class. In addition to other possible disciplinary sanctions which may be imposed in accordance with this policy, ~~through the regular institutional disciplinary procedures,~~ the instructor has the authority to take academic discipline consistent with institutional policy, procedures, and processes. ~~assign an appropriate grade for the exercise or examination, proportional to the nature and extent of academic misconduct. Disciplinary sanctions will be imposed only through the appropriate institutional student disciplinary processes.~~

2. An instructor who determines that a student has engaged in academic misconduct may choose to exercise academic discipline by lowering to any extent, including to a grade of "F" or "zero," a student's grade in the course, assignment, or examination affected by the alleged academic misconduct.

3. An instructor who initiates academic discipline shall inform the appropriate Chair and Dean (or other individual(s) identified by the institution) in writing of the finding of academic misconduct, the basis therefor, the academic discipline imposed, and the appeals process within five (5) days of the imposition of academic discipline.

4. A student may not withdraw from a course pending final resolution of an allegation of academic misconduct. Students are permitted and encouraged to continue attending class until the academic disciplinary decision, including all appeals, is final.

5. A student charged with academic misconduct has the option of either accepting

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

6. An institutional academic misconduct appeals committee shall consist of at least three (3) individuals and include at least one (1) student. The chief academic officer or other administrator identified by the institution will assemble the committee and coordinate the hearing but will not participate on the committee. Any individual who has an interest in the incident, a conflict of interest, or a bias is not permitted to serve on the committee. An institution may maintain standing pools from which individuals may be appointed and/or appoint ad hoc academic misconduct appeals committees. At a technical college the president has the authority to appoint a single administrator to perform the functions of the academic misconduct appeals committee and to effectuate the processes identified in this policy.

7. The academic misconduct appeals committee will set a hearing date that is within fifteen (15) business days of receipt of date of the student's appeal. The student must receive at least seven (7) calendar days' notice of the date, time, and location of the hearing. A student will be notified of the due process protections provided for in this policy.

8. The academic misconduct appeals committee will conduct the appeal hearing, consider the evidence presented, and make a decision based on a simple majority vote using a preponderance of the evidence standard. The committee can either uphold,

overturn, or lessen the academic discipline. The results of the committee's decision will be conveyed to the student in writing, through the chief academic officer or other individual identified by the institution, within ten (10) business days of the hearing.

9. If the academic misconduct appeals committee upholds or lessens the academic discipline, the student may appeal in writing to the president within five (5) business days following receipt of the decision of the committee. The president will make a decision within ten (10) business days. The president's decision is final.

10. The institution's chief academic officer, president, or other administrator identified by the institution has the ability to extend any deadline in this section for good cause and upon written notice to the student.

11. In addition to academic discipline, a student who is found responsible for academic misconduct, either one or more times, may be subject to disciplinary sanctions in accordance with this policy.

12. The institution shall maintain permanently all submissions by the student and all decisions of institutional officials and committees relating to academic misconduct.

~~A. Students may appeal a grade assignment associated with a finding of academic misconduct, as distinct from a student disciplinary sanction, through appropriate institutional academic misconduct or grade appeal procedures. Courses may not be dropped pending the final resolution of an allegation of academic misconduct.~~

~~B. Disruptive behavior in the classroom may be defined as, but not limited to, behavior that obstructs or disrupts the learning environment (e.g., offensive language, harassment of~~

~~students and professors, repeated outbursts from a student which disrupt the flow of instruction or prevent concentration on the subject taught, failure to cooperate in maintaining classroom decorum, etc.), text messaging, and the continued use of any electronic or other noise or light emitting device which disturbs others.~~

IV. Disciplinary Sanctions

- A. Institutions shall ~~adopt and~~ publish a this an institutional restatement of this policy, provide ingeing notice of potential disciplinary sanctions applicable to both students ~~individuals~~ and student organizations. Disciplinary sanctions may be imposed only after a violation of this policy has been established. ~~The policy may include any appropriate sanction, given the specific needs of the individual institution, subject to prior review and approval by the TBR Offices of General Counsel and Academic Affairs. Institutions are authorized to implement any or all of the sanctions, in the form set forth in sub-section (B) below, without need for prior review or approval. Upon a determination that a student or student organization has violated any of the disciplinary offenses set forth in this policy, institutional disciplinary policies, or the general policies of an institution, d~~ Disciplinary sanctions may be imposed, either singly or in combination, by the appropriate institution or school officials.
- B. Types Definition of Sanctions.:
1. Restitution. Restitution may be required in situations which involve theft, destruction, damage, or loss of property, or unreimbursed medical expenses resulting from physical injury. When restitution is required, the student or student organization is obligated by the appropriate institutional judicial authority to compensate a party or parties for a loss suffered as a result of disciplinary violation(s). This action may take the form of appropriate service, monetary compensation, or material replacement. Any monetary such payment in restitution shall be limited to actual cost of repair, replacement or financial loss;

2. Warning. The appropriate institutional official may notify orally or in writing the student or student organization that continuation or repetition of specified conduct may be cause for other disciplinary action;
3. Reprimand. A written or verbal reprimand or censure may be given to any student or student organization whose conduct violates any part of ~~this policy~~these policies and provides notice that that any further violation(s) may result in more serious penalties;
4. Service to the Institution or Community. A student, or student organization, may be required to donate a specified number of service hours to the institution performing reasonable tasks for an appropriate institution office, official(s), or the local community. The service required shall be commensurate to the offense (~~e.g.,~~ including but not limited to service for maintenance staff for defacing institutional property);
5. Specified Educational/Counseling Program. A student or student organization may be required to participate in specified educational or counseling program(s) relevant to the offense, or to prepare a project or report concerning a relevant topic;
- ~~6. Apology. A student or student organization may be required to apologize to an affected party, either verbally or in writing, for the behavior related to a disciplinary offense;~~
- ~~7.6. Fines. Penalties in the form of fines may be imposed against a student or student organization whenever the appropriate institutional authority deems appropriate. The sanction of fines may be imposed in addition to other forms of disciplinary sanctions. Failure to pay fines may result in further disciplinary action;~~
- ~~8.7.~~ 8.7. Restriction. A restriction upon a student's or student organization's privileges for a period of time may be imposed. This restriction may include, but is not limited to~~for example,~~ denial of the ability to represent the institution at any event, ability to participate in institution or TBR sponsored travel, use of facilities, parking privileges, participation in extracurricular activities or restriction of organizational privileges;

- 9.8. Probation. Continued enrollment of a student or recognition of a student organization on probation may be conditioned upon adherence to ~~these policies~~ these policies. Any student or organization placed on probation will be notified in writing of the terms and length of the probation. Probation may include but not be limited to restrictions upon extracurricular activities, or any other appropriate special condition(s). Any conduct in further violation of this policy ~~these policies~~ while on probationary status or the failure to comply with the terms of the probationary period may result in the imposition of further disciplinary action;
- 10.9. Suspension. Suspension is the separation of a student or student organization from the institution for a specified period of time. Suspension may be accompanied by special conditions for readmission or recognition;
- 11.10. Expulsion. Expulsion entails a permanent separation from the institution. The imposition of this sanction is a permanent bar to the student's admission, or a student organization's recognition ~~by~~ the institution. A student or organization that has been expelled may not enter institution property or facilities or institution-controlled property or facilities without obtaining prior approval from an appropriate campus official with knowledge of the expulsion directive;
- 12.11. Revocation and Withholding of Admission, Degree, or Credential; and
- 13.12. Interim Involuntary Withdrawal or Suspension. As a general rule, the status of a student or student organization accused of violation of TBR ~~rules~~ regulations, this policy, or an institutional policy ~~yies~~ should not be altered until a final determination has been made in regard to the charges. However, interim or involuntary withdrawal or suspension, pending the completion of disciplinary procedures, may be imposed upon a finding ~~by the appropriate institutional official~~ that the conduct, or attempted conduct of the student poses a direct threat to the safety of any other member of the institution, its guests, property, or the student's behavior is materially and substantially disruptive of the institution's learning environment or other campus activities. In any case of interim or involuntary withdrawal or suspension, the

student, or student organization, shall be given an opportunity at the time of the decision, or as soon thereafter as reasonably possible, to contest the suspension in accordance with this policy;

~~14. — Housing Probation. Continued residence in campus or student housing may be conditioned upon adherence to these policies as well as institutional housing policies. Any resident placed on housing probation will be notified in writing of the terms and length of the probation. Probation may include restrictions upon the activities of the resident, including any other appropriate special condition(s);~~

~~Housing Suspension and Forfeiture. A resident suspended from housing may not reside, visit, or make any use whatsoever of a housing facility or participate in any housing activity during the period for which the sanction is in effect. A suspended resident shall be required to forfeit housing fees (including any unused portion thereof and the Housing Deposit). A suspended resident must vacate the housing unit. Housing suspension shall remain a part of the student resident's disciplinary record.~~

C. The president is authorized, either personally or through a designee, to negotiate a mutually acceptable resolution to any disciplinary proceeding or to rescind or convert any sanction imposed to a lesser sanction.

~~V. — Traffic and Parking~~

~~A. — General: Institutions governed by the TBR shall adopt institutional policies governing traffic and parking on their respective campuses. The purpose of these policies shall be to facilitate the orderly and efficient flow of traffic on those campuses, to provide a safe atmosphere for both pedestrians and motor vehicle operators, and to provide order with regard to parking within limited space. Institutional policies enacted in compliance with this policy shall be subject to prior review and approval of the TBR. Once adopted, such policies shall be published, at least annually, and, as appropriate, through signage, traffic/parking handbooks, student/faculty handbooks and institutional websites.~~

- ~~B.—Registration of Automobiles/Permits/Decals: TBR institutions shall adopt policies regarding the registration of vehicles and/or the issuance of decals and/or permits on campus, and/or the alternate use of campus access fees in lieu of registration of individual vehicles for the purpose of effective enforcement of campus traffic and/or parking regulations. Reasonable fees/costs may be assessed in association with the vehicle registration, permit, or decal issuance process. Any fees/costs associated with registration of vehicles or the issuance of permits/decals, together with appropriate information sufficient to justify the fee/cost amount, shall be submitted for review and approval by the TBR prior to implementation at any institution, pursuant to the requirement set forth in TBR policy.~~
- ~~C.—Parking: TBR institutions shall adopt policies with regard to parking on institution owned, operated, or controlled sites. Those policies shall reflect the physical availability and limitations of parking facilities at institution owned, operated, or controlled sites. TBR institutions are further authorized to adopt appropriate parking zones or designated parking systems for faculty, staff, students, residents of campus housing, visitors, and other appropriate groups. Institutions may also establish a schedule of hours for enforcement for parking regulations at their various campus sites. Reasonable fees/costs may be assessed in association with the issuance of parking decals or passes as set forth in section (2) above. Any fees/costs associated with parking permits/decals, together with appropriate information sufficient to justify the fee/cost amount, shall be submitted for review and approval by the TBR prior to implementation at any institution, pursuant to the requirement set forth in TBR policy.~~
- ~~D.—Traffic: TBR institutions shall adopt policies with regard to motor and other vehicular traffic on institution owned, operated, or controlled sites. Those policies shall reflect the nature of traffic patterns, roads, and physical limitations of the particular institution owned or controlled site. TBR institutions are further directed to adopt and publish a traffic code reflecting the traffic rules and offenses for that institution's sites. Such violations may include, but are not limited to, all traffic offenses provided under state,~~

~~county, or municipal ordinance applicable to the locality of each institutional site.~~

~~Adoption of such policies shall be subject to prior review and approval by the TBR. Once adopted or amended all traffic and parking regulations shall be affirmatively communicated to the faculty, staff, and students of the institution as well as published in appropriate websites, handbooks, or manuals.~~

~~E. Fines/Penalties: TBR institutions shall have the authority to adopt appropriate fines and/or disciplinary sanctions for violations of the traffic and parking regulations established pursuant to sections (3) & (4) above. Fines may be set as determined necessary at each institution, but shall not exceed the amounts provided for by the higher of state law, county, or municipal ordinance for the same offense. Such fines are subject to the prior review and approval of the TBR, pursuant to the requirement set forth in TBR policy. Proposed fines shall be submitted to the TBR together with information sufficient to justify the fine. Such information shall include consideration of state/county/municipal fines for the same offense, fines for the same offense at similarly situated institutions, association to enforcement costs at the institution, and/or the unique traffic/parking considerations at each institution. Once adopted or amended, all fines shall be affirmatively communicated to the faculty, staff, and students of the institution as well as published in appropriate websites, handbooks, or manuals.~~

~~Appeals: Institutions shall establish an appropriate system of due process associated with any traffic/parking codes or fines, consistent with the due process requirements set forth in TBR Systemwide Rule 0240-02-03-.06, wherein persons cited for violation of institutional traffic/parking regulations may contest their citations. Institutions are authorized to establish alternative or multiple methods/bodies for hearings and/or for the resolution of such matters.~~

VI.V. Disciplinary Procedures

A. General: ~~Institutions governed by the TBR, in the implementation of TBR policies pertaining to discipline and conduct of students, Institutions shall ensure provide~~

~~students with the constitutional rights of students by affording~~ a system of constitutionally and legally sound procedures ~~that which~~ provide the protection of due process of law. ~~In furtherance of this mandate, all TBR institutions shall enact policies setting forth the disciplinary procedures for the institution. All such policies shall be enacted in compliance in accordance~~ with TBR ~~Systemwide~~ Student Rules, this policy, and applicable state and federal law. All policies adopted related to student conduct shall be subject to prior review and approval by the TBR Offices of General Counsel and Academic Affairs. Once adopted or amended, all disciplinary procedures shall be affirmatively communicated to the faculty, staff, and students of the institution as well as published in appropriate websites, handbooks, catalogs, or manuals.

B. At community colleges, the Vice President of Student Affairs or other administrator designated by the institution is responsible for matters within the scope of this policy, except that the Chief Academic Officer is responsible for matters related to academic misconduct. In situations where the conduct could fall within both areas of responsibility, the two offices will confer and decide which procedures will apply and advise the student or student organization in writing of the decision. At colleges of applied technology, the president or designee has responsibility.

C. Complaints related to discrimination, harassment, and retaliation that are not subject to another ~~policy rule~~ will be investigated and resolved in accordance with ~~this policy and~~ the institution's restatement of this policy, procedures, and processes.

1. In determining whether the evidence establishes a violation of institutional policy, the institution shall use the preponderance of the evidence standard for contested cases, as explained in TBR Policy 1.06.00.05, Uniform Procedures for Cases Subject to the Uniform Administrative Procedures Act and Department of State Rule 1360-04-01. At all times the burden of obtaining evidence and establishing a violation shall be on the institution.

2. In the event of bias or conflict of interest by an institutional official, the institution may

- appoint a substitute, who may or may not be employed by the institution.
3. The investigator shall conduct an appropriate investigation, which may include interviews of the parties and witnesses, as well as review of documents and other information. The purpose of the investigation is to determine whether the evidence establishes a violation of institutional policy and procedures. The parties are encouraged, but not required, to provide information that they want the investigator to consider.
 4. The investigator shall provide written notice of receipt of a written complaint or the decision to initiate an investigation.
 5. The investigator shall notify students that the institution will comply with FERPA and only disclose information in accordance with FERPA and other applicable law.
 6. The investigator shall prepare a report summarizing the investigation. The report shall include, but not be limited to, the dates of the alleged occurrences, the response of the respondent, the findings of the investigator, and recommendations regarding disposition of the complaint.
 7. The report shall be submitted to the institution's president within sixty (60) calendar days following receipt of the complaint, absent cause for extending the investigation timeline. In situations where more time is needed to complete the investigation, written notice shall be provided to the parties explaining the reasons.
 8. The president shall review the investigator's report and shall make a written determination as to whether ~~this policy, and~~ institutional policy, processes, and procedures have been violated and the appropriate disciplinary sanction, if any. The president's determination and the investigator's report shall be provided to the parties, unless prohibited by law.
 9. Either party may send a written request to reconsider to the president within ten (10) working days, absent good cause, of receipt of the president's determination.

- a. The request to reconsider process shall consist of an opportunity for the parties to provide information to the president's attention that would change the determination and/or disciplinary sanction. A party must explain why the factual information was incomplete, the analysis of the facts was incorrect, the determination was affected by bias or a conflict of interest, procedural irregularity, and/or the appropriate standard was not applied, and how this would affect the determination. Failure to do so may result in denial of the request to reconsider.
- b. The parties will not be allowed to present their request to reconsider in person unless the president determines, in his or her sole discretion, to allow an in-person appearance.
- c. The president shall issue a written response to the request to reconsider as promptly as possible. The decision will constitute the institution's final decision.
- d. The institution shall provide written notice of the ability to contest the determination and/or disciplinary sanctions, including where applicable, the ability to request a contested case hearing pursuant to the UAPA, to the parties at the time the parties are advised of the determination and upon the resolution of any request to reconsider or appeal.
- D. Students and student organizations subject to any disciplinary sanction are entitled to a due process hearing in accordance with this policy and standards established by the constitutions of the State of Tennessee and the United States unless that right is waived after receiving written notice of the available procedures.
- E. All proceedings under this policy will be held in closed session and not open to the public. Formal rules of evidence shall not be applicable. The administrator or committee chair may exclude evidence which in their judgment is immaterial, irrelevant, or unduly repetitious.
- F. Written notice to a student or student organization is accomplished either by handing a

copy to the student; sending documents via to email to the student's or student organization's institutional email account; email account of record on file with the institution; or by sending a copy via certified mail, registered mail, return receipt requested mail, or a nationally recognized delivery service that tracks delivery to the student's residence of record or the student organization's address of record.

G. Initiation of Charges

1. An institution may initiate the disciplinary process on the basis of written allegations received from any source, including any member of the college community. Complaints should be directed to the Vice President of Student Affairs or other administrator identified by the institution, except that complaints relating to discrimination, harassment, and retaliation should be referred to the administrator identified by the institution so that such complaints can be handled in accordance with institutional policy and procedures. The institution may also initiate disciplinary procedures without written allegations if it becomes aware of potential violations of ~~these rules~~ [this policy](#) through other means.
2. When the allegations, if proven, may warrant the imposition of a disciplinary sanction, the institution shall inform the student of the allegations and proceed to gather information concerning the matter, including, but not limited to, interviewing relevant witnesses and reviewing relevant documents and evidence. Students who may be the subject of disciplinary sanctions will be provided the minimum due process protections identified in this policy.
3. After reviewing the evidence, the administrator with responsibility for the matter shall decide whether sufficient evidence exists to charge the student, and if so, the appropriate disciplinary sanction(s). Notice of the charges and disciplinary sanction(s), if any, shall be provided in writing to the student. If there is insufficient evidence to continue the disciplinary process, the matter will be closed, and written notice will be

provided to the student.

H. Minimum Due Process Protections. Institutions shall provide the following minimum procedural due process protection components in disciplinary matters:

1. The student shall be advised, in writing, of the breach of the policy provision(s) of which he or she is charged;
2. The student shall be advised of the time, date, and place of the hearing allowing reasonable time for preparation; and
3. The student shall be advised of the following rights applicable at the hearing:
 - a. The right to present his or her case;
 - b. The right to be accompanied by an advisor of his or her choice. The advisor's participation shall be limited to advising the student, and not include advocating on behalf of the student, speaking on behalf of the student, or otherwise actively representing the student. An advisor is not permitted to interfere with the hearing;
 - c. The right to call witnesses on his or her behalf;
 - d. The right to confront witnesses against him or her; and
 - e. The method and time limitations for appeal, if any is applicable.

~~(1) (d)~~ Options for Students. Four potential processes exist for adjudication of disciplinary matters. The student will be informed in writing of each available option and the due process rights associated with each option. A student will have five (5) business days following written notification to select an option. If a student fails to return the election of a procedure in a timely manner, the student will be deemed to have waived the right to contest the disciplinary sanction. Selection of one option constitutes waiver of all other options.

1. Contested Case ~~Hearing~~Procedure: All cases which may result in either: ~~(a)~~ suspension or expulsion of a student from the institution for disciplinary reasons; or ~~(b)~~

revocation of registration of a student organization, are subject to the contested case provisions of the Uniform Administrative Procedures Act (~~UAPA~~), T.C.A. § 4-5-301 et seq., and ~~shall be processed in accord with the Uniform Contested Case procedures adopted by the Board of Regents~~TBR Policy 1.06.00.05, Uniform Procedures for Cases Subject to the Uniform Administrative Procedures Act, unless the student or student organization, after receiving written notice, waives those procedures, ~~and elects to have the case disposed of in accord with institutional procedures or waives all right to contest the case under any procedure. These procedures shall be described in the institution's policy.~~

2. A student at a community college may elect an institutional panel hearing. A student at a college of applied technology may elect a formal hearing in front of a single administrator appointed by the president.

a. Institutional Panel Hearing (Community Colleges)

(1) An institutional panel hearing committee at a community college shall consist of at least three (3) individuals and include at least one (1) student. The dean of students or other administrator identified by the institution will assemble the committee and coordinate the hearing but will not vote as to the committee's decision. An individual who has an interest in the incident, a conflict of interest, or a bias is not permitted to serve on the committee. The institution may appoint individuals from standing pools and/or appoint ad hoc committees.

(2) The committee will set a hearing date that is within fifteen (15) business days of receipt of the student's request for a panel hearing. The student must be notified of the date, time, and location of the hearing as soon as possible, but given at least seven (7) calendar days' notice. A student will be notified of the due process protections provided for in ~~these rules~~ this policy.

(3) The committee will conduct the hearing, consider the relevant evidence presented, and make a decision based on a simple majority vote. The committee can either uphold, overturn, or lessen the disciplinary finding and/or sanction. The results of the decision will be conveyed to the student in writing, through the dean of students or other administrator identified by the institution, within ten (10) business days of the hearing.

(4) If the committee upholds or lessens the disciplinary finding and/or sanction, the student may appeal in writing to the president within five (5) business days following receipt of the decision of the committee. The president will make a decision within ten (10) business days. The president's decision is final.

(5) The president, dean of students or other administrator identified by the institution has the ability to extend deadlines for good cause and upon written notice to the student.

(6) The institution shall maintain all submissions by the student and all decisions of institutional officials and committees permanently.

b. Formal Administrative Hearing (Colleges of Applied Technology)

(1) The president of a college of applied technology shall appoint an administrator who will set a hearing date that is within fifteen (15) business days of receipt of the student's request for a hearing. The student must be given at least seven (7) calendar days' notice of the hearing. A student will be notified of the due process protections provided for in this policy.

(2) The administrator will conduct a hearing, consider the relevant evidence presented, and make a decision either upholding, overturning, or lessening the disciplinary finding and/or sanction. The results of the decision will be conveyed to the student within ten (10) business days of the hearing.

(3) If the administrator upholds or lessens the disciplinary finding and/or sanction,

the student may appeal in writing to the president within five (5) business days following receipt of the decision of the committee. The president will make a decision within ten (10) business days. The president's decision is final.

(4) The president has the ability to extend deadlines for good cause and upon written notice to the student.

c. Administrative Resolution. An administrative resolution involves the student meeting with a single administrator appointed by (i) for community college students, the dean of students or other administrator identified by the institution or (ii) for college of applied technology students, the president. There is no appeal. The decision of the administrator is final.

d. A student may elect not to contest the disciplinary action, either affirmatively or by failing to return the election of a procedure in a timely manner, which serves as a waiver of the right to contest the disciplinary action.

~~A.~~

~~1. For cases which may result in Interim Involuntary Withdrawal or Suspension, the institution must incorporate the guidelines set forth below in (F) in its decision-making processes.~~

~~B. Institutional Procedures: For matters not subject to the requirements of UAPA, each institution shall include in its policies a description of the procedures applicable at each level of a student/organizational misconduct, student housing violation or traffic/parking violation proceeding, including procedures for the initiation, investigation, resolution and/or prosecution of a violation applicable at each level, including appeal(s). This policy shall also set forth minimum requirements for advance notice of charges/violations as well as the time, date, and place for any procedure or hearing.~~

~~C. Institutional Hearings: For matters not subject to the requirements of UAPA, institutions shall establish a body or bodies, with authority to hear student/organizational~~

~~misconduct, student housing violations, or traffic/parking violations. Such body may be constituted as determined by the institution and may consist of one (1) individual or a committee. Authority may be vested in a single entity or in separate bodies.~~

~~D. — Minimum Requirements of Due Process for Institutional Hearings: Institutional hearing bodies and procedures governing discipline in cases of student/organizational misconduct, student housing violations and/or traffic/parking violations may be structured in any manner deemed appropriate given the organizational structure of the individual institution, but shall include the following minimal procedural components:~~

- ~~1. — The student shall be advised, in writing, of the breach of regulation(s) of which they are charged;~~
- ~~2. — The student shall be advised of the time, date, and place of the hearing allowing reasonable time for preparation;~~
- ~~3. — The student shall be advised of the following rights applicable at the hearing:~~
 - ~~a. — The right to present their case;~~
 - ~~b. — The right to be accompanied by an advisor;~~
 - ~~c. — The right to call witnesses in their behalf;~~
 - ~~d. — The right to confront witnesses against them, and~~
 - ~~e. — The student shall be advised of the method and time limitations for appeal, if any is applicable.~~
- ~~4. — Students subject to any disciplinary sanction are entitled to a due process hearing unless that right is waived by the student after receiving written notice of the available procedures.~~

J. Procedures Related to Interim Involuntary Withdrawal or Suspension Hearings:

1. When the Vice President for Student Affairs or other administrator identified by the institution determines that an interim suspension or other interim measure is required for the health and safety of the institutional community and/or property, or to prevent an ongoing imminent threat of disruption to or interference with the normal operations

- of the institution, the student will receive an opportunity for an informal hearing with the Vice President of Student Affairs or other administrator identified by the institution to contest the interim measure.
2. The informal hearing will be held within five (5) calendar days, absent good cause.
3. The evidence presented at the hearing shall be limited to that which is relevant to the basis asserted for imposition of the interim suspension or other interim measure.

~~E. Hearings conducted with regard to interim involuntary withdrawal or suspensions imposed prior to or pending the outcome of a disciplinary investigation or proceeding shall be conducted consistent with the minimum requirements of due process applicable to an institutional hearing, taking into account the need for a timely hearing. The evidence presented at the hearing shall be limited to that which is relevant to the basis asserted for imposition of the interim involuntary withdrawal or suspension.~~

- ~~1. In determining whether a student should be involuntarily withdrawn or suspended for threatening or disruptive conduct, the institution shall consider the nature, duration, severity, and probability of the threat posed or the disruption caused by a student, relying on the best available objective evidence and, if applicable and obtainable, on the most current medical evidence.~~
- ~~2. The institutions shall also determine whether reasonable modifications of its policies, practices, or procedures could sufficiently mitigate the risk.~~
- ~~3. Absent exigent circumstances creating an imminent risk or harm, the assessment will be made prior to a decision to involuntarily withdraw or suspend based on the threat he or she poses on others.~~
- ~~4. If exigent circumstances warrant the immediate removal of a student from the institution, the student will receive, at a minimum, notice and an initial opportunity to present evidence immediately after being placed on involuntary withdrawal, and the opportunity to initiate full due process within 30 days of the removal.~~

F. ~~K.~~ Alternative Resolution Procedures: ~~An institution is authorized to establish alternative or multiple methods/bodies for hearings and/or for the resolution of disciplinary matters,~~ with the consent of all relevant parties, may use an ~~A~~ alternative resolution method ~~s may include~~ ing, but ~~are~~ not limited to, an apology, mediation, ~~diversion programs, and/or a~~ negotiated resolutions.

Exhibits

- [Configure](#)



[Exhibit 1 - Guide to Gun Laws on Campus](#) (pdf /63.72 KB)

Sources

Authority

T.C.A. § 49-8-203; All Federal and State statutes, codes, rules and regulations referenced in this policy.

History

TBR Meetings, December 2, 1977; March 3, 1978; March 18, 1983; September 30, 1983; TBR Board Meeting, March 29, 2012; TBR Board Meeting June 19, 2015; [TBR Board Meeting June 19, 2021](#).

Related Policies

- [Student Due Process Procedure](#)
- [Equal Employment Opportunity and Affirmative Action](#)
- [Sex Discrimination, Sexual Harassment or Sexual Misconduct](#)
- [Sex Discrimination and Sexual Harassment](#)
- [Sexual Misconduct](#)

General Policy on Student Conduct & Disciplinary Sanctions: 3.02.00.01

Policy Area

Student Policies

Applicable Divisions

TCATs, Community Colleges

Purpose

The Tennessee Board of Regents authorizes the institutions under its jurisdiction to take such action consistent with this policy as may be necessary to maintain campus conditions and preserve the integrity of the institution and its educational environment. Institutional policies that restate this policy shall be subject to prior review and approval by the TBR Offices of General Counsel and Academic Affairs.

Definitions

- For the purpose of this policy, a “student” shall mean any person
 - who is admitted, enrolled, and/or registered for study (including for non-credit classes) at a Board of Regents institution for any academic period. This shall include any period of time following admission and/or registration, but preceding the start of classes for any academic period, following the end of an academic period through the last day for registration for the succeeding academic period, and during any period while the student is under suspension from the institution; who engaged in academic misconduct as part of the application process; and/or
 - who previously attended a TBR institution and who was found to have violated the institution’s student conduct and disciplinary standards policy during the time of enrollment.
 - “Student” shall also include any person subject to a period of suspension or removal from campus resulting from a finding of a violation of this policy;
 - Unless explicitly provided otherwise in these rules, the term “student” shall also refer to a student organization.
- Definitions of “Disciplinary Offenses” and “Disciplinary Sanctions” are included in their respective sections, II. and V.

Policy

I. Policy Statement

- A. Students enrolled in a TBR postsecondary educational institutions are citizens of their civic communities as well as the academic community. As such they are expected to conduct themselves as law-abiding members of each community at all times.
- B. Admission to an institution of postsecondary education carries with it special privileges and imposes special responsibilities apart from those rights and duties enjoyed by non-students. In recognition of the special relationship that exists between the institution and the academic community which it seeks to serve, the Tennessee Board of Regents ("TBR" or "the Board") has authorized the presidents of the institutions under its jurisdiction to take such action as may be necessary to maintain conditions on institution-owned and controlled property and to preserve the integrity of the institution and its educational environment.
- C. Pursuant to this authorization and in fulfillment of its duties to provide a secure and stimulating atmosphere in which individual and academic pursuits may flourish, the Board has developed the following policy, which is intended to govern student conduct at the institutions under its jurisdiction.
- D. Each institution under the jurisdiction of the TBR is directed to implement policies subject to, and consistent with, this policy.
- E. In addition, students are subject to all federal, state and local laws and ordinances. If a student's violation of such laws or ordinances also adversely affects the institution's pursuit of its educational objectives, an institution may enforce its own policies regardless of the status or outcome of any external proceedings instituted by other civil or criminal authorities.
- F. Students are responsible for compliance with this policy and with institutional policies and regulations.
- G. Disciplinary action may be taken against a student for violation of policies and regulations that occur on institutionally owned, leased or otherwise controlled property,

while participating in international or distance learning programs, and off campus, when the conduct impairs, interferes with, or obstructs any institutional activity or the mission, processes, and functions of the institution. In the case of violations that occur off institutionally owned, leased, or controlled property, the institution will take into account whether the violation impairs, interferes with, or obstructs any institutional activity, or the mission, processes, and function of the institution, including, but not limited to, conduct that:

1. occurs in connection with any institutional activity, including but not limited to, international, distance, online, or remote learning programs, athletics events and other extracurricular activities, clinical, internship, practicum, and similar activities;
2. occurs while using institutional resources, such as computers and network systems;
3. involves or affects another member of the TBR community (a student, faculty, staff member, or guest of a TBR institution); or
4. poses a credible, serious threat to the health and safety of the TBR community.

H. This policy, and related material incorporated herein by reference, is applicable to student organizations as well as individual students. Whether a student organization will be held responsible for a violation of these rules by one or more of its members will be based on the following considerations:

1. the violation is endorsed by the student organization or any of its officers. "Endorsed by" includes, but is not limited to, active or passive consent or support, having prior knowledge that the conduct was likely to occur, or helping to plan, advertise, or promote the conduct;
2. the violation took place during the course of an activity paid for by the student organization or by members of the student organization to support the activity in question;

3. the prohibited conduct occurred on property owned, controlled, rented, leased, or used by the student organization or any of its members for an organizational event;
4. the prohibited conduct was related to initiation, admission into, affiliation with, or as a condition for continued membership in the student organization; and
5. one or more officers of the student organization had prior knowledge or reasonably should have known the prohibited conduct would likely take place.

- I. Confidentiality of Discipline Process. Subject to the exceptions provided pursuant to the Family Educational Rights and Privacy Act of 1974 (FERPA), 20 U.S.C. 1232g, the Tennessee Public Records Act, T.C.A. § 10-7-501 et seq. , and/or other state and federal law, a student's disciplinary records and files are considered "education records" and are confidential in accordance with those statutes.
- J. Matters within the scope of TBR Policy 6.03.00.00, Sexual Misconduct, which implements 34 C.F.R. Part 106 related to Title IX of the Education Amendments of 1972, shall proceed in accordance with TBR Policy 6.03.00.00, Sexual Misconduct, and not this policy.

II. Disciplinary Offenses

- A. Disciplinary measures shall be imposed according to this policy and the institution's restatement of this policy and applicable procedures and processes.
- B. Institutions shall use the "preponderance of the evidence" standard. A preponderance of the evidence means the greater weight of the evidence or that, according to the evidence, the conclusion sought by the party with the burden of proof is the more probable conclusion.
- C. These rules shall not be used to violate rights guaranteed under the constitution of the State of Tennessee or the constitution of the United States.

- D. Institutions shall adopt and publish notice of offenses for which both individuals and student organizations may be subject to disciplinary action.
- E. Both students and student organizations may be subject to disciplinary action for the following disciplinary offenses identified in this policy:
 - 1. Threatening Conduct. Any conduct, threatened conduct, or attempted conduct that poses a threat to a person's safety, health, or personal well-being including, but not limited to, endangering the health, safety, or welfare of any person; engaging in conduct that causes a reasonable person to fear harm to his or her health, safety or welfare; or making an oral or written statement that an objectively reasonable person hearing or reading the statement would interpret as a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals;
 - 2. Disruptive Conduct. Any conduct, threatened conduct, or attempted conduct that is disruptive to the institution's learning environment, including, but not limited to, engaging in any action that interferes with the ability of the instructor to teach or other students to learn. Disruptive conduct in the class setting (which includes but is not limited to remote education and off-site activities and locations) includes, but is not limited to, behavior that obstructs or disrupts the learning environment (e.g., offensive language, harassment of students or instructors, repeated outbursts from a student that disrupt the flow of instruction or prevent concentration, failure to cooperate in maintaining class decorum, etc.), text messaging, and the continued use of any electronic or other noise or light emitting device which disturbs others;
 - 3. Hazing. Hazing, as defined in T.C.A. § 49-7-123(a)(1), means any intentional or reckless act, on or off the property, of any higher education institution by an individual acting alone, or with others, which is directed against any other person(s) that endangers the mental or physical health or safety of that person(s), or which induces or coerces a person(s) to endanger such person(s) mental or physical health or safety. Hazing does not include customary athletic events or similar

contests or competitions, and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization;

4. Disorderly Conduct. Any individual or group behavior which is abusive, obscene, lewd, indecent (including, without limitation, public exposure of one's sex organs, public urinating, and public sexual acts), violent, excessively noisy, disorderly, or which unreasonably disturbs institutional functions, operations, classrooms, other groups or individuals;
5. Obstruction of or Interference with institutional activities or facilities. Any intentional interference with or obstruction of any institutional, program, event, or facility including but not limited to the following:
 - a. Any unauthorized occupancy of facilities owned or controlled by an institution or blockage of access to or from such facilities;
 - b. Interference with the right of any institution member or other authorized person to gain access to any activity, program, event or facilities sponsored or controlled by an institution;
 - c. Any obstruction or delay of a security officer, public safety officer, police officer, firefighter, EMT, or any official of an institution, or failure to comply with any emergency directive issued by such person in the performance of their duty;
 - d. Participation in a demonstration that substantially impedes institutional operations; or
 - e. Obstruction of the free flow of pedestrian or vehicular traffic on property owned, leased or controlled by an institution or at an institutional activity.
6. Misuse of or Damage to Property. Any act of misuse, vandalism, malicious or unwarranted damage or destruction, defacing, disfiguring or unauthorized use of property belonging to the institution or a member of the TBR community including, but not limited to, any personal property, fire alarms, fire equipment, elevators, telephones, institution keys, library materials and/or safety devices;
7. Theft, Misappropriation, or Unauthorized Sale of Property;

8. Misuse of Documents or Identification Cards. Any forgery, alteration of or unauthorized use of institutional documents, forms, records or identification cards, including the giving of any false information, or withholding of necessary information, in connection with a student's admission, enrollment or status in the institution;
9. Weapons. Possessing, carrying, using, storing, or manufacturing any weapon on institution controlled property or in connection with an institution affiliated activity, unless federal or state law provides a student with an affirmative right to possess or carry a weapon on institution controlled property or in connection with an institution-affiliated activity. (Refer to Guidance on Firearms on Campus, Exhibit #1);
10. Explosives, Fireworks, Flammable, and Hazardous Materials. The unauthorized possession, ignition or detonation of any object or article that represents a potential danger to the TBR community, including, but not limited to, explosives, fireworks, flammable materials, ammunition, hazardous liquids, chemicals, or hazardous materials;
11. Alcoholic Beverages and Alcohol-Related Conduct. The use, possession, and/or sale of alcoholic beverages on institution owned or controlled property or in connection with any institutional activity unless expressly permitted by the institution;
12. Drugs. The unlawful possession, use, sale, or manufacture of any drug or controlled substance (including, but not limited to, any stimulant, depressant, narcotic or hallucinogenic drug, or marijuana). This offense includes using or possessing a prescription drug if the prescription was not issued to the student, as well as the violation of any local ordinance, state, or federal law concerning the unlawful possession or use of drugs;
13. Drug Paraphernalia. The use, possession, distribution, sale, or manufacture of equipment, products or materials that are used or intended for use in manufacturing, growing, using or distributing any drug or controlled substance. This offense includes the violation of any local ordinance, state, or federal law concerning the unlawful possession of drug paraphernalia;

14. Public Intoxication. Appearing on institution owned or controlled property or at an institutional sponsored event while under the influence of alcohol, a controlled substance, or of any other intoxicating substance;
15. Gambling. Unlawful gambling in any form;
16. Financial Irresponsibility. Failure to meet financial responsibilities to the institution promptly including, but not limited to, knowingly passing a worthless check or money order in payment to the institution;
17. Unacceptable Conduct Related to Disciplinary Proceedings. Any conduct at any stage of an institutional disciplinary proceeding or investigation that is contemptuous, threatening, retaliatory, or disorderly, including false complaints, false testimony or other falsification of evidence, and attempts to influence the impartiality of a person who is involved in the disciplinary process, verbal or physical harassment or intimidation of an institutional official, hearing panel member, complainant, respondent or witness;
18. Failure to Cooperate with Institutional Officials. Failure to comply with reasonable directions of institutional officials acting in the performance of their duties. This includes, but is not limited to, failing to respond to a request to report to an institutional administrative office, failing to cooperate in an institutional investigation, and/or failing to appear at an institutional hearing, including, without limitation, a disciplinary hearing;
19. Attempts, Aiding and Abetting. Any attempt to commit any of the offenses listed under this section or the aiding or abetting of the commission of any of the offenses listed under this section. (An attempt to commit an offense is defined as the intention to commit the offense coupled with the taking of some action toward its commission.) Being present during the planning or commission of any offense listed under this section without having made an immediate report to the institution prior to the commission of the planned offense will be considered as aiding and abetting.

Students who anticipate or observe an offense must remove themselves from the situation and are required to report the offense to the institution;

20. Violations of State or Federal Laws. Any conviction of violation of state or federal laws, rules, or regulations prohibiting conduct or establishing offenses;
21. Violation of Imposed Disciplinary Sanctions. Intentional or unintentional violation of a disciplinary sanction imposed through an institutional disciplinary proceeding;
22. Sexual Misconduct. Committing any act of sexual assault, rape, sexual battery, domestic violence, or dating violence as defined by state or federal law;
23. Harassment, Stalking, or Retaliation. Any conduct that falls within T.C.A. § 39-17-308 (Harassment) or T.C.A. § 39-17-315 (Stalking) or “student-on-student harassment,” which means unwelcome conduct directed toward a person that is discriminatory on a basis prohibited by federal, state, or local law, and that is so severe, pervasive, and objectively offensive that it effectively bars the victim’s access to educational opportunity or benefit. Engaging in “retaliation,” which is an act or omission committed by a student because of another person’s participation in or opposition to a protected activity that would discourage a reasonable person from engaging in or opposing protected activity. Retaliation violates these standards regardless of whether the underlying allegation of a violation of policy is ultimately found to have merit. Retaliation can include, without limitation: an act or omission committed against a person’s family, friends, advisors, and or other persons reasonably expected to provide information in connection with an institutional investigation or hearing, and an act or omission committed by a student through a third party;
24. Discrimination. Any conduct prohibited by any federal or state law, rule, or regulation related to discrimination, harassment, or retaliation;
25. Academic Misconduct. Any action or attempted action designed to provide an unfair academic advantage or disadvantage for oneself or others. Academic misconduct includes a wide variety of behaviors such as plagiarism, cheating, fabrication, and

other academic dishonesty. For purposes of this policy the following definitions apply:

- a. Plagiarism. The adoption or reproduction of ideas, words, statements, images, or works of another person as one's own without proper attribution. Examples include but are not limited to copying of passages from works of others into one's own work without acknowledgment; summarizing or paraphrasing ideas from another source without proper attribution, unless such information is recognized as common knowledge; and using facts, statistics graphs, representations, or phrases without proper attribution;
 - b. Cheating. Using or attempting to use unauthorized materials, information, or aids in any academic exercise or test/examination. Examples include but are not limited to copying another's work; obtaining or giving unauthorized assistance; unauthorized collaboration or collusion with another person; having another person take a test for a student; and the use of unauthorized materials or devices. The term academic exercise includes all forms of work submitted for credit or hours; and
 - c. Fabrication. Falsifying, fabricating, or misrepresenting data, research results, citations or other information in connection with an academic assignment. Unauthorized falsification or invention of any information or citation in an academic exercise.
26. Unauthorized Duplication or Possession of Keys. Making, causing to be made or the possession of, with the intent to use or make available for use by others, any key for an institutional facility without proper authorization;
27. Litter. Dispersing litter in any form onto the grounds or facilities of the campus;
28. Pornography. Public display of literature, films, pictures or other materials which an average person applying contemporary community standards would find, (1) taken as a whole, appeals to the prurient interest, (2) depicts or describes sexual conduct

in a patently offensive way, and (3) taken as a whole, lacks serious literary, artistic, political or scientific value;

29. Abuse of Computer Resources and Facilities. Misusing and/or abusing campus computer resources including, but not limited to the following:
 - a. Use of another person's identification to gain access to institutional computer resources;
 - b. Use of institutional computer resources and facilities to violate copyright laws, including, but not limited to, the act of unauthorized distribution of copyrighted materials using institutional information technology systems;
 - c. Unauthorized access to a computer or network file, including but not limited to, altering, using, reading, copying, or deleting the file;
 - d. Unauthorized transfer of a computer or network file;
 - e. Use of computing resources and facilities to send abusive or obscene correspondence;
 - f. Use of computing resources and facilities in a manner that interferes with normal operation of the institutional computing system;
 - g. Use of computing resources and facilities to interfere with the work of another student, faculty member, or institutional official; and
 - h. Unauthorized peer-to-peer file sharing.
30. Unauthorized Access to Institutional Facilities and/or Grounds. Any unauthorized access and/or occupancy of institutional facilities and/or grounds is prohibited, including, but not limited to, gaining access to facilities and grounds that are closed to the public, being present in areas of campus that are open to limited guests only, being present in academic buildings after hours without permission, and being present in buildings when the student has no legitimate reason to be present;
31. Providing False Information. Giving any false information to, or withholding necessary information from, any institutional official acting in the performance of his

or her duties in connection with a student's admission, enrollment, or status in the institution;

32. Observation Without Consent. Knowingly spying upon, observing, or otherwise viewing an individual, regardless of whether a photo, video, or recording is made, when the individual is in a place where there is reasonable expectation of privacy, without the prior effective consent of the individual, if the viewing would offend or embarrass an ordinary person if the person knew the person was being viewed. This includes, but is not limited to, taking video or photographic images in shower/locker rooms, living quarters, restrooms, and storing, sharing, and/or distributing of such unauthorized images by any means;
33. Smoking Violations. Smoking or tobacco use in any institution building or facility, in any state-owned vehicle, or on any institution grounds or property, unless in a designated smoking or tobacco use area. For the purposes of these rules, "tobacco use" includes, but is not limited to, the personal use of any tobacco product, whether intended to be lit or not, which includes smoking tobacco or other substances that are lit and smoked, as well as the use of an electronic cigarette or any other device intended to simulate smoking, and the use of smokeless tobacco, including snuff; chewing tobacco; smokeless pouches; any form of loose-leaf, smokeless tobacco; and the use of unlit cigarettes, cigars, and pipe tobacco;
34. Maintenance of Ethical and Professional Standards. Failure to maintain the high ethical and professional standards of the various disciplines of the health professions may subject a student to suspension from a program, dismissal from a program, or other appropriate remedial action.
 - a. A student enrolled in a program leading to a degree or credential in a health profession is subject to disciplinary action up to and including suspension and dismissal from a program for engaging in the following acts of misconduct, regardless of location:

- (1) Commission of an offense classified as a felony by Tennessee or federal criminal statutes;
 - (2) Unlawful use, possession, or sale of drugs or narcotics, whether or not felonious;
 - (3) Other unprofessional or unethical conduct that would bring disrepute and disgrace upon both the student and profession and that would tend to substantially reduce or eliminate the student's ability to effectively practice the profession in which discipline he or she is enrolled; or
 - (4) Conduct that is in violation of either a relevant Tennessee statute establishing professional standards or a rule or regulation of a Tennessee regulatory board or other body responsible for the establishment and enforcement of professional standards.
- b. A person applying for admission to a health profession program may be denied admission to the program on the basis of his or her violation of the aforementioned ethical and professional standards;
35. Traffic and Parking Fines. Receiving \$100.00 or more in traffic and/or parking violations on institution property or institution-controlled property during any semester.

F. Disciplinary Holds.

1. An institution may place a hold on a student record when the student has
 - a. Withdrawn from the institution while a disciplinary meeting and/or proceeding is pending;
 - b. Not responded to an institutional official's request for a meeting or hearing; or
 - c. Been suspended or expelled.
2. A disciplinary hold may remain on a student's record until final resolution of a disciplinary meeting and/or disciplinary hearing.

3. An institution will not confer a degree or credential when a student record has been placed on hold, or when a student has a pending disciplinary meeting and/or disciplinary proceeding.
4. Except for cases involving Academic Misconduct, an institution will not revoke a degree or credential based on conduct occurring while a person was a student, but not discovered until after the awarding of a degree or credential.

III. Classroom and Academic Misconduct

A. Classroom Misconduct

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

B. Academic Misconduct

1. Academic misconduct is prohibited. Students guilty of academic misconduct, either directly or indirectly, through participation or assistance, are immediately responsible to the instructor of the class. In addition to other possible disciplinary sanctions which may be imposed in accordance with this policy, , the instructor has the authority to take academic discipline consistent with institutional policy, procedures, and processes.
2. An instructor who determines that a student has engaged in academic misconduct may choose to exercise academic discipline by lowering to any extent, including to a

grade of “F” or “zero,” a student’s grade in the course, assignment, or examination affected by the alleged academic misconduct.

3. An instructor who initiates academic discipline shall inform the appropriate Chair and Dean (or other individual(s) identified by the institution) in writing of the finding of academic misconduct, the basis therefor, the academic discipline imposed, and the appeals process within five (5) days of the imposition of academic discipline.
4. A student may not withdraw from a course pending final resolution of an allegation of academic misconduct. Students are permitted and encouraged to continue attending class until the academic disciplinary decision, including all appeals, is final.
5. A student charged with academic misconduct has the option of either accepting the academic discipline imposed by the instructor or initiating the appeals process to challenge the allegation of academic misconduct or the severity of the academic discipline. If the student does not respond in writing within five (5) days by either accepting or appealing the academic discipline to the institutional academic misconduct appeals committee, the student waives the right to contest the academic discipline, at which time it becomes final.
6. An institutional academic misconduct appeals committee shall consist of at least three (3) individuals and include at least one (1) student. The chief academic officer or other administrator identified by the institution will assemble the committee and coordinate the hearing but will not participate on the committee. Any individual who has an interest in the incident, a conflict of interest, or a bias is not permitted to serve on the committee. An institution may maintain standing pools from which individuals may be appointed and/or appoint ad hoc academic misconduct appeals committees. At a technical college the president has the authority to appoint a single administrator to perform the functions of the academic misconduct appeals committee and to effectuate the processes identified in this policy.

7. The academic misconduct appeals committee will set a hearing date that is within fifteen (15) business days of receipt of date of the student's appeal. The student must receive at least seven (7) calendar days' notice of the date, time, and location of the hearing. A student will be notified of the due process protections provided for in this policy.
8. The academic misconduct appeals committee will conduct the appeal hearing, consider the evidence presented, and make a decision based on a simple majority vote using a preponderance of the evidence standard. The committee can either uphold, overturn, or lessen the academic discipline. The results of the committee's decision will be conveyed to the student in writing, through the chief academic officer or other individual identified by the institution, within ten (10) business days of the hearing.
9. If the academic misconduct appeals committee upholds or lessens the academic discipline, the student may appeal in writing to the president within five (5) business days following receipt of the decision of the committee. The president will make a decision within ten (10) business days. The president's decision is final.
10. The institution's chief academic officer, president, or other administrator identified by the institution has the ability to extend any deadline in this section for good cause and upon written notice to the student.
11. In addition to academic discipline, a student who is found responsible for academic misconduct, either one or more times, may be subject to disciplinary sanctions in accordance with this policy.
12. The institution shall maintain permanently all submissions by the student and all decisions of institutional officials and committees relating to academic misconduct.

IV. Disciplinary Sanctions

- A. Institutions shall publish an institutional restatement of this policy, providing notice of potential disciplinary sanctions applicable to both students and student organizations. Disciplinary sanctions may be imposed only after a violation of this policy has been established. Disciplinary sanctions may be imposed, either singly or in combination.
- B. Types of Sanctions
1. Restitution. Restitution may be required in situations which involve theft, destruction, damage, or loss of property, or unreimbursed medical expenses resulting from physical injury. When restitution is required, the student or student organization is obligated by the appropriate institutional authority to compensate a party or parties for a loss suffered as a result of disciplinary violation(s). This action may take the form of appropriate service, monetary compensation, or material replacement. Any monetary payment in restitution shall be limited to actual cost of repair, replacement or financial loss;
 2. Warning. The appropriate institutional official may notify orally or in writing the student or student organization that continuation or repetition of specified conduct may be cause for other disciplinary action;
 3. Reprimand. A written or verbal reprimand or censure may be given to any student or student organization whose conduct violates any part of this policy and provides notice that that any further violation(s) may result in more serious penalties;
 4. Service to the Institution or Community. A student, or student organization, may be required to donate a specified number of service hours to the institution performing reasonable tasks for an appropriate institution office, official(s), or the local community. The service required shall be commensurate to the offense (including but not limited to service for maintenance staff for defacing institutional property);
 5. Specified Educational/Counseling Program. A student or student organization may be required to participate in specified educational or counseling program(s) relevant to the offense, or to prepare a project or report concerning a relevant topic;

6. Restriction. A restriction upon a student's or student organization's privileges for a period of time may be imposed. This restriction may include, but is not limited to denial of the ability to represent the institution at any event, ability to participate in institution or TBR sponsored travel, use of facilities, parking privileges, participation in extracurricular activities or restriction of organizational privileges;
7. Probation. Continued enrollment of a student or recognition of a student organization on probation may be conditioned upon adherence to this policy. Any student or organization placed on probation will be notified in writing of the terms and length of the probation. Probation may include but not be limited to restrictions upon extracurricular activities, or any other appropriate special condition(s). Any conduct in further violation of this policy while on probationary status or the failure to comply with the terms of the probationary period may result in the imposition of further disciplinary action;
8. Suspension. Suspension is the separation of a student or student organization from the institution for a specified period of time. Suspension may be accompanied by special conditions for readmission or recognition;
9. Expulsion. Expulsion entails a permanent separation from the institution. The imposition of this sanction is a permanent bar to the student's admission, or a student organization's recognition by the institution. A student or organization that has been expelled may not enter institution property or facilities or institution-controlled property or facilities without obtaining prior approval from an appropriate campus official with knowledge of the expulsion directive;
10. Revocation and Withholding of Admission, Degree, or Credential; and
11. Interim Involuntary Withdrawal or Suspension. As a general rule, the status of a student or student organization accused of violation of TBR rules, this policy, or an institutional policy should not be altered until a final determination has been made in regard to the charges. However, interim or involuntary withdrawal or suspension, pending the completion of disciplinary procedures, may be imposed upon a finding

that the conduct, or attempted conduct of the student poses a direct threat to the safety of any other member of the institution, its guests, property, or the student's behavior is materially and substantially disruptive of the institution's learning environment or other campus activities. In any case of interim or involuntary withdrawal or suspension, the student, or student organization, shall be given an opportunity at the time of the decision, or as soon thereafter as reasonably possible, to contest the suspension in accordance with this policy;

- C. The president is authorized, either personally or through a designee, to negotiate a mutually acceptable resolution to any disciplinary proceeding or to rescind or convert any sanction imposed to a lesser sanction.

V. Disciplinary Procedures

- A. Institutions shall provide students with a system of constitutionally and legally sound procedures that provide the protection of due process of law in accordance with TBR Student Rules, this policy, and applicable state and federal law. All policies adopted related to student conduct shall be subject to prior review and approval by the TBR Offices of General Counsel and Academic Affairs. Once adopted or amended, all disciplinary procedures shall be affirmatively communicated to the faculty, staff, and students of the institution as well as published in appropriate websites, handbooks, catalogs or manuals.
- B. At community colleges, the Vice President of Student Affairs or other administrator designated by the institution is responsible for matters within the scope of this policy, except that the Chief Academic Officer is responsible for matters related to academic misconduct. In situations where the conduct could fall within both areas of responsibility, the two offices will confer and decide which procedures will apply and advise the student or student organization in writing of the decision. At colleges of applied technology, the president or designee has responsibility.

- C. Complaints related to discrimination, harassment, and retaliation that are not subject to another policy will be investigated and resolved in accordance with the institution's restatement of this policy, procedures, and processes.
1. In determining whether the evidence establishes a violation of institutional policy, the institution shall use the preponderance of the evidence standard for contested cases, as explained in TBR Policy 1.06.00.05, Uniform Procedures for Cases Subject to the Uniform Administrative Procedures Act and Department of State Rule 1360-04-01. At all times the burden of obtaining evidence and establishing a violation shall be on the institution.
 2. In the event of bias or conflict of interest by an institutional official, the institution may appoint a substitute, who may or may not be employed by the institution.
 3. The investigator shall conduct an appropriate investigation, which may include interviews of the parties and witnesses, as well as review of documents and other information. The purpose of the investigation is to determine whether the evidence establishes a violation of institutional policy and procedures. The parties are encouraged, but not required, to provide information that they want the investigator to consider.
 4. The investigator shall provide written notice of receipt of a written complaint or the decision to initiate an investigation.
 5. The investigator shall notify students that the institution will comply with FERPA and only disclose information in accordance with FERPA and other applicable law.
 6. The investigator shall prepare a report summarizing the investigation. The report shall include, but not be limited to, the dates of the alleged occurrences, the response of the respondent, the findings of the investigator, and recommendations regarding disposition of the complaint.

7. The report shall be submitted to the institution's president within sixty (60) calendar days following receipt of the complaint, absent cause for extending the investigation timeline. In situations where more time is needed to complete the investigation, written notice shall be provided to the parties explaining the reasons.
8. The president shall review the investigator's report and shall make a written determination as to whether institutional policy, processes, and procedures have been violated and the appropriate disciplinary sanction, if any. The president's determination and the investigator's report shall be provided to the parties, unless prohibited by law.
9. Either party may send a written request to reconsider to the president within ten (10) working days, absent good cause, of receipt of the president's determination.
 - a. The request to reconsider process shall consist of an opportunity for the parties to provide information to the president's attention that would change the determination and/or disciplinary sanction. A party must explain why the factual information was incomplete, the analysis of the facts was incorrect, the determination was affected by bias or a conflict of interest, procedural irregularity, and/or the appropriate standard was not applied, and how this would affect the determination. Failure to do so may result in denial of the request to reconsider.
 - b. The parties will not be allowed to present their request to reconsider in person unless the president determines, in his or her sole discretion, to allow an in-person appearance.
 - c. The president shall issue a written response to the request to reconsider as promptly as possible. The decision will constitute the institution's final decision.
 - d. The institution shall provide written notice of the ability to contest the determination and/or disciplinary sanctions, including where applicable, the ability to request a contested case hearing pursuant to the UAPA, to the parties at the

time the parties are advised of the determination and upon the resolution of any request to reconsider or appeal.

- D. Students and student organizations subject to any disciplinary sanction are entitled to a due process hearing in accordance with this policy and standards established by the constitutions of the State of Tennessee and the United States unless that right is waived after receiving written notice of the available procedures.
- E. All proceedings under this policy will be held in closed session and not open to the public. Formal rules of evidence shall not be applicable. The administrator or committee chair may exclude evidence, which in their judgment is immaterial, irrelevant, or unduly repetitious.
- F. Written notice to a student or student organization is accomplished either by handing a copy to the student; sending documents via email to the student's or student organization's institutional email account; email account of record on file with the institution; or by sending a copy via certified mail, registered mail, return receipt requested mail, or a nationally recognized delivery service that tracks delivery to the student's residence of record or the student organization's address of record.
- G. Initiation of Charges
 - 1. An institution may initiate the disciplinary process on the basis of written allegations received from any source, including any member of the college community. Complaints should be directed to the Vice President of Student Affairs or other administrator identified by the institution, except that complaints relating to discrimination, harassment, and retaliation should be referred to the administrator identified by the institution so that such complaints can be handled in accordance with institutional policy and procedures. The institution may also initiate disciplinary procedures without written allegations if it becomes aware of potential violations of this policy through other means.

2. When the allegations, if proven, may warrant the imposition of a disciplinary sanction, the institution shall inform the student of the allegations and proceed to gather information concerning the matter, including, but not limited to, interviewing relevant witnesses and reviewing relevant documents and evidence. Students who may be the subject of disciplinary sanctions will be provided the minimum due process protections identified in this policy.
 3. After reviewing the evidence, the administrator with responsibility for the matter shall decide whether sufficient evidence exists to charge the student, and if so, the appropriate disciplinary sanction(s). Notice of the charges and disciplinary sanction(s), if any, shall be provided in writing to the student. If there is insufficient evidence to continue the disciplinary process, the matter will be closed, and written notice will be provided to the student.
- H. Minimum Due Process Protections. Institutions shall provide the following minimum procedural due process protection components in disciplinary matters:
1. The student shall be advised, in writing, of the breach of the policy provision(s) of which he or she is charged;
 2. The student shall be advised of the time, date, and place of the hearing allowing reasonable time for preparation; and
 3. The student shall be advised of the following rights applicable at the hearing:
 - a. The right to present his or her case;
 - b. The right to be accompanied by an advisor of his or her choice. The advisor's participation shall be limited to advising the student, and not include advocating on behalf of the student, speaking on behalf of the student, or otherwise actively representing the student. An advisor is not permitted to interfere with the hearing;
 - c. The right to call witnesses on his or her behalf;

- d. The right to confront witnesses against him or her; and
- e. The method and time limitations for appeal, if any is applicable.

I. Options for Students. Four potential processes exist for adjudication of disciplinary matters. The student will be informed in writing of each available option and the due process rights associated with each option. A student will have five (5) business days following written notification to select an option. If a student fails to return the election of a procedure in a timely manner, the student will be deemed to have waived the right to contest the disciplinary sanction. Selection of one option constitutes waiver of all other options.

1. Contested Case Hearing: All cases which may result in either: suspension or expulsion of a student from the institution for disciplinary reasons or revocation of registration of a student organization are subject to the contested case provisions of the Uniform Administrative Procedures Act , T.C.A. § 4-5-301 et seq., and TBR Policy 1.06.00.05, Uniform Procedures for Cases Subject to the Uniform Administrative Procedures Act, unless the student or student organization, after receiving written notice, waives those procedures.
2. A student at a community college may elect an institutional panel hearing. A student at a college of applied technology may elect a formal hearing in front of a single administrator appointed by the president.
 - a. Institutional Panel Hearing (Community Colleges)
 - (1) An institutional panel hearing committee at a community college shall consist of at least three (3) individuals and include at least one (1) student. The dean of students or other administrator identified by the institution will assemble the committee and coordinate the hearing but will not vote as to the committee's decision. An individual who has an interest in the incident, a conflict of interest, or a bias is not permitted to serve on the committee. The institution may appoint individuals from standing pools and/or appoint ad hoc

committees.

- (2) The committee will set a hearing date that is within fifteen (15) business days of receipt of the student's request for a panel hearing. The student must be notified of the date, time, and location of the hearing as soon as possible, but given at least seven (7) calendar days' notice. A student will be notified of the due process protections provided for in this policy.
 - (3) The committee will conduct the hearing, consider the relevant evidence presented, and make a decision based on a simple majority vote. The committee can either uphold, overturn, or lessen the disciplinary finding and/or sanction. The results of the decision will be conveyed to the student in writing, through the dean of students or other administrator identified by the institution, within ten (10) business days of the hearing.
 - (4) If the committee upholds or lessens the disciplinary finding and/or sanction, the student may appeal in writing to the president within five (5) business days following receipt of the decision of the committee. The president will make a decision within ten (10) business days. The president's decision is final.
 - (5) The president, dean of students or other administrator identified by the institution has the ability to extend deadlines for good cause and upon written notice to the student.
 - (6) The institution shall maintain all submissions by the student and all decisions of institutional officials and committees permanently.
- b. Formal Administrative Hearing (Colleges of Applied Technology)
- (1) The president of a college of applied technology shall appoint an administrator who will set a hearing date that is within fifteen (15) business days of receipt of the student's request for a hearing. The student must be

given at least seven (7) calendar days' notice of the hearing. A student will be notified of the due process protections provided for in this policy.

(2) The administrator will conduct a hearing, consider the relevant evidence presented, and make a decision either upholding, overturning, or lessening the disciplinary finding and/or sanction. The results of the decision will be conveyed to the student within ten (10) business days of the hearing.

(3) If the administrator upholds or lessens the disciplinary finding and/or sanction, the student may appeal in writing to the president within five (5) business days following receipt of the decision of the committee. The president will make a decision within ten (10) business days. The president's decision is final.

(4) The president has the ability to extend deadlines for good cause and upon written notice to the student.

c. Administrative Resolution. An administrative resolution involves the student meeting with a single administrator appointed by (i) for community college students, the dean of students or other administrator identified by the institution or (ii) for college of applied technology students, the president. There is no appeal. The decision of the administrator is final.

d. A student may elect not to contest the disciplinary action, either affirmatively or by failing to return the election of a procedure in a timely manner, which serves as a waiver of the right to contest the disciplinary action.

J. Procedures Related to Interim Involuntary Withdrawal or Suspension Hearings.

1. When the Vice President for Student Affairs or other administrator identified by the institution determines that an interim suspension or other interim measure is required for the health and safety of the institutional community and/or property, or to prevent an ongoing imminent threat of disruption to or interference with the normal

operations of the institution, the student will receive an opportunity for an informal hearing with the Vice President of Student Affairs or other administrator identified by the institution to contest the interim measure.

2. The informal hearing will be held within five (5) calendar days, absent good cause.
3. The evidence presented at the hearing shall be limited to that which is relevant to the basis asserted for imposition of the interim suspension or other interim measure.

K. Alternative Resolution Procedures: An institution, with the consent of all relevant parties, may use an alternative resolution method including, but not limited to, an apology, mediation, or a negotiated resolution.

Exhibits

- Configure



[Exhibit 1 - Guide to Gun Laws on Campus](#) (pdf /63.72 KB)

Sources

Authority

T.C.A. § 49-8-203; All Federal and State statutes, codes, rules and regulations referenced in this policy.

History

TBR Meetings, December 2, 1977; March 3, 1978; March 18, 1983; September 30, 1983; TBR Board Meeting, March 29, 2012; TBR Board Meeting June 19, 2015; TBR Board Meeting June 19, 2021.

Related Policies

- Student Due Process Procedure
- Equal Employment Opportunity and Affirmative Action
- Sex Discrimination, Sexual Harassment or Sexual Misconduct
- Sex Discrimination and Sexual Harassment
- Sexual Misconduct