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Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission:	University of Tennessee
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1720-02-05	Student Code
Rule Number	Rule Title
1720-02-05-.01	Jurisdiction
1720-02-05-.02	Regulations Governing Student Conduct
1720-02-05-.03	Investigations of Student Conduct
1720-02-05-.04	Due Process and Student Rights
1720-02-05-.05	Student Conduct Hearing Procedures
1720-02-05-.06	Disciplinary Actions and Penalties
1720-02-05-.07	Appeals
1720-02-05-.08	Parking Appeals
1720-02-05-.09	Composition of Student Parking Appeals Board
1720-02-05-.10	Emergency Situations
1720-02-05-.11	Withdrawal or Temporary Suspension Due to Physical or Psychological Illness

Chapter Number	Chapter Title
1720-02-05	Student Code
Rule Number	Rule Title
1720-02-05-.01	Introduction
1720-02-05-.02	Definitions

1720-02-05-.03	Jurisdiction
1720-02-05-.04	Standards of Conduct
1720-02-05-.05	Residence Hall Inspections
1720-02-05-.06	Due Process, Student Rights, and Student Organization Rights
1720-02-05-.07	Student Conduct Hearing Procedures
1720-02-05-.08	Penalties
1720-02-05-.09	No Contact Directive
1720-02-05-.10	Interim Suspension
1720-02-05-.11	Appeals
1720-02-05-.12	Withdrawal or Temporary Suspension Due to Physical or Psychological Illness
1720-02-05-.13	Parking Appeals
1720-02-05-.14	Composition of Student Parking Appeals Board
1720-02-05-.15	Emergency Situations

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Substance of Proposed Rules
of
The University of Tennessee at Chattanooga

Repeal

Rule 1720-02-05 Student Code is repealed.

New Rule

Chapter 1720-02-05
Student Code

1720-02-05-.01 Introduction.

- (1) Students at the University of Tennessee at Chattanooga are members of both the University community and the larger community of which the University is a part. Accordingly, students are responsible for conducting themselves in a lawful manner and in compliance with University rules and policies. The University has established the following rules in order to advance the mission of the University by maintaining a safe and secure learning environment, protecting the rights and privileges of all members of the University community, providing a basis for orderly conduct of the affairs of the University, promoting a positive relationship between the University and its surrounding community, preserving institutional integrity and property, encouraging students to engage in conduct that brings credit to themselves and the University, and ensuring that each student who matriculates at the University graduates ready to contribute to society as an ethical and law-abiding citizen.
- (2) The University of Tennessee is committed to respecting students' constitutional rights. Nothing in this chapter is intended or shall be interpreted to restrict students' constitutional rights, including, but not limited to, rights of freedom of speech and assembly.
- (3) Disputes between student organizations (including fraternity/sorority cases which may be within the jurisdiction of the appropriate Greek governing council and/or the Dean of Students office) shall be subject to the jurisdiction of the Vice Chancellor for Student Development or his or her designee.
- (4) The Vice Chancellor for Student Development or his or her designee shall have jurisdiction over disputes between individual students and student organizations when such arbitration is requested by either of the parties involved.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public

Acts of Tennessee, 1807, Chapter 64.

1720-02-05-.02 Definitions.

- (1) The term "University" means the University of Tennessee at Chattanooga.
- (2) The term "student" means a person admitted, enrolled or registered for study at the University of Tennessee at Chattanooga, either full-time or part-time, pursuing undergraduate, graduate, or professional studies, as well as non-degree students. Persons not officially registered or enrolled for a particular term but who have a continuing relationship with the University also are considered students for purposes of these rules.
- (3) The term "student organization" means an organization that is composed solely of University students that has submitted a pending application or has completed the process for registration according to University rules.
- (4) The term "University-controlled property" means all land, buildings, facilities, grounds, structures, or any other property owned, leased, used, maintained, or operated by the University. For purposes of this rule, University-controlled property includes all streets, alleys, sidewalks, and public ways abutting such property. University-controlled property also includes computers and network systems owned, maintained, or controlled by the University or funded by the University.
- (5) The term "University-affiliated activity" means any activity on or off University-controlled property that is initiated, aided, authorized, sponsored, or supervised by the University.
- (6) The term "University official" means an employee of the University, including faculty members and staff, or a University-recognized volunteer. Student employees may be considered University officials when acting in the performance of their duties (e.g., event staff, resident assistants, and teaching assistants).
- (7) The term "member of the University community" means any person who is a student, University official, campus visitor, or participant in a University-sponsored or University-affiliated activity.
- (8) The term "possession" means actual knowledge of a substance or property and/or being in such close proximity to the substance or property that it is a reasonable presumption that one had knowledge of the substance or property.
- (9) The term "weapon" means any device, instrument, or substance that is designed to, or reasonably could be expected to, inflict a wound, incapacitate, or cause serious bodily injury or death, including, but not limited to, firearms (loaded and unloaded, real and replica), ammunition, electronic control devices (such as tasers and stun guns), devices designed to discharge an object (such as bb guns, air guns, pellet guns, potato guns, and slingshots), explosives, dangerous chemicals (such as mace, tear gas, and oleoresin capsicum), martial arts weapons, bows and arrows, artificial knuckles, nightsticks, blackjacks, dirks, daggers, swords, and knives with fixed blades longer than three (3) inches. The term "weapon" does not include chemical repellents available over-the-counter for self-defense; instruments used solely for personal hygiene, preparation of food, maintenance, University-related instruction, or University employment-related duties.
- (10) The term "notice" means notice given in writing delivered by regular mail, courier service, or hand delivery to the address the University has on file for the student or student organization, or by e-mail to the student's or student organization's University-provided e-mail account.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-02-05-.03 Jurisdiction.

- (1) The Standards of Conduct, Chapter 1720-02-05-.04, apply to conduct that occurs on University-controlled property.
- (2) The University also has the discretion to discipline a student for an act in violation of the Standards of Conduct that occurs off University-controlled property if the conduct adversely affects the interests of the University, including, but not limited to, conduct which:
 - (a) Occurs in connection with a University-affiliated activity, including, but not limited to, an overseas study program or a clinical, field, internship, or in-service experience;
 - (b) Involves another member of the University community; or
 - (c) Threatens, or indicates that the student may pose a threat to, the health or safety of him/herself or others or the security of any person's property, including, but not limited to, alcohol-related offenses, drug-related offenses, arson, battery, fraud, hazing, participation in group violence, rape, sexual assault or misconduct, stalking, and theft.
- (3) The Standards of Conduct have been adopted in furtherance of the University's interests and serve to supplement, rather than substitute for, the enforcement of the civil and criminal law. Accordingly, University disciplinary action may be instituted against a student charged with conduct that potentially violates both the criminal law and the Standards of Conduct without regard to the pendency of criminal charges or civil litigation. At the discretion of the Vice Chancellor for Student Development, or his/her designee, disciplinary action relating to a violation of the Standards of Conduct may be carried out prior to, simultaneously with, or following criminal proceedings. Students accused of violating the Standards of Conduct may not challenge the University disciplinary proceedings on the grounds that criminal charges, civil litigation, or other University proceedings regarding the same incident are pending or have been terminated, dismissed, reduced, or not yet adjudicated.
- (4) Each student shall be responsible for his/her conduct from the time of application for admission through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment (and even if conduct is not discovered by the University until after a degree is awarded). Should a student withdraw from the University with disciplinary charges pending, the student's academic record and/or ability to register for classes may be encumbered by the appropriate University office.
- (5) Graduate or professional programs within the University may initiate charges against students for alleged violations of professional standards or ethics as a separate issue or as an extension of alleged acts of academic dishonesty or other violations of the Standards of Conduct.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-02-05-.04 Standards of Conduct. A student or student organization may be disciplined for the following types of misconduct:

- (1) Cheating, plagiarism, or any other act of academic dishonesty, including, but not limited to, an act in violation of The Honor Code.
- (2) Providing false information to a University official.
- (3) Falsifying, distorting, misrepresenting, or withholding information in connection with a University investigation or hearing.
- (4) Forging, altering, destroying, falsifying, or misusing records, identification, or documents, whether in print or electronic form.
- (5) Causing physical harm to any person (including oneself); endangering the health or safety of any

person (including oneself); engaging in conduct that causes a reasonable person to fear harm to his/her health or safety; or making an oral or written statement (including electronically) 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, although the speaker need not mean to carry out the act of unlawful violence in order to constitute a violation of this rule.

- (6) Harassment, which is defined as unwelcome conduct that is so severe or pervasive, and objectively offensive, that it substantially interferes with the ability of a person to work, learn, live, or participate in or benefit from the services, activities, or privileges provided by the University. In no event shall this rule be construed to discipline a student for speech protected by the First Amendment to the United States Constitution (e.g., mere insulting or offensive speech).
- (7) Sexual assault or misconduct. "Sexual assault" is defined as any sexual act or attempt to engage in any sexual act with another person without the consent of the other person, or in circumstances in which the person is unable to give consent due to age, disability, or an alcohol/chemical or other impairment. "Sexual misconduct" is defined as any intimate touching of another person, or forcing a person to engage in intimate touching of another, without the consent of the other person, or in circumstances in which the person is unable to give consent due to age, disability, or an alcohol/chemical or other impairment. It is the responsibility of the person initiating sexual activity to ensure the other person is capable of consenting to that activity. Consent is given by an affirmative verbal response or acts that are unmistakable in their meaning. Consent to one form of sexual activity does not mean consent is given to another type of sexual activity.
- (8) Invasion of another person's privacy when that person has a reasonable expectation of privacy, including, but not limited to, using electronic or other means to make a video or photographic record of any person in a location in which the person has a reasonable expectation of privacy, without the person's knowledge or consent. This includes, but is not limited to, making a video or photographic record of a person in shower/locker rooms or restrooms. The storing, sharing, and/or distributing of such unauthorized recordings by any means is also prohibited.
- (9) Theft, misappropriation, unauthorized possession, or unauthorized sale of private or public property, including but not limited to University-controlled property.
- (10) Vandalizing, destroying, damaging, engaging in conduct that reasonably could cause damage to, or misusing private or public property, including but not limited to University-controlled property.
- (11) Participating in hazing. "Hazing" is defined as any intentional or reckless act, on or off University-controlled property, by one (1) student, acting alone or with others, which is directed against any other student, which endangers the mental or physical health or safety of that student, or which induces or coerces a student to endanger his or her 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.
- (12) Engaging in disorderly, lewd, indecent, or obscene conduct. "Disorderly" conduct means fighting or other physically violent or threatening conduct; creating a hazardous or physically offensive condition by any act that serves no legitimate purpose; making noise that could unreasonably disturb others who are carrying on lawful activities; or conduct that breaches the peace. "Lewd, indecent, or obscene" conduct includes, but is not limited to, public exposure of one's sexual organs, public urinating, and public sexual acts.
- (13) Engaging in speech, either orally or in writing, which is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.
- (14) Any act of arson; falsely reporting a fire, the presence of an explosive or incendiary device, or other emergency; setting off a false fire alarm; or tampering with, removing, or damaging fire alarms, fire extinguishers or any other safety or emergency equipment from its proper location except when removed in a situation in which there is a reasonable belief of the need for such

equipment.

- (15) Possessing, using, or duplicating University keys, access cards, or identification cards without authorization; possessing, using, or entering University-controlled property without authorization.
- (16) Theft, misuse, or unauthorized use of information technology facilities, resources, or access codes, including, but not limited to: unauthorized entry into or transfer of a file; using another person's identification and/or password without that person's consent; using information technology facilities or resources to interfere with the work of another student, faculty member, staff member, or other member of the University community; using information technology facilities or resources to interfere with normal operation of a University information technology system or network; circumventing University information technology system or network security; using information technology facilities or resources in violation of copyright laws; falsifying an e-mail header; and conduct that violates the University's policy on the Acceptable Use of Information Technology Resources.
- (17) Possessing, using, storing, or manufacturing any weapon or any facsimile of a weapon on University-controlled property or in connection with a University-affiliated activity, unless authorized in writing by the Chief of Police or his/her designee.
- (18) Consuming, manufacturing, possessing, distributing, dispensing, selling, or being under the influence of alcoholic beverages on University-controlled property or in connection with a University-affiliated activity.
- (19) Consuming, manufacturing, possessing, distributing, dispensing, selling, or being under the influence of alcoholic beverages, if prohibited by federal, state, or local law.
- (20) Providing an alcoholic beverage to a person younger than twenty-one (21) years of age, unless permitted by law.
- (21) Using, manufacturing, possessing, distributing, selling, dispensing, or being under the influence of drugs or drug paraphernalia, if prohibited by federal, state, or local law; using or possessing a prescription drug if the prescription was not issued to the student; or distributing or selling a prescription drug to a person to whom the prescription was not originally issued.
- (22) Failing to pay a University bill, account, or other University financial obligation.
- (23) Failing to respond to a request to report to a University administrative office; failing to comply with a lawful directive of a University employee or other public official acting within the scope of his/her duties; or failing to identify oneself to a University employee or other public official acting within the scope of his/her duties when requested to do so.
- (24) Failing to appear at a University hearing, including, but not limited to, a hearing of a University judicial board, following a request to appear either as a party or as a witness.
- (25) Violating the terms of an interim suspension, a no-contact directive, or a disciplinary penalty imposed by the University.
- (26) Obstructing or disrupting teaching, learning, studying, research, public service, administration, disciplinary proceedings, emergency services, or any other University-affiliated activity, or the free flow of pedestrian or vehicular traffic on University-controlled property. In no event shall this rule be construed to discipline a student for speech protected by the First Amendment to the United States Constitution.
- (27) Violating a University policy or rule, including but not limited to University policies or rules relating to facilities use, smoking, the acceptable use of information technology resources, research or service misconduct, finder's fees relating to clinical investigations involving human subjects or access to University data or materials, University libraries, dining services, parking or transportation, University identification card use, sexual harassment, residence halls, and

registered student organizations.

- (28) Committing an act that is prohibited by local, state, or federal law.
- (29) Attempting to commit a violation of a Standard of Conduct or being an accessory to the commission of an act or attempted act in violation of a Standard of Conduct.

Authority: T.C.A. § 49-9-209(e), T.C.A. § 49-7-123, and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-02-05-.05 Residence Hall Inspections.

- (1) Entry by University officials into occupied rooms in residence halls will be divided into three categories: inspection, search, and emergency. Inspection is defined as the entry into an occupied room by University officials in order to ascertain the health and safety conditions in the room, or to make repairs on facilities, or to perform cleaning and janitorial operations. Search is defined as the entry into an occupied room by on-campus authorities for the purpose of investigating suspected violations of campus regulations and/or city, state, or federal law. An emergency situation exists when the delay necessary to obtain search authorization constitutes an apparent danger to persons, property, or the building itself.
- (2) Inspection: Scheduled inspections by University officials, with the exception of daily janitorial and maintenance operations, shall be preceded, if possible, by twenty-four (24) hours' notice to the residents. During the inspection, there will be no search of drawers or closets or personal belongings.
- (3) Search: University officials will not enter a room for purposes of a search except in compliance with state law or with the permission of the resident or the permission of the Vice Chancellor for Student Development or his or her designee. University officials shall have, if possible, the Resident Director or his or her designee accompany them on the search.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-02-05-.06 Due Process, Student Rights, and Student Organization Rights.

- (1) Due process shall guarantee to the accused student or student organization the following:
 - (a) The right to be informed of charges in writing prior to the hearing.
 - (b) The right of reasonable time in which to prepare a defense.
 - (c) The right to a fair and just hearing.
 - (d) The right to challenge all charges and testimony used against the accused student or student organization and to question witnesses.
 - (e) The right to be informed in writing of:
 - 1. The final decision of the case.
 - 2. The proper procedure for appeal.
 - (f) The right to be accompanied by an advisor he/she/it chooses, at his/her/its own expense.
 - 1. The accused student or student organization is responsible for presenting his/her/its own information, and therefore, advisors are not to speak or participate directly in a University hearing.

2. A student or student organization should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the University hearing.
 3. Delays will not normally be allowed due to the scheduling conflicts of an advisor.
- (2) Any student or student organization shall be formally charged in writing with the alleged offense. The date, time, and place of occurrence of the offense shall be stated on the statement of charges.
 - (3) The Dean of Students office must keep accurate records of each hearing and the disposition of each case.
 - (4) In cases involving a complaint of sexual assault or misconduct, the alleged victim shall have the right to:
 - (a) Notice concerning the process by which the University will handle the complaint and an opportunity to ask questions about the process;
 - (b) A prompt, thorough, and impartial investigation of the complaint;
 - (c) The same opportunity as the accused student to present his/her explanation of the facts during the University's investigation;
 - (d) Have the investigation of the complaint concluded within sixty (60) days of the University's receipt of a complaint, unless circumstances make it impracticable for the University to complete its investigation within that timeframe;
 - (e) Notice of the outcome of the University's investigation;
 - (f) Have a disciplinary hearing conducted within thirty (30) days of a University charge that the accused student committed sexual assault or misconduct, unless circumstances make it impracticable for the University to conduct a hearing within that timeframe;
 - (g) Notice of the date, time, and location of the disciplinary hearing, the right to have the disciplinary hearing closed to the public, and the right to request rescheduling of the hearing for good cause;
 - (h) The same access as the accused student to any information or documents that will be used by the University during a disciplinary hearing, unless prohibited by law;
 - (i) Challenge the seating of any Student Conduct Board member for good cause, which will be determined at the discretion of the University Hearing Officer;
 - (j) Be accompanied by an advisor of his/her choosing during the University's investigation or a disciplinary hearing, but the advisor shall not be permitted to speak for the victim during a disciplinary hearing;
 - (k) The same opportunity as the accused student to be present during the hearing, present witnesses and other evidence, challenge the admissibility of evidence, and cross-examine adverse witnesses during the disciplinary hearing;
 - (l) Testify or remain silent at his/her option; however, choosing to remain silent may result in the University dismissing the charges against the accused student or the Student Conduct Board or University Hearing Officer finding that there is insufficient evidence to find the accused student guilty of the charges against him/her;
 - (m) Not to be questioned personally by the accused student during the disciplinary hearing;

- (n) Submit a written impact statement to the Student Conduct Board or University Hearing Officer for consideration during the sanctioning phase of the disciplinary hearing, if the accused student is found guilty of the charges against him/her;
- (o) Notice of the decision of the Student Conduct Board or University Hearing Officer within three (3) business days of the disciplinary hearing; and
- (p) Appeal the decision of the Student Conduct Board or University Hearing Officer to the Vice Chancellor for Student Development.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-02-05-.07 Student Conduct Hearing Procedures.

(1) Complaints

- (a) Any member of the University community may present a complaint to the Dean of Students office against a student or student organization for violations of the Student Code. Any complaint should be submitted as soon as possible after the event takes place. Any charge(s) shall be prepared in writing by the Dean of Students office.
- (b) All charges shall be presented to the accused student or student organization in written form.

(2) Hearing Options

- (a) An accused student or student organization desiring to contest the charge(s) against them must do so by requesting a hearing within five (5) days of their receipt of written notice of the charge(s).
- (b) The accused student or student organization may, at their option, request a hearing before a panel of individuals (Student Conduct Board) or by a University Hearing Officer selected by the Vice Chancellor for Student Development (or his or her designee). A hearing before a Student Conduct Board will be chaired by a University Hearing Officer similarly selected. Board members and hearing officers shall be impartial and anyone lacking such impartiality shall recuse him/herself or may be removed by the Vice Chancellor for Student Development upon request of any party to a University hearing.
- (c) A requested hearing shall be scheduled promptly after receipt of the request.
- (d) In the absence of a voluntary written waiver of the accused student's or student organization's right to a hearing under the provisions of the Tennessee Uniform Administrative Procedures Act (T.C.A. § 4-5-108, et seq.), a requested hearing will be conducted in accordance with the University's APA hearing procedures and these procedures shall not apply.

(3) Hearing Procedures – The Student Conduct Board or University Hearing Officer sitting alone will conduct the hearing within the following general guidelines:

- (a) All University hearings shall be closed to the public.
- (b) The accused student (and certain "victims" where permitted by law) or student organization, and their advisor, if any, shall be allowed to attend the entire portion of the University Hearing at which information is received (excluding deliberations).
- (c) Each party will be afforded a full and fair opportunity to present all evidence, including witnesses, reasonably relating to the charge or action at issue; evidence which is irrelevant, immaterial, repetitious or voluminous may be limited.

- (d) All procedural questions are determined by the University Hearing Officer.
 - (e) The Student Conduct Board or University Hearing Officer sitting alone will consider all evidence presented, giving due consideration to the credibility or weight of each item presented; technical rules of evidence will not apply.
 - (f) The standard for a finding of responsibility is a preponderance of the evidence.
 - (g) Following the conclusion of the University hearing, the Student Conduct Board or University Hearing Officer sitting alone will consider the evidence and present written findings.
 - (h) An appropriate record will be made of the hearing procedures. Deliberations shall not be recorded. Defects in the record will not invalidate the proceedings.
- (4) In cases involving an allegation of sexual assault or misconduct, the hearing procedures shall be modified to afford the alleged victim all of the rights described in Chapter 1720-02-05-.06(4).

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-02-05-.08 Penalties.

- (1) Disciplinary penalties are primarily intended to educate students and student organizations about appropriate behavior, encourage students and student organizations to take responsibility for misconduct, promote the personal and professional development of students, discourage other students and student organizations from violating the Standards of Conduct, and protect members of the University community. The penalties imposed should be appropriate for the particular case based on the gravity of the offense (including without limitation how the violation affected or reasonably could have affected other members of the University community). Consideration may also be given to the student's or student organization's conduct record, the student's or student organization's responsiveness to the conduct process, student academic classification, and other aggravating or mitigating factors.
- (2) The following penalties may be imposed on any student found to have violated the Standards of Conduct:
 - (a) Warning. A warning is a notice that the student is violating or has violated the Standards of Conduct.
 - (b) Loss of Privilege. This penalty is intended to serve as a reminder of the Standards of Conduct and is for a specific period of time. Privileges that may be lost include, but are not limited to, scholarships, stipends, participation in extracurricular activities (e.g. intramurals), housing privileges, participation in social activities, and use of certain University-controlled property (e.g., information technology resources).
 - (c) Educational Sanction. Students may be required to attend classes, at their own expense, dealing with issues such as the consequences of alcohol or drug use, civility, ethics, or other topics as deemed appropriate by the Vice Chancellor for Student Development or his/her designee.
 - (d) Restitution. Restitution may be required in situations that involve destruction, damage, or loss of property, or unreimbursed medical expenses resulting from physical injury. Restitution may take the form of a monetary payment or appropriate service to repair or otherwise compensate for the destruction, damage, or loss.

- (e) **Disciplinary Reprimand.** A disciplinary reprimand is used for minor violations of the Standards of Conduct. A reprimand indicates that further violations will result in more severe disciplinary actions.
 - (f) **Disciplinary Probation.** This penalty permits a student to remain at the University on probationary status but with the understanding that a future violation of the Standards of Conduct may result in suspension. Probation may be for a defined or indefinite period. Other conditions of probation are specific to each individual case and may include a requirement of community service or other requirement or restriction.
 - (g) **Suspension for a Specific Period of Time.** Suspension for a specific period of time means that the student is withdrawn from the University and is not eligible to apply for readmission for a designated period of time. Usually, the period of designated suspension does not exceed one (1) calendar year. Other conditions of suspension are specific to each individual case and may include a requirement of community service or other requirement or restriction. Upon return to the University following a suspension for a specific period of time, the student may be placed on indefinite disciplinary probation.
 - (h) **Permanent Dismissal.** Permanent dismissal means that a student is permanently barred from matriculating as a student on the Chattanooga campus. This penalty is used when the violation of one (1) or more of the institution's Standards of Conduct is deemed so serious as to warrant total and permanent disassociation from the University community without the possibility of re-enrollment; or when, by his/her repeated violation of the institution's Standards of Conduct, a student exhibits blatant disregard for the health and safety of other members of the University community or the University's right to establish rules of conduct.
 - (i) **Revocation of Admission or Degree.** Revocation of admission or degree means revoking a student's admission to the University or revoking a degree already awarded by the University. Revocation of a degree shall be approved by the University of Tennessee Board of Trustees.
- (3) A disciplinary hold may be placed on a student's account until the completion of the student disciplinary process and/or until the student satisfies the terms and conditions of any penalties imposed. A student who, at the time of commencement, is subject to a continuing disciplinary penalty or an unresolved disciplinary charge shall not be awarded a degree before the conclusion of all penalties and/or resolution of all disciplinary charges.
- (4) The following penalties may be imposed on a student organization found to have violated the Standards of Conduct:
- (a) **Warning.** A warning is a notice that the student organization is violating or has violated the Standards of Conduct.
 - (b) **Educational Sanction.** Representatives of student organizations may be required to attend classes, at their own expense, dealing with issues such as the consequences of alcohol or drug use, civility, ethics, or other topics as deemed appropriate by the Dean of Students or his/her designee.
 - (c) **Loss of Privilege.** This penalty is intended to serve as a reminder of the Standards of Conduct and is for a specific period of time. Examples of privileges that may be lost include participating in extracurricular activities (e.g., intramurals), housing privileges, participating in social activities, and using certain University-controlled property.
 - (d) **Restitution.** Restitution may be required in situations that involve destruction, damage, or loss of property, or unreimbursed medical expenses resulting from physical injury. Restitution may take the form of a monetary payment or appropriate service to repair or otherwise compensate for the destruction, damage, or loss.

- (e) Disciplinary Probation. Disciplinary probation means that a student organization is permitted to retain University registration on a probationary status. Probation may be for a defined or indefinite period. Violation of the Standards of Conduct during the period of disciplinary probation may result in more serious penalties, including revocation of University registration.
- (f) Revocation of University Recognition. In cases of serious misconduct, a student organization's University registration may be revoked.
- (5) More than one (1) of the penalties listed above may be imposed for any single violation of the Standards of Conduct. Penalties may be applied retroactively to the date of the offense.
- (6) Intoxication or impairment because of alcohol, drugs, chemicals, or other substances does not diminish or excuse a violation of the Standards of Conduct.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-02-05-.09 No Contact Directive. In cases involving allegations of assault, injury, sexual abuse, harassment, or where there is reason to believe continued contact between a student/student organization and specific persons, including complainants and witnesses, may interfere with those persons' security, safety or ability to participate effectively in work or studies, the Vice Chancellor for Student Development, or his/her designee, may require that the student/student organization not have verbal, physical, or written contact with specific persons for a definite or indefinite period of time. The student/student organization will receive notice of the no contact directive. Any student, faculty or staff member or other person with a reasonable justification may request a no contact directive. In addition to an internal University no contact directive, complainants are advised that other similar options exist and can be obtained from law enforcement and civil and criminal courts.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-02-05-.10 Interim Suspension.

- (1) When the Vice Chancellor for Student Development or his/her designee has reasonable cause to believe that a student's or student organization's continued presence on University-controlled property or at University-affiliated activities poses a significant risk of substantial harm to the health or safety of others or to property or poses an ongoing threat to the disruption of, or interference with, the normal operations of the University, the Vice Chancellor for Student Development or his/her designee may impose an interim suspension prior to the conclusion of a full hearing on the alleged misconduct.
- (2) An interim suspension shall be confirmed by notice to the student or student organization that explains the basis for the interim suspension and shall remain in effect until the conclusion of a full hearing in accordance with the rules of the University of Tennessee, which shall be held without undue delay.
- (3) Within three (3) business days of the imposition of the suspension, the student or student organization shall be offered an opportunity to appear personally before the Vice Chancellor for Student Development or his/her designee in order to discuss the following issues only: (i) the reliability of the information concerning the student's or student organization's conduct; and (ii) whether the conduct and surrounding circumstances reasonably indicate that the student's or student organization's continued presence on University-controlled property or at University-affiliated activities poses a significant risk of substantial harm to the health or safety of others or to property or poses an imminent threat of disruption of or interference with the normal operations of the University.
- (4) During an interim suspension, the student or student organization shall be denied access to University-controlled property, including residence halls, and all other University-affiliated activities or privileges for which the student or student organization might otherwise be eligible, as

the Vice Chancellor for Student Development or his/her designee determines in his/her sole discretion to be appropriate. A student or student organization who receives an interim suspension and violates the terms of the interim suspension shall be subject to further disciplinary action and may be treated as a trespasser. Permission to be on University-controlled property or participate in University-affiliated activities may be granted by the Vice Chancellor for Student Development or his/her designee.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-02-05-.11 Appeals.

- (1) Decisions of the Student Conduct Board or University Hearing Officer sitting alone may be appealed to the Vice Chancellor for Student Development by delivering a signed statement containing:
 - (a) A statement that he/she appeals the decision;
 - (b) A brief statement of the grounds for the appeal. The appeal shall be submitted within five (5) business days of receiving written notification of the decision. The basis for filing an appeal is limited to the following grounds:
 1. The student's or student organization's rights were violated in the hearing process;
 2. New relevant material evidence or information has been provided that could not have been discovered at the time of the hearing;
 3. The information presented did not support the decision by a preponderance of the evidence (more likely than not) standard; or
 4. The sanction(s) imposed were not appropriate for the violation.
- (2) The Vice Chancellor for Student Development may:
 - (a) Uphold the decision;
 - (b) Amend the decision;
 - (c) Return the case for reconsideration; or
 - (d) Overturn the decision.
- (3) Either party may appeal to the Chancellor of the University. In cases of involving a finding that a student is guilty of sexual assault or misconduct, the alleged victim shall have the right to appeal the decision of the Student Conduct Board or University Hearing Officer to the Vice Chancellor for Student Development.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-02-05-.12 Withdrawal or Temporary Suspension Due to Physical or Psychological Illness.

- (1) When a student is unable to pursue his or her academic work effectively, or when his or her behavior is disruptive to the normal educational processes of the University, or constitutes a threat to members of the University community, due to, among other things, the use of alcohol, drugs, or a physical or mental incapacitating illness or condition, he or she may be withdrawn or temporarily suspended from the University as hereinafter provided.

- (a) **Withdrawal.** A student may be withdrawn from the University only after an evaluation of his or her mental, physical condition, or behavior by a panel of at least three (3) persons appointed by the Vice Chancellor for Student Development. The student shall be notified of the reasons for the evaluation and given an opportunity to present evidence to the committee. He or she shall enjoy the rights of normal due process procedures. The committee's findings and recommendations shall be forwarded to the Vice Chancellor for Student Development who will notify the student in writing of his or her decision. A student withdrawn under this procedure shall not be readmitted to the University without the approval of the Vice Chancellor for Student Development.
 - (b) **Grades.** When a student is suspended or withdrawn from the University for reasons described in this section, he or she will be assigned a grade of "W" or "I".
 - (c) **Committee Composition and Hearing.** The panel referred to herein will include at least one (1) member of the faculty at large and representative of the Counseling Center or a psychologist. The Dean of Students or his or her designee would normally have responsibility for preparing the charges and presenting the case. The student in question would have the right to normal due process provisions.
- (2) **Temporary Suspension.** Whenever a student, because of his or her mental or physical condition, is unable to pursue his or her academic work effectively, or is disruptive to educational processes or constitutes an apparent danger to persons or property, he or she may be suspended from the University for a reasonable period of time by the Vice Chancellor for Student Development. The University will then schedule a hearing within five (5) class days of the beginning of the suspension. If the University does not withdraw the student after the hearing, he or she may return to the University at the end of the suspension period.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-02-05-.13 **Parking Appeals.** Appeals of student parking tickets are reviewed by the Student Parking Appeals Board. Decisions concerning the appeals are based on a majority vote of the Board.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-02-05-.14 **Composition of Student Parking Appeals Board.**

- (1) The Student Parking Appeals Board shall be composed of six (6) student members plus a Chair and six (6) alternates. Two (2) students will be appointed by the Student Senate from the general student body. Two (2) students will be appointed by the faculty, one (1) appointed by the President of SGA, and one (1) appointed by the Office of Student Development. Each appointing body shall also appoint the alternates. An alternate will serve when a regular member cannot be present or when a member is excused for reasons such as personal friendship with the principals.
- (2) All members must have a 2.00 cumulative grade point average and be enrolled as full time students and not be on any form of probation.
- (3) The Chair will be elected by the Board and votes in case of a tie.
- (4) A temporary chair will be elected by the members of the Board in the event:
 - (a) The Chair is a party to the case;
 - (b) The Chair is absent; or
 - (c) The Chair removes himself/herself from the case.
- (5) Once appointed, students remain on the Student Parking Appeals Board until they terminate at

the University, cease to be eligible to serve, or resign voluntarily.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-02-05-.15 Emergency Situations. When in the opinion of the Chancellor, conditions are such that there exists a clear and immediate danger to the physical safety or well-being of the members of the University community or safety of University property, he or she may direct that the accused student or organization be suspended pending initiation (and completion) of normal disciplinary proceedings provided those procedures are offered as soon as can reasonably be accomplished. The Chancellor may delegate this authority to the Vice Chancellor for Student Development.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Governor Bill Haslam				x	
Commissioner Julius Johnson				x	
Commissioner Kevin Huffman				x	
Dr. Joe DiPietro	x				
Dr. Richard D. Rhoda			Non-voting		
Charles C. Anderson, Jr.	x				
Ann Holt Blackburn	x				
Dr. J.A.M. "Toby" Boulet	x				
William Y. Carroll	x				
George E. Cates	x				
Spruell Driver, Jr.	x				
Teresa K. Fowler			Non-voting		
John N. Foy	x				
Crawford Gallimore	x				
Monice Moore Hagler	x				
James E. Hall	x				
Douglas A. Horne	x				
Andrea J. Loughry	x				
James L. Murphy, III	x				
Karl A. Schledwitz	x				
Carey Smith	x				
Don Stansberry	x				
Robert S. Talbott	x				
Betty Ann Tanner	x				
Charles E. Wharton	x				

Dr. Janet M. Wilbert			Non-voting		
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I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the University of Tennessee Board of Trustees on June 23, 2011, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: March 16, 2012

Signature: 

Name of Officer: Matthew Scoggins

Title of Officer: Assistant General Counsel



Subscribed and sworn to before me on: March 16, 2012

Notary Public Signature: Lynette Russell

My commission expires on: 1-27-15

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.



Robert E. Cooper, Jr.
Attorney General and Reporter

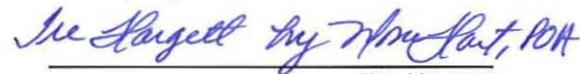
4-6-12

Date

Department of State Use Only

Filed with the Department of State on: 04/17/2012

Effective on: 09/28/2012



Tre Hargett
Secretary of State

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SECRETARY OF STATE
PUBLICATIONS

Regulatory Flexibility Addendum

Pursuant to § T.C.A. 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

Impact on Local Governments

Pursuant to T.C.A. 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The University of Tennessee anticipates that this rule will have no financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The University of Tennessee at Chattanooga has revised its code of conduct for students. The following briefly summarizes the new rule and the key changes from the rule being repealed:

Rule 1720-02-05-.01 provides a description of the University's interests in students' conduct.

Rule 1720-02-05-.02 defines key terms used in the code of conduct.

Rule 1720-02-05-.03 sets forth the University's position on common jurisdictional issues that arise in student conduct cases.

Rule 1720-02-05-.04 sets forth the standards of conduct for University students. The number of standards of conduct have been increased from twenty-one (21) to twenty-nine (29). The new rule also eliminates unnecessary language, clarifies other language, and adds language to the former standards of conduct.

Rule 1720-02-05-.05 contains the same text as former Rule 1720-02-05.03 except for the deletion of section (1).

Rule 1720-02-05-.06 contains the same text as former Rule 1720-02-05-.04 except for the addition of a list of rights for victims in sexual assault cases, to comply with recent guidance by the United States Department of Education concerning Title IX of the Education Amendments of 1972. The new rule also clarifies that its provisions also apply to student organizations.

Rule 1720-02-05-.07 contains the same text as former Rule 1720-02-05-.05 except for the addition of a sentence describing how hearing procedures shall be modified in cases of sexual assault and language clarifying that its provisions also apply to student organizations.

Rule 1720-02-05-.08 adds guidance for administrators and hearing boards in determining the appropriate penalty for a violation of the standards of conduct; adds a non-exclusive list of aggravating and mitigating factors that an administrator or hearing board may consider in determining a penalty; informs students that intoxication or impairment because of alcohol, drugs, chemicals, or other substances does not excuse a violation of the standards of conduct; and adds four penalties.

Rule 1720-02-05.09 is a new rule describing a no-contact directive, which is a tool used by student affairs administrators in appropriate cases to prohibit a student from having verbal, physical, or written contact with specific persons for a definite or indefinite period of time.

Rule 1720-02-05-.10 is a new rule describing an interim suspension, which may be imposed on a student or student organization prior to the conclusion of a full due process hearing in certain situations.

Rule 1720-02-05-.11 revises former Rule 1720-02-05-.07 to simplify and clarify the grounds for a student's appeal.

Rule 1720-02-05-.12 contains essentially the same text as the former rule.

Rules 1720-02-05-.13, 1720-02-05-.14, 1720-02-05-.15 contain the same text as former rules 1720-02-05-.08, 1720-02-05-.09, and 1720-02-05-.10, respectively.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. §§ 49-9-209(e), 49-7-123, 49-7-146; Title IX, Education Amendments of 1972, U.S.C. § 1681 et seq.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

University administration, faculty, students, and visitors.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

Minimal.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Matthew Scoggins
Assistant General Counsel
University of Tennessee

James S. Hicks
Dean of Students
University of Tennessee at Chattanooga

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Matthew Scoggins
Assistant General Counsel
University of Tennessee

James S. Hicks
Dean of Students
University of Tennessee at Chattanooga

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Matthew Scoggins
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719 Andy Holt Tower
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423-425-4761

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

04-13-h

**RULES
OF
THE UNIVERSITY OF TENNESSEE AT MARTIN**

**CHAPTER 1720-5-1
STUDENT CONDUCT**

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1720-5-1-.01 INTRODUCTION.

- (1) ~~The University of Tennessee at Martin, as an educational institution, is primarily concerned with providing learning experiences for its students. Through participation in curricula and extracurricular activities, the student has an opportunity to develop a foundation for intelligent participation in society, a successful career, and a meaningful personal life.~~
- (2) ~~To discharge its responsibility successfully, the University needs the understanding support and the thoughtful assistance of each student. In the academic world, it is especially important that persons conduct themselves with regard for the rights and privileges of others, demonstrating respect for the law and for order in the affairs of the University.~~
- (3) ~~The policies and procedures described in the following pages have been established to assure that the affairs of the University are conducted in an orderly manner, to point out the duties and responsibilities of its students, and to insure their rights and privileges.~~

~~Authority: Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64. Administrative History: Original rule filed September 15, 1976. Repeal and new rule filed May 27, 1986; effective August 12, 1986. Amendment filed October 31, 1990; effective January 29, 1991.~~

1720-5-1-.02 RIGHTS.

- (1) ~~ACCESS. Within the limits of its facilities and resources, The University of Tennessee at Martin is open to all students who are qualified by its admission standards.~~
- (2) ~~PARTICIPATION IN POLICY MAKING. Students may participate in the orderly process of formulating and changing policies, regulations, and procedures that affect their welfare. It is expected that such participation will occur through appropriate student government agencies and University committees.~~
- (3) ~~FAIR EVALUATION OF PERFORMANCE. Students may expect their academic performance to be evaluated only on an academic basis and may expect their teachers to make clear the basis for the evaluation used in their classes. They should feel free to take reasoned exceptions to opinions or views expressed by an instructor, but they are responsible for learning the content of any course of study for which they are enrolled and may expect to be tested on it.~~

~~A student alleging unfair methods or bases of evaluation should appeal first to the teacher, then if desired to the department head, the dean of the school, and the academic vice chancellor. Alternatively, the matter may be reported to the Vice Chancellor for Student Affairs for consultation.~~

(Rule 1720-5-1-.02, continued)

- (4) ~~FAIR DISCIPLINARY HEARING. Students have the right to a fair hearing and an opportunity for appeal when charged with violations of the standards of conduct that have been established for University students.~~
- (5) ~~FREEDOM FOR UNWARRANTED SEARCH.~~
- (a) ~~Entry by University authorities into occupied rooms in residence halls or University apartments will be divided into two categories: inspection and search. Inspection is defined as entry into a room to ascertain health and safety conditions, to make repairs, or to perform cleaning and janitorial operations. Search is defined as entry into a room by campus authorities for the purpose of investigating suspected violation of campus regulations and/or local, state, or federal laws.~~
- (b) ~~On-campus authorities will not enter a room for purposes of search without the permission of the resident unless they have a campus authorization to search, authorized by the Vice Chancellor for Student Affairs or his designee which specifies the reasons for the search and the objects or information sought or unless they enter in compliance with state law. If possible, the student should be present during the search. Normally these searches will not be made unless the Vice Chancellor for Student Affairs or his designee is present.~~
- (c) ~~In case the search reveals objects the possession of which violates a law or a University regulation, the University may take appropriate disciplinary action even though the objects were not listed on the search authorization.~~
- (6) ~~FREEDOM FROM ABUSE OR HARASSMENT DURING AN INTERROGATION. No form of intimidation will be used by University authorities to coerce admissions of guilt.~~

Authority: ~~Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64. Administrative History: Original rule filed September 15, 1976. Repeal and new rule filed May 27, 1986; effective August 12, 1986. Amendment filed October 31, 1990; effective January 29, 1991. Amendment filed January 13, 1999; effective May 31, 1999.~~

~~1720-5-1-.03 STANDARDS OF CONDUCT.~~

- (1) ~~When persons enroll in The University of Tennessee at Martin, they retain the rights and duties of a citizen. Additionally, they must assume the duties and observe the regulations imposed by the University community.~~
- (2) ~~Failure or refusal to comply with the rules and policies established by the University may subject the offender to disciplinary action up to and including permanent dismissal from the University.~~
- (3) ~~The policies and procedures described below have been established to insure the rights and privileges of all members of the University community, to communicate the expectations of the community to its members and to provide a basis for orderly conduct of the affairs of the University.~~
- (4) ~~Misconduct for which students are subject to discipline include the following categories:~~
- (a) ~~Plagiarism, cheating, knowingly furnishing false information to the University or other similar forms of dishonesty in University-related affairs.~~
- (b) ~~Forgery, alteration, destruction or misuse of University documents, records, or identification.~~

~~(Rule 1720-5-1-.03, continued)~~

- ~~(e) Obstruction or disruption of teaching, research, administration, disciplinary procedures or other University activities, including its public service functions, or of other authorized activities on University premises.~~
- ~~(d) Physical abuse of any person, or other conduct which threatens or endangers the health or safety of any person, whether such conduct occurs on or off University property. In no event shall this rule be construed to prevent speech protected by the First Amendment to the United States Constitution.~~
- ~~(e) Theft, misappropriation, illegal possession of, or sale of or damage to property of the University, of an organization affiliated with the University, of a member of the University community or of (a) campus visitor(s).~~
- ~~(f) Unauthorized use of or entry to University facilities (including computer facilities) and unauthorized possession of keys to University facilities.~~
- ~~(g) Unlawful use, manufacture, possession, distribution, or dispensing of drugs or alcohol on University property or during University activities.~~
- ~~(h) Disorderly conduct, or lewd, indecent, or obscene conduct or expression; distributing on University-owned or controlled property, or at University-sponsored or supervised functions printed materials that are libelous, scurrilous, or that encourage violation of public laws and University regulations.~~
- ~~(i) Possession, while on University-owned or controlled property, or at University-sponsored or supervised activities, of any weapons such as, but not limited to, rifles, shotguns, ammunition, handguns, and air guns, including explosives such as firecrackers, etc., unless authorized in writing by an official in the Public Safety Office.~~
- ~~(j) Failure to pay promptly all University bills, accounts, and other University financial obligations when due.~~
- ~~(k) Gambling on University-owned or controlled property.~~
- ~~(l) Gathering of groups of students on or adjacent to the campus in manner which causes damage to public or private property, causes injury to persons, or interferes with the orderly functioning of the University, or the normal flow of traffic.~~
- ~~(m) Commission of an act, or an attempt to commit an act, on University property, or involving members of the University community (i.e. faculty, staff, student, or campus visitor) that would be in violation of state or federal law.~~
- ~~(n) Possession, use or being under the influence of alcoholic beverages on University-owned or controlled property or at University-sponsored or supervised activities.~~
- ~~(o) Violation of properly constituted rules and regulations governing the use of motor vehicles on University-owned or controlled property.~~
- ~~(p) Failure to comply with directions of University officials acting in the performance of their duties.~~
- ~~(q) Violation of written University policies and regulations as stipulated herein or as promulgated and announced by authorized personnel.~~

(Rule 1720-5-1-.03, continued)

- (r) ~~Incoiting and/or aiding others to violate written University policies and regulations as promulgated and announced by authorized personnel.~~
- (s) ~~Any act of arson, falsely reporting a fire or other emergency, falsely setting off a fire alarm, tampering with, or removing from its proper location fire extinguishers, hoses, or any other fire emergency equipment except when done with real need for such equipment.~~
- (t) ~~An attempt to commit or be an accessory to the commission of any act in violation of other Standards of Conduct.~~
- (u) ~~Violation of local, state, or federal law, whether on or off campus, when it appears that the student has acted in a way which adversely affects or seriously interferes with the University's normal educational function, or which injures or endangers the welfare of any member of the University community. Such violation includes, but is not limited to, violation of state or federal drug laws, commission of or attempt or threat to commit rape, murder, felonious assault, arson or any other felonious crime against person or property.~~
- (v) ~~Participation of students in hazing activities. "Hazing" means any intentional or reckless act, on or off University property, by one student, acting alone or with others, which is directed against any other student, that endangers the mental or physical health or safety of that student, or which induces or coerces a student to endanger his or her mental or physical health or safety, and includes treatment of a violent, abusive, shameful, insulting, or humiliating nature. Such action is prohibited when connected with initiation into or affiliation with an organization and does not include participation in customary athletic events or similar competition.~~

~~Authority: T.C.A. §49-7-123 and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64. Administrative History: Original rule filed September 15, 1976. Repeal and new rule filed May 27, 1986; effective August 12, 1986. Amendment filed October 31, 1990; effective January 29, 1991. Amendment filed November 20, 1990; effective February 27, 1991. Amendment filed September 3, 1992; effective December 29, 1992. Amendment filed June 18, 1996; effective October 28, 1996. Amendment filed January 13, 1999; effective May 31, 1999~~

1720-5-1-.04 HEARING PROCEDURES.

- (1) ~~Unless otherwise specified in the published policies and procedures of The University of Tennessee at Martin, a student charged with misconduct or who is otherwise entitled to an opportunity for a hearing will, upon his/her request, be provided a hearing in accordance with the following procedures:~~
 - (a) ~~Notice~~ ~~A person charged with misconduct will receive written notification of the following:~~
 1. ~~The substance of the charge(s) against him;~~
 2. ~~The disciplinary action taken or proposed;~~
 3. ~~His rights to a hearing should he wish to contest the charge(s) or action;~~
 4. ~~To whom a request for a hearing should be addressed;~~
 5. ~~That a request for a hearing must be made within five (5) days of the person's receipt of this notice;~~

(Rule 1720-5-1-.04, continued)

6. ~~His right to legal or other counsel. If representation by counsel is desired, he must provide notice of his intent to be represented by counsel concurrent with his request for a hearing; in the absence of such notice, the hearing panel will within the dictates of justice, direct either that a hearing proceed without presence of counsel or that the hearing be postponed;~~
 7. ~~His right to a hearing in accordance with the contested case provisions of the Uniform Administrative Procedures Act, T.C.A. §4-5-108 et seq. In the absence of a voluntary written waiver of his right to a hearing under the provisions of the UAPA, a requested hearing will be conducted in accordance with the University's APA hearing procedures and these procedures shall not apply.~~
- (b) ~~Hearing Panel—A requested hearing will be provided by a panel of individuals or hearing examiner, selected in accordance with policies of UTM or, in the absence of applicable policies or procedures, by the Chancellor (or his designee). The hearing will be conducted by a panel chairman similarly selected. Panel members shall be impartial and anyone lacking such impartiality shall recuse himself or be removed by the Chancellor upon the request of any party to a hearing.~~
- (c) ~~Hearing Process—The chairman of a hearing panel will conduct the hearing, without regard to technical rules of procedures, in such manner as will best serve the cause of justice within the following general guidelines:~~
1. ~~Each party to a hearing will be afforded a full and fair opportunity to present all evidence, including witnesses, reasonably relating to the charge or action at issue; evidence which is irrelevant, immaterial, repetitious or voluminous may be limited;~~
 2. ~~The hearing panel will consider all evidence presented, giving due consideration to the credibility or weight of each item presented; technical rules of evidence will not apply;~~
 3. ~~Each party will have the right to question opposing witnesses;~~
 4. ~~An appropriate record will be made of the hearing procedures. However, defects in the record will not invalidate the proceedings;~~
 5. ~~The University will have the burden of proving, by a preponderance of the evidence, the truth of the charge(s) at issue. Where the charge(s) is found to be true, the person charge will have the burden of proving that the disciplinary action taken or proposed is arbitrary, capricious, or unreasonable;~~
 6. ~~Following the conclusion of the hearing, the hearing panel will consider the evidence and present written findings.~~
- (d) ~~Reserved.~~
- (e) ~~Emergency Powers.—When in the judgment of the Chancellor of The University of Tennessee at Martin, conditions are such that an emergency exists which makes it impossible for the system of judicial boards to function, he/she may suspend these procedural regulations. If the procedures are suspended, he/she may substitute for them arrangements for handling disciplinary matters that will insure the orderly functioning of the University and at the same time safeguard the basic rights of the students.~~

(Rule 1720-5-1-.04, continued)

- (f) ~~Disciplinary Actions and Penalties.~~ Disciplinary actions are taken and penalties are assigned by staff members or appropriate committees and councils on the basis of all attendant circumstances. Official notifications are given by the appropriate office, and official records are maintained in the Office of Student Affairs. Efforts are made to keep penalties consistent with those applied in similar cases. However, in recognition of the fact that the University is an educational institution with a rehabilitative point of view, penalties are assessed in accordance with conditions accompanying each offense. The penalties which may be assessed for violation of University regulations are:
1. ~~Loss of Privilege.~~ This penalty may involve loss of scholarships, stipends, right to participate in certain extracurricular activities, etc.
 2. ~~Disciplinary Warning and/or Loss of Privilege.~~ A disciplinary warning and/or loss of privilege is used for minor infractions and consists of a restatement of the regulation violated with an official warning concerning future behavior and/or loss of certain University privileges for a specific period of time.
 3. ~~Disciplinary Probation.~~ Disciplinary probation means that a student is permitted to remain in the University on probationary status. Should a violation of regulations occur during probation, the student may be suspended. Conditions of probation include loss of eligibility to join a student organization and to serve as an officer in a student organization. Other conditions are specific to the individual case and may include ineligibility to participate in certain student activities. Any specific probation conditions are described in a personal letter to the student.
 4. ~~Suspension.~~ Suspension is used in cases of serious misconduct, or violation of probation, and means that the student is required to cancel his registration and is not eligible to apply for readmission for a designated period of time. Usually the period of designated suspension does not exceed one year. (Persons suspended from the University may not return to the campus for the duration of their suspension, except to conduct official business with an administrative officer or faculty member.)
 5. ~~Indefinite Suspension.~~ Indefinite suspension means that a specific date has not been recommended for the readmission of the suspended student. The penalty is used in cases of extremely serious misconduct where the appropriate hearing body desires that evidence of rehabilitation be presented by the student before he or she is readmitted to the University. (Persons suspended from the University may not return to the campus for the duration of their suspension, except to conduct official business with an administrative officer or faculty member.)
 6. ~~Permanent Dismissal.~~

~~Authority: Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5 and Public Acts of Tennessee, 1807, Chapter 64. Administrative History: Original rule filed September 15, 1976; effective October 15, 1976. Amendment filed August 22, 1980; effective December 1, 1980. Amendment filed August 27, 1981; effective November 30, 1981. Amendment filed July 29, 1983; effective October 14, 1983. Repeal and new rule filed May 27, 1986; effective August 12, 1986. Amendment filed October 14, 1990; effective January 29, 1991. Amendment filed January 13, 1999; effective May 31, 1999.~~

~~1720-5-1.05 WITHDRAWAL OR TEMPORARY SUSPENSION DUE TO MENTAL OR PHYSICAL PROBLEMS. When a student is unable to effectively pursue his/her academic work, (or when his/her behavior is disruptive to the normal educational processes of the University), or constitutes a threat to members of the University community, due to alcoholism, drug addiction, mental instability or other physical or psychologically incapacitating illness or condition, he/she may be withdrawn or temporarily suspended from the University as hereinafter provided.~~

- ~~(1) WITHDRAWAL. A student may be withdrawn from the University only after an evaluation of his/her mental and physical condition by a panel of at least three persons appointed by the Vice Chancellor for Student Affairs. The student shall be notified of the reasons for the evaluation and given an opportunity to present evidence to the committee. The committee's findings and recommendations shall be forwarded to the Vice Chancellor who will notify the student in writing of his/her decision. A student withdrawn under this procedure shall not be readmitted to the University without the approval of the Vice Chancellor.~~
- ~~(2) TEMPORARY SUSPENSION. Whenever a student, because of his/her mental or physical condition constitutes a danger to persons or property, or when his/her behavior is disruptive to the normal educational processes of the University, he/she may be suspended from the University, for a reasonable period of time, by the Vice Chancellor for Student Affairs or his/her designee. If the University does not withdraw the student in accordance with the procedures outlined above, he/she may return to the University at the end of the suspension period.~~

~~Authority: Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5 and Public Acts of Tennessee, 1807, Chapter 64. Administrative History: Original rule filed July 29, 1983; effective October 14, 1983. Repeal and new rule filed May 27, 1986; effective August 12, 1986. Amendment filed January 13, 1999; effective May 31, 1999.~~