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Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. § 4-5-205 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 thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed rules are published. 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.

Agency/Board/Commission:	Tennessee Board of Regents
Division:	Systemwide Student Rules
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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. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0240-02-03	Student Conduct and Disciplinary Sanctions
Rule Number	Rule Title
0240-02-03-.01	Institution Policy Statement
0240-02-03-.02	Disciplinary Offenses
0240-02-03-.03	Academic and Classroom Misconduct
0240-02-03-.04	Disciplinary Sanctions
0240-02-03-.05	Traffic and Parking
0240-02-03-.06	Disciplinary Procedures

Chapter 0240-02-03
Systemwide Student Rules

Amendments

Rule 0240-02-03-.01 Institution Policy Statement, is amended by deleting the present language in its entirety and replacing it with the following:

- (1) Students enrolled in 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. 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 and directors of the technology centers under its jurisdiction to take such action as may be necessary to maintain campus conditions and preserve the integrity of the institution and its educational environment.
- (2) 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 TBR has developed the following regulations, which are intended to govern student conduct on the several campuses under its jurisdiction. Each institution under the jurisdiction of the TBR is directed to implement policies subject to, and consistent with, these regulations. In student discipline policies, each institution may expand on these regulations, subject to Board approval. 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, the institutions may enforce their own regulations regardless of the status or outcome of any external proceedings instituted by other civil or criminal authorities.
- (3) For the purpose of these regulations, a "student" shall mean any person who is admitted and/or registered for study at a TBR 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 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. Finally, "student" shall also include any person subject to a period of suspension or removal from campus as a sanction which results from a finding of a violation of the regulations governing student conduct. Students are responsible for compliance with the Rules of Student Conduct and with similar institutional policies at all times.
- (4) Disciplinary action may be taken against a student for violation of the regulations which 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. Institutions may enforce their own regulations regardless of the status or outcome of any external proceedings instituted in any other forum, including any civil or criminal proceeding.
- (5) These regulations, and related material incorporated herein by reference, are applicable to student organizations as well as individual students. 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.
- (6) 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 Records Act, T.C.A. § 10-7-504(a)(4), a student's disciplinary files are considered "educational records" and are confidential within the meaning of those Acts.

Authority: T.C.A. § 49-8-203; T.C.A. §§ 4-5-101 et seq. Administrative History: Repeal of all rules by Public Chapter 261; effective July 1, 1983. New rule filed April 28, 1983; effective July 13, 1983. Amendment filed August 28, 1984; effective November 13, 1984. Amendment filed November 12, 2008; effective March 30, 2009.

Rule 0240-02-03-.02 Disciplinary Offenses, is amended by deleting the present language in its entirety and replacing it with the following:

- (1) Institutional disciplinary measures shall be imposed, 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.
- (2) Institutions shall adopt and publish a non-exclusive list, providing notice of offenses for which both individuals and 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 of the Board. 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 by the Board:
 - (a) Conduct Dangerous to Self or Others. Any conduct, or attempted conduct, which constitutes a danger to any person's health, safety, or personal well-being, including, but not limited to, the following:
 1. Physical and/or verbal abuse,
 2. Threats and/or intimidation,
 3. Harm inflicted on self;
 - (b) 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;
 - (c) Disorderly Conduct. Any individual or group behavior which is abusive, obscene, lewd, indecent, violent, excessively noisy, disorderly, or which unreasonably disturbs institutional functions, operations, classrooms, other groups or individuals;
 - (d) Obstruction of or Interference with Institutional Activities or Facilities. Any intentional interference with or obstruction of any institutional program, event, or facility including the following:
 1. Any unauthorized occupancy of facilities owned or controlled by an institution or blockage of access to or from such facilities,
 2. 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,
 3. 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 his or her duty;
 - (e) 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 another including, but not limited to, any personal property, fire alarms, fire equipment, elevators, telephones, institution keys, library materials and/or safety devices;
 - (f) Theft, Misappropriation, or Unauthorized Sale of Property;
 - (g) 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;

- (h) **Firearms and Other Dangerous Weapons.** 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;
- (i) **Explosives, Fireworks, and Flammable Materials.** The unauthorized possession, ignition or detonation of any object or article 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;
- (j) **Alcoholic Beverages.** The use and/or possession of alcoholic beverages on institution owned or controlled property. 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;
- (k) **Drugs.** The unlawful possession or use 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 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;
- (l) **Drug Paraphernalia.** The use or possession 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;
- (m) **Public Intoxication.** Appearing on institution owned or controlled property or at an institutional sponsored event while under the influence of a controlled substance or of any other intoxicating substance;
- (n) **Gambling.** Unlawful gambling in any form;
- (o) **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;
- (p) **Unacceptable Conduct in Disciplinary Proceedings.** Any conduct at any stage of an institutional disciplinary proceeding or investigation that is contemptuous, disrespectful, threatening, or disorderly, including false complaints, testimony or other evidence, and attempts to influence the impartiality of a member of a judicial body, verbal or physical harassment or intimidation of a judicial board member, complainant, respondent or witness;
- (q) **Failure to Cooperate with Institutional Officials.** Failure to comply with directions of institutional officials acting in the performance of their duties;
- (r) **Violation of General Rules and Regulations.** Any violation of the general rules and regulations 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;
- (s) **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 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;
- (t) **Violations of State or Federal Laws.** Any violation of state or federal laws or regulations

proscribing conduct or establishing offenses, which laws and regulations are incorporated herein by reference;

- (u) Violation of Imposed Disciplinary Sanctions. Intentional or unintentional violation of a disciplinary sanction officially imposed by an institution official or a constituted body of the institution;
- (v) Sexual Battery or Rape. Committing any act of sexual battery or rape as defined by state law;
- (w) Harassment or Retaliation. 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, 2:02:10:01 and TBR Guideline P-080;
- (x) Academic Misconduct. Plagiarism, cheating, fabrication. For purposes of this section the following definitions apply:
 - 1. Plagiarism. The adoption or reproduction of ideas, words, statements, images, or works of another person as one's own without proper attribution,
 - 2. Cheating. Using or attempting to use unauthorized materials, information, or aids in any academic exercise or test/examination. The term academic exercise includes all forms of work submitted for credit or hours,
 - 3. Fabrication. Unauthorized falsification or invention of any information or citation in an academic exercise.
- (y) Unauthorized Duplication or Possession of Keys. Making, causing to be made or the possession of any key for an institutional facility without proper authorization;
- (z) Litter. Dispersing litter in any form onto the grounds or facilities of the campus;
- (aa) 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;
- (bb) Abuse of Computer Resources and Facilities. Misusing and/or abusing campus computer resources including, but not limited to the following:
 - 1. Use of another person's identification to gain access to institutional computer resources,
 - 2. 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,
 - 3. Unauthorized access to a computer or network file, including but not limited to, altering, using, reading, copying, or deleting the file,
 - 4. Unauthorized transfer of a computer or network file,
 - 5. Use of computing resources and facilities to send abusive or obscene correspondence,
 - 6. Use of computing resources and facilities in a manner that interferes with normal operation of the institutional computing system,
 - 7. Use of computing resources and facilities to interfere with the work of another student, faculty member, or institutional official,
 - 8. Violation of any published information technology resources policy,
 - 9. Unauthorized peer-to-peer file sharing;

- (cc) Unauthorized Access to Institutional Facilities and/or Grounds. Any unauthorized access and/or occupancy of institutional facilities and 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;
 - (dd) Providing False Information. Giving any false information to, or withholding necessary information from, any institutional official acting in the performance of his/her duties in connection with a student's admission, enrollment, or status in the institution;
 - (ee) Unauthorized Surveillance. 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, residence hall rooms, and men's or women's restrooms, and storing, sharing, and/or distributing of such unauthorized images by any means;
 - (ff) Smoking Violations. Violation of any TBR and/or institutional smoking or other tobacco use rules or policies.
- (3) Disciplinary action may be taken against a student for violations of the foregoing regulations which occur at or in association with enrollment at an institution governed by the TBR for any academic period. 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 awarding of a degree is actionable under these provisions and may result in the retroactive application of a disciplinary sanction. Should a student withdraw from the institution with disciplinary action or academic misconduct action pending, the student's record may be encumbered by the appropriate institutional office until the proceedings have been concluded.

Authority: T.C.A. §§ 49-7-123(a)(1) and 49-8-203; T.C.A. §§ 4-5-101 et seq. Administrative History: Repeal of all rules by the Public Chapter 261; effective July 1, 1983. New rule filed April 28, 1983; effective July 13, 1983. Amendment filed August 28, 1984; effective November 13, 1984. Amendment filed May 13, 1991; effective August 28, 1991. Amendment filed July 3, 1996; effective November 28, 1996. Amendment filed November 20, 1996; effective March 28, 1997. Amendment filed February 18, 1999; effective June 28, 1999. Amendment filed August 11, 2004; effective December 29, 2004. Amendments filed November 12, 2008; effective March 30, 2009.

Rule 0240-02-03-03 Academic and Classroom Misconduct, is amended by deleting the present language in its entirety and replacing it with the following:

- (1) The instructor has the primary responsibility for maintenance of academic integrity and controlling classroom behavior, and can order the temporary removal or exclusion from the classroom of any student engaged in disruptive conduct or conduct that violates the general rules and regulations of the institution 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 of the institution.
- (2) Plagiarism, cheating, and other forms of academic 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 through the regular institutional disciplinary procedures, the instructor has the authority to 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.

- (3) 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.
- (4) 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 (e.g., disturbing noises from beepers, cell phones, palm pilots, lap-top computers, games, etc.).

Authority: T.C.A. § 49-8-203; T.C.A. §§ 4-5-101 et seq. Administrative History: Repeal of all rules by Public Chapter 261; effective July 1, 1983. New rule filed April 28, 1983; effective July 13, 1983. Amendment filed August 28, 1984; effective November 13, 1984. Amendment filed August 11, 2004; effective December 29, 2004.

Rule 0240-02-03-.04 Disciplinary Sanctions, is amended by deleting the present language in its entirety and replacing it with the following:

- (1) Institutions shall adopt and publish a policy, providing notice of potential disciplinary sanctions applicable to both individuals and organizations. The policy may include any appropriate sanction, given the specific needs of the individual institution, subject to prior review and approval of the Board. Institutions are pre-authorized to implement any or all of the sanctions, in the form set forth in sub-section (2) below, without need for prior review or approval by the Board. Upon a determination that a student or student organization has violated any of the disciplinary offenses set forth in these regulations, institutional disciplinary policies, or the general policies of an institution, disciplinary sanctions may be imposed, either singly or in combination, by the appropriate institution or school officials.
- (2) Definition of Sanctions:
 - (a) Restitution. Restitution may be required in situations which involve 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 judicial authority to compensate a party or parties for a loss suffered as a result of disciplinary violation(s). Any such payment in restitution shall be limited to actual cost of repair, replacement or financial loss;
 - (b) Warning. The appropriate institutional official may notify the student or student organization that continuation or repetition of specified conduct may be cause for other disciplinary action;
 - (c) Reprimand. A written or verbal reprimand or censure may be given to any student or student organization whose conduct violates any part of these regulations and provides notice that any further violation(s) may result in more serious penalties;
 - (d) 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., service for maintenance staff for defacing institutional property);
 - (e) 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;
 - (f) 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;
 - (g) 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;

- (h) **Restriction.** A restriction upon a student's or student organization's privileges for a period of time may be imposed. This restriction may include, 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;
 - (i) **Probation.** Continued enrollment of a student or recognition of a student organization on probation may be conditioned upon adherence to these regulations. Any student or organization placed on probation will be notified in writing of the terms and length of the probation. Probation may include restrictions upon extracurricular activities, or any other appropriate special condition(s). Any conduct in further violation of these regulations 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;
 - (j) **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;
 - (k) **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 to the institution. A student or organization that has been expelled may not enter institution property or facilities without obtaining prior approval from an appropriate campus official with knowledge of the expulsion directive;
 - (l) **Revocation of Admission, Degree, or Credential;**
 - (m) **Interim Suspension.** As a general rule, the status of a student or student organization accused of violation of these regulations should not be altered until a final determination has been made in regard to the charges. However, interim suspension, pending the completion of disciplinary procedures, may be imposed upon a finding by the appropriate institutional official that the continued presence of the accused on campus constitutes an immediate threat to the physical safety and well-being of the accused, any other member of the institution its guests, property, or substantial disruption of classroom or other campus activities. In any case of interim 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;
 - (n) **Housing Probation.** Continued residence in campus or student housing may be conditioned upon adherence to these regulations as well as institutional housing regulations. 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);
 - (o) **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.
- (3) The president/director of each institution is authorized, at his or her discretion, to intervene in order to negotiate a mutually acceptable resolution to any disciplinary proceeding, or, subsequently, to convert any sanction imposed to a lesser sanction, or to rescind any previous sanction, in appropriate cases.

Authority: T.C.A. § 49-8-203; T.C.A. §§ 4-5-101 et seq. Administrative History: Repeal of all rules by Public Chapter 261; effective July 1, 1983. New rule filed April 28, 1983; effective July 13, 1983. Amendment filed August 28, 1984; effective November 13, 1984. Amendment filed August 11, 2004; effective December 29, 2004. Amendments filed November 12, 2008; effective March 30, 2009.

Rule 0240-02-03-.05 Traffic and Parking, is added as a new section by adding language as follows:

- (1) **General:** Institutions governed by the TBR shall adopt institutional policies governing traffic and parking on their respective campuses. The purpose of these regulations 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 rule 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.
- (2) **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.
- (3) **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.
- (4) **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.
- (5) **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.
- (6) **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 below, 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.

Authority: T.C.A. § 49-8-203; T.C.A. §§ 4-5-101 et seq.

Rule 0240-02-03-.06 Disciplinary Procedures, is added as a new section by adding language as follows:

- (1) General: Institutions governed by the TBR, in the implementation of TBR regulations pertaining to discipline and conduct of students, shall insure the constitutional rights of students by affording a system of constitutionally and legally sound procedures 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 with this rule, TBR Policy 3:02:01:00, and applicable state and federal law. All policies adopted pursuant to this rule shall be subject to prior review and approval by the Board of Regents. 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, or manuals.
- (2) TUAPA: All cases which may result in: (a) suspension or expulsion of a student, or student organization, from the institution, for disciplinary reasons or (b) revocation of registration of a student organization, are subject to the contested case provisions of the Tennessee Uniform Administrative Procedures Act (TUAPA), 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 unless the student or 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.
- (3) Institutional Procedures: For matters not subject to the requirements of TUAPA, 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.
- (4) Institutional Hearings: For matters not subject to the requirements of TUAPA, 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.
- (5) 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:
 - (a) The student shall be advised, in writing, of the breach of regulation(s) of which she/he is charged;
 - (b) The student shall be advised of the time, date, and place of the hearing allowing reasonable time for preparation;
 - (c) The student shall be advised of the following rights applicable at the hearing:
 - (1) The right to present his or her case,
 - (2) The right to be accompanied by an advisor,
 - (3) The right to call witnesses in his or her behalf,
 - (4) The right to confront witnesses against him or her, and
 - (5) The student shall be advised of the method and time limitations for appeal, if any is applicable.

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.

- (6) **Interim Suspension Hearings:** Hearings conducted with regard to interim suspensions imposed 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 suspension.
- (7) **Alternative Resolution Procedures:** Institutions are 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. Alternative resolution methods may include, but are not limited to, mediation, diversion programs, and/or negotiated resolutions.
- (8) The president /director of each institution is authorized, at his or her discretion, to intervene in order to negotiate a mutually acceptable resolution to any disciplinary proceeding, or, subsequently, to convert any finding or sanction imposed to a lesser finding or sanction, or to rescind any previous finding or sanction, in appropriate cases.

Authority: T.C.A. § 49-8-203; T.C.A. §§ 4-5-101 et seq.

The vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Governor Bill Haslam				X	
Agenia Clark				X	
Gregory Duckett	X				
Barry Gidcomb	X				
John Farris	X				
Tom Griscom				X	
Commissioner Julius Johnson				X	
Commissioner Patrick Smith				X	
Jonas Kisber	X				
Fran Marcum	X				
Paul W. Montgomery	X				
Casey McCullum	X				
Dr. Steve Copeland				X	
Howard Roddy	X				
Emily Reynolds	X				
Robert P. Thomas	X				
Danni B. Varlan	X				

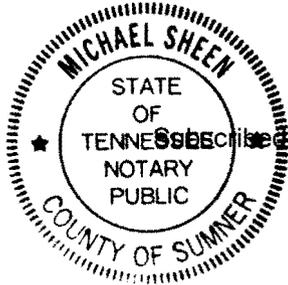
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Board of Regents on 03/25/2011, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed 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 thirty (30) days after the publication date of the issue of the Tennessee Administrative Register in which these proposed rules are published.

Date: 4-28-11

Signature: Christine Modisher

Name of Officer: Christine Modisher

Title of Officer: General Counsel and Board Secretary

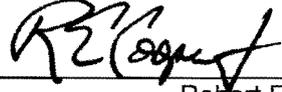


Subscribed and sworn to before me on: 4-28-11

Notary Public Signature: [Signature]

My commission expires on: February 26, 2013

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
7-19-11

Date

Department of State Use Only

Filed with the Department of State on: 8/10/11
Effective on: 1/29/12



Tre Hargett
Secretary of State

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SECRETARY OF STATE
PROVISIONS

Regulatory Flexibility Addendum

Pursuant to Public Chapter 464 of the 105th General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 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)

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 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;

Rule 0240-02-03-.01 Institution Policy Statement. Amendment provides for a consistent, single standard for all TBR institutions to operate within, while remaining flexible enough to permit expression of individual character of each institution. Requires the repeal of all institutional Student Conduct and Disciplinary Sanction rules now in effect.

Rule 0240-02-03-.02 Disciplinary Offenses. Amendment provides for a consistent, single standard for all TBR institutions to operate within, while remaining flexible enough to permit expression of individual character of each institution. Requires the repeal of all institutional Student Conduct and Disciplinary Sanction rules now in effect.

Rule 0240-02-03-.03 Academic and Classroom Misconduct. Amendment provides for a consistent, single standard for all TBR institutions to operate within, while remaining flexible enough to permit expression of individual character of each institution. Requires the repeal of all institutional Student Conduct and Disciplinary Sanction rules now in effect.

Rule 0240-02-03-.04 Disciplinary Sanctions. Amendment provides for a consistent, single standard for all TBR institutions to operate within, while remaining flexible enough to permit expression of individual character of each institution. Requires the repeal of all institutional Student Conduct and Disciplinary Sanction rules now in effect.

Rule 0240-02-03-.05 Traffic and Parking. New rule provides for a consistent, single standard for all TBR institutions to operate within, while remaining flexible enough to permit expression of individual character of each institution. Requires the repeal of all institutional Student Conduct and Disciplinary Sanction rules now in effect.

Rule 0240-02-03-.06 Disciplinary Procedures. Amendment provides for a consistent, single standard for all TBR institutions to operate within, while remaining flexible enough to permit expression of individual character of each institution. Requires the repeal of all institutional Student Conduct and Disciplinary Sanction rules now in effect.

- (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. §§ 4-5-101 et seq. Uniform Administrative Procedures Act, establishes provisions for rulemaking for Tennessee agencies; T.C.A. § 49-8-203, State University and Community College System, Powers and Duties, authorizes the board to establish policies and regulations regarding the campus life of the institutions, including, but not limited to, the conduct of students, student housing, parking and safety, and delegate responsibility for the efficient administration of the institution and its programs to the institution's chief executive officer; Complete College Act TN of 2010, requiring a "community college" system, which implies a single set of standards and rules for all institutions.

- (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;

Tenn. Op. Atty. Gen. No. 85-212, determination by State Attorney General that individual TBR institutions do not have rulemaking authority; *State Board of Regents v. Gray*, 561 S.W. 2nd 140, 142-43 (TN S Ct. 1978), determining that individual TBR institutions do not have rulemaking authority.

- (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;

Dr. Randolph C. Schulte
Assistant Vice Chancellor for Academic Affairs
Tennessee Board of Regents

Donald R. Ungurait
Assistant General Counsel
Tennessee Board of Regents

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

Dr. Randolph C. Schulte
Assistant Vice Chancellor for Academic Affairs
Tennessee Board of Regents

Donald R. Ungurait
Assistant General Counsel
Tennessee Board of Regent

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

Dr. Randolph C. Schulte
Tennessee Board of Regents
1415 Murfreesboro Rd., Ste. 324
Nashville, TN 37217
615-365-1505

Donald R. Ungurait
Tennessee Board of Regents
1415 Murfreesboro Rd., Ste. 336
Nashville, TN 37217
615-366-4438

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

None

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)

No Impact on Local Governments