

**Department of State
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Tennessee Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: sos.information@state.tn.us

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Sequence Number: 10-31-09
Rule ID(s): 7512
File Date: 10/29/2009
Effective Date: 03/31/2010

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:	Tennessee Technological University
Contact Person:	Mickey Sheen
Address:	1415 Murfreesboro Rd. Ste. 350 Nashville, Tennessee
Zip:	37217
Phone:	615-366-4437
Email:	Mickey.sheen@tbr.edu

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
0240-03-06	Student Disciplinary Rules
Rule Number	Rule Title
0240-03-06-.02	Disciplinary Offenses
0240-03-06-.04	Disciplinary Sanctions
0240-03-06-.05	Disciplinary Procedures
0240-03-06-.07	Traffic and Parking Regulations
0240-03-06-.08	Regulations of Motor Vehicles

Chapter 0240-03-06
Tennessee Technological University Student Disciplinary Rules

Amendments

Rule 0240-03-06-.02 Disciplinary Offenses, paragraph (2), subparagraph (a), is amended by deleting the present language and replacing it with the following:

- (a) Conduct dangerous to others. Any conduct which constitutes a serious danger to any person's health, safety or personal well-being, including any physical abuse or immediate threat of abuse to others or self.

Rule 0240-03-06-.02 Disciplinary Offenses, paragraph (2) is amended to add subparagraphs (t), (u), (v), (w), and (x), with language to read as follows:

- (t) Violation of general rules and regulations. Any violation of the general rules and regulations of the institution or school as published in an official institutional or school publication, including the intentional failure to perform any required action or the intentional performance of any prohibited action.
- (u) Public Intoxication. Appearing on University owned or controlled property, or at a University sponsored event while under the influence of a controlled substance or any other intoxicating substance.
- (v) Harassment. Any act of harassment by an individual or group against a member of the University community (student, faculty member, or staff member, etc.) or another group. Harassment shall include, but not be limited to insults, threats of physical abuse, unwanted suggestions of a sexual nature, repeated teasing or repeated unsolicited phone calls made with the intent to harass.
- (w) Filing a False Complaint of Statement. Any behavior whereby a student knowingly submits a false complaint or statement alleging a violation of these regulations by a student, organization, institution, or school employee.
- (x) Violation of Imposed Disciplinary Sanctions. Intentional or unintentional violation of a disciplinary sanction officially imposed by an institution or school official or a constituted body of the institution or school.

Authority: T.C.A. §49-8-203. 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 November 3, 1989; effective February 28, 1990. Amendment filed July 3, 1996; effective November 28, 1996. Amendment filed November 20, 1996; effective March 28, 1997. Amendment filed November 26, 1997; effective March 30, 1998. Amendment filed February 18, 1999; effective June 28, 1999. Amendment filed February 28, 2000; effective June 28, 2000. Amendment filed January 11, 2002; effective May 31, 2002. Amendment filed August 11, 2004; effective December 29, 2004.

Rule 0240-03-06-.04 Disciplinary Sanctions, paragraph (2) is amended to add new subparagraphs (f), (g), (h), and (i) and the existing subparagraphs re-lettered accordingly so paragraph (2) will have subparagraphs (a) through (n) as amended:

- (f) Referral to the University Counseling Center. The student is mandated to visit the University Counseling Center for an initial evaluation and follow through on any prescribed treatment program. A condition of this sanction would be that the student would sign a release of information, allowing feedback to the Dean of Students Office relative to compliance of the student with the treatment plan, progress toward completion of goals, and overall cooperation. If the prescribed treatment plan necessitates the student being referred to a community agency, the release of information would allow the Counseling Center to receive feedback. The Counseling

Center would then brief the Dean of Students.

- (g) Revocation of Admission and/or Degree. Revocation of Admission and/or Degree following admission to the University and/or degree awarded from the University may be revoked for serious violations committed by a student prior to beginning classes or prior to graduation. The submission of false information at the time of admission or readmission is grounds for rejection of the application, withdrawal of any offer of acceptance, cancellation of enrollment, dismissal or other appropriate disciplinary action.
- (h) Withholding of Degree. The awarding of a degree may be withheld until all disciplinary processes are complete and all sanctions, if any, are satisfactorily completed.
- (i) Fines. In cases involving violation of the University's drug and alcohol regulations, fines in the following amounts may be imposed:

First Offense \$25.00
Second Offense \$50.00
Third Offense* \$100.00

* All funds from fines will be used to support Student Affairs' drug and alcohol education and awareness programs.
- (j) Alcohol and drug counseling/rehabilitation (for Nursing students and all students enrolled in the allied health programs, if applicable). Mandatory participation in and satisfactory completion of a drug or alcohol abuse program, or rehabilitation program.
- (k) Probation. Continued enrollment of a student on probation may be conditioned upon adherence to these Regulations. Any student placed on probation will be notified of such in writing and will also be notified of the terms and length of the probation. Probation may include restrictions upon the extracurricular activities of a student. Any conduct in violation of these Regulations while on probationary status may result in the imposition of a more serious disciplinary sanction.
- (l) Suspension. If a student is suspended, he or she is separated from the institution for a stated period of time with conditions of readmission stated in the notice of suspension.
- (m) Expulsion. Expulsion entails a permanent separation from the institution. The imposition of this sanction is a permanent bar to the student's readmission to the institution.
- (n) Interim or summary suspension. Though as a general rule, the status of a student accused of violations of these Regulations should not be altered until a final determination has been made in regard to the charges against him, summary suspension 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, or of any other member of the institution community or its guests, destruction of property, or substantial disruption of classroom or other campus activities. In any case of immediate suspension, the student shall be given an opportunity at the time of the decision or immediately thereafter to contest the suspension, and if there are disputed issues of fact or cause and effect the student shall be provided a hearing on the suspension as soon as possible.

Authority: T.C.A. §49-8-203. 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 November 3, 1989; effective February 28, 1990. Amendment filed April 23, 1993; effective July 28, 1993. Amendment filed July 3, 1996; effective November 28, 1996. Amendment filed February 28, 2000; effective June 28, 2000. Amendment filed August 11, 2004; effective December 29, 2004.

Rule 0240-03-06-.05 Disciplinary Procedures, paragraph (1), is amended by deleting the present language in its entirety and replacing it with the following:

- (1) Parental Notification Policy

Policy

In addition to other disciplinary action, the Dean of Students reserves the right to notify parents or the legal guardian(s) of a student, under twenty-one (21) years of age, if the student has committed a disciplinary violation with respect to the use of possession of alcohol or a controlled substance that is in violation of any federal, state, or local law, or of any rule or policy of the institution, except as prohibited by FERPA.

Examples of Behaviors that will trigger the policy.

The Dean of Students will notify parents/legal guardian(s) of a student, under twenty-one (21) years of age when:

A plea of guilty to the applicable code of conduct violation is made by the student:

A final finding of guilt pursuant to disciplinary procedures, including completion of an appeal.

Rule 0240-03-06-.05 Disciplinary Procedures is amended to add a new paragraph (2), and the existing paragraphs renumbered accordingly so that Section 0240-03-06-.05 will have a total of 20 paragraphs as amended:

(2) Mediation

The Dean of Students may elect to offer mediation to students involved in conflicts with other students, organizations, faculty and/or staff. If offered, students may elect to have this conflict mediated with the assistance of a neutral third party mediator(s) assigned by the Dean of Students. The following conditions must be accepted by the parties:

1. All parties involved must agree to the mediation process.
2. The resolution that results from the mediation process will be written, signed by all parties, and will bind the parties to abide by the agreed terms until such terms are completed, or an alternative agreement is developed by the parties;
3. The agreement reached through mediation is not subject to any appeals process.
4. If the conflict involved a violation of the student code of conduct, and no form of resolution can be achieved by mutual consent, the Dean of Students may determine that the matter be referred to the University Judicial System.
 - a. If the conflict involved a violation of the student code of conduct, and the agreed upon resolution is violated, the Dean of Students may determine that the matter be referred to the University Judicial System.

Rule 0240-03-06-.05 Disciplinary Procedures, renumbered paragraph (4), subparagraph (a) is amended by deleting the present language in its entirety and replacing it with the following:

- (a) The Disciplinary System is a policy means of implementing adjudication procedures for any student accused of violating the rules and regulations which govern the behavior of all members of the University community. The Disciplinary System permits cases of alleged student misconduct, except for cases relating to academic and classroom misconduct, to be considered by the Dean of Students, the University Student Judicial Council, the University Judicial Council, or the Tennessee Uniform Administrative Procedures Act (TUAPA). Choice of hearing councils, other than the TUAPA, shall be assigned at the option of the student(s) except during periods when one council is not available, at which time the case(s) shall be referred to the available council by the Dean of Students. During the periods when the councils are not available (usually during the Summer Academic time periods), the Dean of Students shall appoint and train a student hearing body and a faculty/administrative staff hearing body to offer hearing options for

students.

Authority: T.C.A. §49-8-203. 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 November 3, 1989; effective February 28, 1990. Amendment filed July 14, 1992; effective October 28, 1992. Amendment filed April 23, 1993; effective July 28, 1993. Amendment filed May 18, 1994; effective September 28, 1994. Amendment filed July 3, 1996; effective November 28, 1996. Amendment filed November 26, 1997; effective March 30, 1998. Amendment filed February 18, 1999; effective June 28, 1999. Amendment filed February 28, 2000; effective June 28, 2000. Amendment filed August 29, 2000; effective December 29, 2000. Amendment filed January 11, 2002; effective May 31, 2002. Amendment filed October 8, 2003; effective February 27, 2004. Amendment filed August 11, 2004; effective December 29, 2004.

Rule 0240-03-06-.07 Traffic and Parking Regulations, paragraph (5), subparagraph (b), part 3, subpart (iii), is amended by deleting the present language and replacing it with the following:

(iii) Timed Parking

Rule 0240-03-06-.07 Traffic and Parking Regulations, paragraph (5), subparagraph (b), part 3, subpart (v), is amended by deleting the present language and replacing it with the following:

(v) Parking in Unassigned Area*

Ticket	Amt.	Cum. Total
1	\$ 20	\$ 20
2	30	50
3	40	90
4	50	140
5	60	200
6	70	270
7	80	350
8	90	440
9	100	540
10	110	650

* Fines for disabled parking area violations are established by statute. The fine amount will be adjusted and published as required to remain compliant with state law.

Authority: T.C.A. §49-8-203. Administrative History: New rule filed August 28, 1984; effective November 13, 1984. Amendment filed November 3, 1989; effective February 28, 1990. Amendment filed July 14, 1992; effective October 28, 1992. Amendment filed April 23, 1993; effective July 28, 1993. Amendment filed May 18, 1994; effective September 28, 1994. Amendment filed August 8, 1995; effective December 29, 1995. Amendment filed July 3, 1996; effective November 28, 1996. Amendment filed November 26, 1997; effective March 30, 1998. Amendment filed February 28, 2000; effective June 28, 2000. Amendment filed October 8, 2003; effective February 27, 2004. Amendment filed June 28, 2005; effective October 28, 2005. Amendment filed January 16, 2007; May 31, 2007.

Rule 0240-03-06-.08 Regulations of Motor Vehicles, paragraph (7), is amended by deleting the present language and replacing it with the following:

- (7) Faculty and staff may only purchase one (1) permit with the following exceptions:
Employee and spouse live on campus or have convertible/soft top car or motorcycle as alternate vehicle. The vehicle registration fee per permit, for Administrative Staff and Faculty, gold in color, will be fifty dollars (\$50.00) for Fall Semester, thirty dollars (\$30.00) for Spring Semester, ten dollars (\$10.00) for Summer Semester. The vehicle registration fee, per permit, for Clerical and Support Staff, purple in color, will be twenty dollars (\$20.00) for Fall Semester, twelve dollars (\$12.00) for Spring Semester, and seven dollars (\$7.00) for Summer Semester. The charge for replacement of lost or stolen hang tags for Administrative Staff, Faculty, and Clerical and Support

Staff will be twenty dollars (\$20.00) for Fall Semester, twelve dollars (\$12.00) for Spring Semester, seven dollars (\$7.00) for Summer Semester. The initial student permit is included in the General Access Fee. Each additional permit will be fifty dollars (\$50.00) for Fall Semester, thirty dollars (\$30.00) for Spring Semester, and ten dollars (\$10.00) for Summer Semester. The charge for replacement of a lost or stolen hang tag will be twenty dollars (\$20.00) for Fall Semester, twelve dollars (\$12.00) for Spring Semester, and seven dollars (\$7.00) for Summer Semester. Permits will be replaced free of charge only when the numbers are returned intact to the Tennessee Tech Police Department.

Rule 0240-03-06-.08 Regulations of Motor Vehicles, paragraph (9), is amended by deleting the present language and replacing it with the following:

- (9) Non-students attending Tennessee Tech, such as Nashville Tech EMTs and Paramedics, will be charged fifty dollars (\$50.00) in the Fall Semester, thirty dollars (\$30.00) in the Spring Semester and ten dollars (\$10.00) in the Summer Semester.

Authority: T.C.A. §49-8-203. Administrative History: New rule filed August 29, 1984; effective November 13, 1984. Amendment filed November 3, 1989; effective February 28, 1990. Amendment filed July 14, 1992; effective October 28, 1992. Amendment filed April 23, 1993; effective July 28, 1993. Amendment filed May 18, 1994; effective September 28, 1994. Amended filed November 26, 1997; effective March 30, 1998. Amendment filed February 28, 2000; June 28, 2000. Amendment filed October 17, 2002; effective February 28, 2003. Amendment filed October 8, 2003; effective February 27, 2004. Amendment filed January 16, 2007; effective May 31, 2007.

*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)
Jacques G. Carr	X				
Agenia W. Clark	X				
Gregory M. Duckett				X	
Pamela Fansler	X				
John M. Farris	X				
Ken Givens				X	
Judy Gooch	X				
Jonas Kisber	X				
Fran F. Marcum				X	
Paul Montgomery	X				
Millard Oakley			X		
Howard W. Roddy	X				
J. Stanley Rogers				X	
Stanley E. Stevens, Jr.			X		
Robert P. Thomas	X				
Tim Webb				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 03/26/2009, and is in compliance with the provisions of TCA 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: 8-3-09

Signature: Christine Madisher

Name of Officer: Christine Madisher

Title of Officer: GENERAL COUNSEL



Subscribed and sworn to before me on: 8-3-09

Notary Public Signature: [Signature]

My commission expires on: 2-26-13

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.
 Robert E. Cooper, Jr.
 Attorney General and Reporter
10-5-09
 Date

Department of State Use Only

Filed with the Department of State on: 10/29/09

Effective on: 3/31/10

Tre Hargett

Tre Hargett
Secretary of State

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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 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;

Rule 0240-3-6-.02(2)(a) clarifies danger/abuse to self is covered as a disciplinary offense.

Rule 0240-3-6-.02(2)(t) New provision. Provides that violation of any general provision of rules/regulations of the University or as published in the Student or University Handbooks can provide the basis for disciplinary action.

Rule 0240-3-6-.02(2)(u) New provision. Provides that public intoxication on University property or at sponsored event is a disciplinary offense.

Rule 0240-3-6-.02(2)(v) New provision. Provides that "harassment" of individuals/groups is a disciplinary offense. Definition of "harassment" provided. Includes, but not limited to, insults, threats, physical abuse, unwanted sexual suggestions, repeated teasing, repeated unsolicited phone calls, etc.

Rule 0240-3-6-.02(2)(w) New provision. Provides that knowing filing of false complaint or allegation of disciplinary rule violation is an offense.

Rule 0240-3-6-.02(2)(x) New provision. Provides that violation of disciplinary sanction for a previous offense constitutes a new and separate offense.

Rule 0240-3-6-.04(2)(f) New provision. Adds referral to the University Counseling Center and compliance with recommended counseling or treatment as a potential disciplinary sanction. To participate in this form of resolution, student required to permit disclosure of information regarding treatment and compliance with program sufficient to verify compliance with sanction.

Rule 0240-3-6-.04(2)(g) New provision. Adds possibility of revocation of admission or degree as potential disciplinary sanction. Provides for applicability of disciplinary rules to students for periods between acceptance and start of classes as well as for periods between completion and graduation.

Rule 0240-3-6-.04(2)(h) New provision. Adds that the award of a degree may be withheld pending the outcome of an existing disciplinary processes.

Rule 0240-3-6-.04(2)(i) New provision. Adds fines, on a graduated scale for violations of the university's drug and alcohol regulations. 1st offense \$25.00, 2nd \$50.00, 3rd, \$100.00. Fines used to fund drug and alcohol awareness programs.

Renumber former provisions 0240-3-6-.04(2)(f) – (i) as (j) – (n).

Rule 0240-3-6-.05(1) changes from discretionary to mandatory the provision to notify parents of students under twenty-one (21) who violate disciplinary rules related to the use/possession of alcohol or controlled substances subject to limits of FERPA. See OpAG 08-099 finding legality of statute and no conflict with FERPA. T.C.A. §49-7-146.

Rule 0240-3-6-.05(2) New provision resulting in the re-numbering of former sub-sections (2)-(19) as (3)-(20). Provides that Dean of Students may offer mediation to resolve student conflicts where all parties agree to the process. Provides conditions that must exist for referral. Failing to reach an agreement matter is referred back to disciplinary process if applicable.

Rule 0240-3-6-.05(4)(a) provides for Dean of Students to create and train alternate hearing bodies to hear disciplinary cases during summer academic periods when established hearing bodies are not available. This provision not applicable to TUAPA hearings.

Rule 0240-3-6-.07(5)(v) corrects technical errors and adds provision indicating disabled parking violations established by statute and will be adjusted as necessary to comply with state law.

Rule 0240-3-6-.08(7) provides that faculty and staff may obtain extra vehicle registration permits where they/spouse live on campus or have soft top or motor cycle as extra vehicle. Reflects increase in vehicle registration fee for Fall/Spring/Summer for Admin and Faculty from \$30/\$20/\$10 to \$50/\$30/\$10 – Clerical/Support Staff from \$10/\$7/\$5 to \$20/\$12/\$7 – Replacement tags from \$10/\$7/\$5 to \$20/\$12/\$7. Second permits for students increased from \$30/\$20/\$10 to \$50/\$30/\$10. Student Replacement permits from \$10/\$7/\$5 to \$20/\$12/\$7.

Rule 0240-3-6-.07(9) amended to increase vehicle registration for non-matriculate students from \$30/\$20/\$10 to \$50/\$30/\$10

All other amendments are non-substantive grammatical, spelling, or structural, or reflect changes to titles of administrative offices responsible for administering student disciplinary rules at the University.

- (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. §§49-8-203, 55-21-108, 49-7-146

- (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;

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;

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

Tennessee Board of Regents
1415 Murfreesboro Rd., Ste. 350
Nashville, TN 37217
615-366-4438

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

None