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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: 10-38-09
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File Date: 10/29/2009
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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: Volunteer State Community College
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
0240-03-15	Student Disciplinary Rules
Rule Number	Rule Title
0240-03-15-.01	Institution Policy Statement
0240-03-15-.02	Disciplinary Offenses
0240-03-15-.03	Academic and Classroom Misconduct
0240-03-15-.06	Traffic and parking Regulations

Chapter 0240-03-15
Volunteer State Community College Student Disciplinary Rules

Amendments

Rule 0240-03-15-.01 Institution Policy Statement, paragraph (1), is amended by deleting the present language and replacing it with the following:

- (1) Volunteer State Community College (VSCC) students are considered citizens of the local, state, and national governments, and of the academic community and are, therefore, expected to conduct themselves as law-abiding members of each community at all times. Admission to VSCC 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 VSCC and the academic community which it seeks to serve, the Tennessee Board of Regents (TBR) has authorized the President of Volunteer State Community College 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.

Rule 0240-03-15-.01 Institution Policy Statement, paragraph (2), is amended by deleting the present language and replacing it with the following:

- (2) Pursuant to this authorization, and in fulfillment of its duty 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, and which regulations may be expanded or supplemented by each institution subject to TBR approval. In addition, students are subject to all national, 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 any proceedings instituted by other authorities. Conversely, violation of any section of these Regulations may subject a student to disciplinary measures by the institution whether or not such conduct is simultaneously violative of state or national laws.

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 July 14, 1992; effective October 28, 1992.

Rule 0240-03-15-.02 Disciplinary Offenses, paragraph (2), subparagraph (b), is amended by deleting the present language and replacing it with the following:

- (b) Hazing. Any intentional or reckless act in Tennessee on or off the property of any higher education institution by one (1) 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 such student'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.

Rule 0240-03-15-.02 Disciplinary Offenses, paragraph (2), subparagraph (d), is amended by deleting the present language and replacing it with the following:

- (d) Obstruction of or interference with institutional activities or facilities. Any intentional interference with or obstruction of any institutional activity, program, event or facilities (including computer facilities), including the following:
 1. Any unauthorized occupancy of institution or institutionally controlled facilities 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 institution or institutionally controlled activity, program, event or facilities.
3. Any obstruction or delay of a campus security officer, fireman, or any institution official in the performance of his/her duty.

Rule 0240-03-15-.02 Disciplinary Offenses, paragraph (2), subparagraph (e), is amended by deleting the present language and replacing it with the following:

- (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 the institution including, but not limited to, fire alarms, fire equipment, elevators, telephones, institution keys, library materials, computer equipment, and/or safety devices; and any such act against property belonging to a member of the institution community or a guest of the institution;

Rule 0240-03-15-.02 Disciplinary Offenses, paragraph (2), subparagraph (h), is amended by deleting the present language and replacing it with the following:

- (h) Firearms and other dangerous weapons. Any unauthorized or illegal possession of or use of firearms or dangerous weapons of any kind. Even individuals with handgun permits may not carry handguns onto VSCC campuses; however, pursuant to T.C.A. § 39-17-1350, any law enforcement officer may carry a firearm regardless of the person's regular duty hours or assignments;

Rule 0240-03-15-.02 Disciplinary Offenses, paragraph (2), subparagraph (j), is amended by deleting the present language and replacing it with the following:

- (j) Alcoholic beverages. The use and/or possession, distribution, sale or manufacture of alcoholic beverages, or public intoxication on property owned or controlled by the institution, at an institution-sponsored event, on property owned or controlled by an affiliated clinical site, or in violation of any term of the Volunteer State Community College Drug and Alcohol Abuse Prevention Program;

Rule 0240-03-15-.02 Disciplinary Offenses, paragraph (2), subparagraph (k), is amended by deleting the present language and replacing it with the following:

- (k) Drugs. The unlawful use, possession, distribution, sale or manufacture of any drug or controlled substance (including any stimulant, depressant, narcotic, or hallucinogenic drug or substance, or marijuana), being under the influence of any drug or controlled substance, or the misuse of legally prescribed or "over the counter" drugs on property owned or controlled by the institution, at an institution-sponsored event, on property owned or controlled by an affiliated clinical site, or in violation of any term of the Volunteer State Community College Drug and Alcohol Abuse Prevention Program;

Rule 0240-03-15-.02 Disciplinary Offenses, paragraph (4), is amended by adding new language and subparagraphs, and renumbering the current paragraph so there are a total of 5 paragraphs in the section, as follows:

- (4) Pursuant to T.C.A. § 49-7-146, Volunteer State Community College is required to notify a parent of a student under twenty-one (21) years of age if the student, "has committed a disciplinary violation with respect to the use or 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 College, except as prohibited by FERPA." Notification to parents will occur if:
 - (a) a plea of guilty to the applicable code of conduct violation; or
 - (b) a final finding of guilt pursuant to disciplinary procedures including completion of an appeal.

- (5) For the purposes of these Regulations, a "student" shall mean any person who is registered for study at the College for any academic period. A person shall be considered a student during any period which follows the end of an academic period which the student has completed until the last day for registration for the next succeeding regular academic period, and during any period while the student is under suspension from the institution.

Authority: T.C.A. §§49-7-123(a)(1) and 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 January 11, 2002; effective May 31, 2002. Amendment filed August 11, 2004; effective December 29, 2004. Amendments filed June 28, 2005; effective October 28, 2005.

Rule 0240-03-15-.03 Academic and Classroom Misconduct, is amended by adding new paragraph (4) to read as follows:

- (4) Disruptive behavior in the classroom includes, but is 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 disrupts the flow of instruction or prevents concentration of the subject taught, failure to cooperate in maintaining classroom decorum, etc.), 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. 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 11, 2004; effective December 29, 2004. Amendment filed June 28, 2005; effective October 28, 2005.

Rule 0240-03-15-.06 Traffic and Parking Regulations, paragraph (3), is amended by deleting the present language in its entirety and replacing it with the following:

- (3) Parking Regulations.
- (a) Inability to locate a legal parking space on campus in an approved parking area does not justify improper parking unless approved by the Chief of Campus Police or his designee.
- (b) Improper parking includes, but is not limited to: parking
1. along painted curbs
 2. in driveways and intersections
 3. on grass or lawns
 4. on roadway
 5. sidewalks
 6. straddled on a painted line
 7. too far from curb
 8. which obstructs traffic as in double parking
 9. in a fire lane
 10. within fifteen (15) feet of a water hydrant
- (c) Parking regulations are enforced from 6:00 a.m. to 5:00 p.m., five (5) days a week. Exception: On Saturday and Sunday, anyone may park in staff parking.
- (d) "Accessible" parking is enforced seven (7) days a week, twenty-four (24) hours a day. The fine for a disabled/handicapped parking violation is established by statute, and will be adjusted as necessary to remain in compliance with State law. Disabled or wheelchair-confined persons displaying the appropriate license plate, placard, etc. may park in staff parking when the accessible parking area is occupied.

- (e) Except as authorized by the Chief of Campus Police, students and employees must not park a vehicle in areas designated as "no parking," "loading zone," or "VSCC car."

Rule 0240-03-15-.06 Traffic and Parking Regulations, paragraph (4), is amended by deleting the present language and replacing it with the following:

(4) Penalties.

(a) Citation(s)/Tickets

1. Each citation for violation of traffic and parking regulations carries a fine of ten dollars (\$10.00).
2. After a registered vehicle receives a third citation in one (1) semester, parking/driving privileges on campus will be suspended for the remainder of the semester. The registered student may also be referred for disciplinary action. The suspension of driving/parking privileges will occur after notice is issued to the registered owner/operator of the vehicle. The owner/operator of the vehicle will have ten (10) days to appeal the suspension for driving/parking privileges to the Traffic Appeals Committee. In the absence of an appeal, the suspension will go into effect and subsequently the vehicle may be towed if found on campus.
3. The fine for disabled/handicapped parking violations is established by statute and will be adjusted as necessary to remain in compliance with state law.
4. Penalties of non-payment: Registration for subsequent semester will be withheld until all fines are paid.
5. A student who receives three (3) or more citations (regardless of whether or not the citations have been paid) may be charged under the student code of conduct and appropriate disciplinary action taken.
6. All fines are paid in the Business Office.

(b) The Student Traffic Appeals Committee shall hear all student citation appeals.

1. There must be at least three (3) members of the committee present in order to hear appeals.
2. Hearings will be held on an as needed basis. The appellant will be notified of hearing time and date two (2) weeks prior to hearing.
3. The student who wishes to appeal their ticket will come before the Student Government Association (SGA) Judicial Committee and SGA Attorney General, present testimony and related documents to support their appeal, then answer any questions from the committee members.
4. The committee will vote to uphold the ticket or grant an appeal. A majority of the committee members present must be in agreement to reach a decision.
5. The decision must then be approved by the Vice President for Student Services or the Senior Director of Plant Operations.
6. Appellants will be notified on the committee's decision both verbally and in written form.
7. All faculty/staff appeals will be filed with the Campus Police Department and decided by the Senior Director of Plant Operations.

- (c) During those times when the committee does not meet, the Vice President of Student Services shall serve as the appellate authority. Students shall be notified by letter of the Vice President's decision.

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 June 11, 1990; effective September 26, 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 November 26, 1997; effective March 30, 1998. Amendment filed January 11, 2002; effective May 31, 2002. Amendment filed August 11, 2004; effective December 29, 2004. Amendment filed January 16, 2007; effective May 31, 2007. Amendments filed September 20, 2007; effective January 28, 2008. Amendments filed November 12, 2008; effective March 30, 2009.

*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 Modisheo

Name of Officer: Christine Modisheo

Title of Officer: GENESIS 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.

[Signature]

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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SECRETARY OF STATE
PUBLICATIONS

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 240-3-15-.02(2)(b) provides greater specificity to the definition of hazing. Includes treatment that is "violent, abusive, shameful, insulting or humiliating". Prohibits such activities associated with initiation or membership in groups or organizations. Excludes pain or injury associated with participation with athletic events from the definition.

Rule 0240-3-15-.02(2)(d) amends prohibition against Obstruction or Interference of Institutional Activities or Facilities to include computing facilities as an institutional activity or facility.

Rule 0240-3-15-.02(2)(e) amends provision prohibiting misuse or Damage to Property to include campus computing equipment and private property of students/staff/guests on campus.

Rule 0240-3-15-.02(2)(h) amends provision addressing firearms to prohibit all illegal or unauthorized possession of firearms on campus. Persons with concealed weapons permits are not permitted to carry on campus. Provides exception for law enforcement officers pursuant to T.C.A. § 39-17-1350.

Rule 0240-3-15-.02(2)(j) expands prohibition on use or possession of alcohol to include distribution, sale or manufacture. Also prohibits alcohol on property controlled by an "affiliate" controlled clinical site, school sponsored events, or in violation of the College Drug and Alcohol Abuse Prevention Program.

Rule 0240-3-15-.02(2)(k) expands prohibition on use or possession of drugs or controlled substances to include distribution, sale or manufacture. Also prohibits being under the influence of illegal substances or abuse of prescribed or over the counter medication. Extends prohibition to property controlled by an "affiliate" controlled clinical site, school sponsored events, or in violation of the College Drug and Alcohol Abuse Prevention Program.

Rule 0240-3-15-.02(4) former subsection re-numbered as 0240-3-15-.02(5). Insert new subsection (4). New sub-section provides that school is required to notify parents of students under the age of twenty-one (21) who are found guilty of a student disciplinary rule violation that involves alcohol or controlled substance pursuant to T.C.A. §49-7-146.

Rule 0240-3-15-.03(4) New sub-section provides a non-exclusive list of behaviors or actions that constitute "disruptive behavior in the classroom". Examples include behavior that disrupts the learning environment, the flow of instruction, or interferes with concentration on subject of class. Includes loud outbursts, profane language, electronic noises or light emitting devices.

Rule 0240-3-15-.06(3)(a) adds the provision that Chief of Campus Police may approve exceptions to the parking policy. Gives flexibility to Campus in special circumstances, makes clear where authority for exceptions resides.

Rule 0240-3-15-.06(3)(b) combines former (b) &(c) and provides expanded, non-exclusive list of parking violation examples as notice to students.

Rule 0240-3-15-.06(3)(c) is deleted.

Rule 0240-3-15-.06(3)(d) is split into two paragraphs. Re-designated (c) (d). (c) provides that parking rules are enforced 6:00 a.m. to 5:00 p.m. M-F. New sub-paragraph (d) addresses disabled parking as a separate issue. Disabled parking enforced 24/7. Adds new flexible language indicating that fines are established by statute and will be adjusted as necessary to remain in compliance with state law.

Rule 0240-3-15-.06(4)(a)2 repeat traffic/parking offender amended to provide that certain vehicles receiving three (3) citations in a single academic term will have driving/parking privileges on campus revoked for the remainder of the academic term. Also provides that, after notice to registered owner, offending vehicle "may" be towed from campus. Owner may appeal decision to Traffic Appeals Committee. Also adds that "disciplinary action" may be taken.

Rule 0240-3-15-.06(4)(a)3 adds new disabled parking language indicating that fine is established by statute and will be adjusted as necessary to remain in compliance.

Rule 0240-3-15-.06(4)(a)4 is a new provision added to provide notice that unpaid parking/traffic citations will result in a block on future registration until remedied. Publishes consequence that is already in existence.

Rule 0240-3-15-.06(4)(a) 5 is a new sub-section that provides that the receipt of three (3) parking/traffic citations can be a basis for disciplinary action/charge under student disciplinary rules.

Rule 0240-3-15-.06(4)(a) 4 re-numbered as (4)(a) 6.

Rule 0240-3-15-.06(4)(b) deletes existing section and adds new section with sub-sections (b), (c), and (d). Amended to describe student and faculty/staff citation appeals process. Provides that students appeal citations heard by Student Traffic Appeals Committee. Quorum of three (3) required. Students notified of hearing date/time. Student may present evidence, testimony. Committee decides issue with majority vote. Automatic review and final decision by Vice President for Student Services or Sr. Director of Plant Operations. Student notified of outcome verbally and in writing. Provides that during times when Student Committee doesn't meet, the Vice President for Student Services will hear student appeals. Faculty/staff appeals heard by Campus Police office with review and final decision by Sr. Director of Plant Operations.

New (d) sets forth student appeal procedures. Appeals to be filed within two (2) weeks of issuance of citation. Provides locations to obtain forms. Basis for appeal and copies of evidence to be included with form. Appeal may be presented in person or in writing. Decisions rendered within fifteen (15) days of hearing. VPSS or SDPO reviews entire record after Committee decisions. All fines payable to Business Office within ten (10) days after notice of rejection of appeal.

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 College.

- (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, 39-17-1350, 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;

College 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 Regents

- (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