



Board of Trustees Fall Quarterly Board Meeting

Regular Session Board Meeting

1:00 p.m. CDT
Tuesday
September 18, 2018

MEC Training Room – 2nd Floor
Miller Education Center
503 East Bell Street
Murfreesboro, Tennessee 37132



**Middle Tennessee State University
Board of Trustees**

Tuesday, September 18, 2018 – 1:00 p.m.

ORDER OF BUSINESS

Call to Order

Pledge of Allegiance

Introduction of Student-Veteran

Roll Call

Chairman's Welcome and Opening Remarks

President's Opening Comments

Approval of the Minutes

- June 12, 2018 Regular Session Board Meeting..... Tab 1

Committee Reports and Action Items

Academic Affairs, Student Life, and Athletics Committee – August 28, 2018..... Tab 2

- Rule Promulgation and Related Policy Revision
 - Policy 312 – Academic Misconduct
 - Policy 540 – Student Conduct

- Approval of Expedited Tenure

Audit and Compliance Committee – August 28, 2018 & September 18, 2018 Tab 3

- 2019 Annual Audit Plan
- Risk Assessment Reporting

Finance and Personnel Committee – August 28, 2018

Report of the Board Secretary Tab 4

President's Report

Closing Remarks

Adjourn



**Middle Tennessee State University
Board of Trustees**

Tab 1

Approval of Minutes
June 12, 2018
Regular Session Board Meeting



**Middle Tennessee State University
Board of Trustees**

MEETING: September Quarterly Board Meeting

SUBJECT: [Minutes of June 12, 2018 Board Meeting](#)

DATE: September 18, 2018

PRESENTER: Chairman Stephen Smith

ACTION REQUIRED: Voice Vote

STAFF RECOMMENDATION: Approval

- June 12, 2018 Regular Session Board Meeting

MIDDLE TENNESSEE STATE UNIVERSITY

BOARD OF TRUSTEES

MINUTES

June 12, 2018

Call to Order and Pledge of Allegiance

The Middle Tennessee State University Board of Trustees met in regular session on Tuesday, June 12, 2018, on the Middle Tennessee State University campus. Chairman Steve Smith called the meeting to order at 1:00 p.m. and requested retired Lt. Gen. Keith Huber lead the Pledge of Allegiance.

Introduction of Student Veteran

Gen. Huber introduced student veteran Emily Steinway. In 2012 Ms. Steinway enlisted in the United States Navy where she served for four years as a Petty Officer, Second Class. During that time she had nine overseas deployments serving as an Interior Communications Electrician on ships called “submarine tenders.” She also served as the Orientation Director for all newly arriving sailors. In 2016, she became an academic advisor at MTSU in the Charlie and Hazel Daniels Veterans and Military Families Center and has since become its Transition Manager. Ms. Steinway meets with every student veteran who arrives at MTSU to go over their benefits and to help them navigate the higher education system. She is on course to obtain her Masters degree next year. Chairman Smith expressed his thanks to her for her service.

Roll Call

Board Secretary Heidi Zimmerman called the roll. Trustees present were Andy Adams, J.B. Baker, Pete DeLay, Darrell Freeman, Sr., Joey Jacobs, Tony Johnston, Christine Karbowiak, Stephen Smith, Lindsey Weaver and Pamela Wright. A quorum was declared.

Welcome and Opening Remarks

Chairman Smith welcomed those present to the meeting of the Board of Trustees. Dr. Sidney A. McPhee, President, also welcomed those attending the meeting and recognized special guest, Senator Bill Ketron, indicating he would later make a significant announcement along with Jimmy Davis, Ricky Davis and Judith Belk with Siemens.

Approval of the Minutes

Chairman Smith indicated that the next order of business concerned approval of the minutes of the March 27, 2018 Board of Trustees meeting. Trustee Freeman moved to approve these minutes; Trustee Baker seconded the motion. A voice vote on the motion to approve the minutes of the March 27, 2018 Board meeting was taken and carried unanimously.

Committee Report: Academic Affairs, Student Life, and Athletics Committee

Chairwoman Pamela Wright gave the report from the May 30, 2018, meeting of the Academic Affairs, Student Life, and Athletics Committee. Materials from the committee meeting were provided to the Board in its meeting materials. The committee report contained two (2) informational items and one (1) recommendation to be considered and voted on by the Board.

Consideration of New Programs: Bachelor of Arts and Master of Arts in Art Therapy – Information

Provost Mark Byrnes informed the committee of new programs currently under consideration. Pending the results of feasibility studies, the University may submit Letters of Notification to THEC for the Bachelor of Arts and Master of Arts in Art Therapy programs.

Report of Application and Enrollment Activity - Information

Vice President Deb Sells presented a report on application and enrollment activity. For the first time since 2011, freshman applications have exceeded 10,000. Registration for orientation sessions for freshmen are up 10% and for transfer students, up 3%. 779 students have accepted their guaranteed freshman scholarships as compared to 700 freshman at the same time last year. New undergraduate freshman enrollment is up 5.6% from last year and transfers

are up 6.49%. Undergraduate returnees are currently down by 3%. Graduate enrollment is down slightly; however, graduate students tend to enroll closer to the beginning of the fall semester. In summary, Dr. Sells stated that it is still early, but it looks as though fall enrollment will remain stable and even be up slightly.

Tenure and Promotion – Recommendation

Recommendations for tenure for 29 faculty members and promotions of 40 faculty members were approved unanimously by the committee.

Motion to Approve Committee Recommendation – Tenure and Promotion

Trustee Freeman made a motion to approve the recommendation of faculty members for tenure and/or promotion. Trustee Karbowskiak provided a second. A voice vote was taken and the motion to approve faculty members for tenure and/or promotion passed unanimously.

Committee Report: Finance and Personnel Committee

Chairman Joey Jacobs provided the report for the Finance and Personnel Committee and stated that this committee met on May 30, 2018. Materials from the meetings were provided to the Board in its meeting materials. The committee report contained seven (7) recommendations to be considered and voted on by the Board.

Policy Revisions due to Severance from Tennessee Board of Regents - Recommendation

Vice President for Business and Finance, Alan Thomas, explained the need for MTSU policies to reflect the new processes and procedures required with the forthcoming July 1 severance of MTSU from the Tennessee Board of Regents in the areas of procurement and capital management. The policies the Board must approve are Policies 620 and 622. Policies 621, 623 and 631 are recommended to be delegated to the president for approval.

FY 2019-20 Capital Outlay Project Submittal – Recommendation

Mr. Bill Wates, Interim Director of Campus Planning, presented the recommendation for the FY 2019-20 Capital Outlay Project Submittal. The proposed capital outlay project for FY 2019-20 includes a new facility to house the School of Concrete and Construction Management.

Capital Maintenance Requests – Recommendation

Mr. Joe Whitefield, Assistant Vice President for Facilities, shared a summary of the Capital Maintenance potential project requests for the next five years, FY 2019-20 through FY 2023-24. Mr. Whitefield also spoke of Capital Maintenance requests for five (5) projects for FY 2019-20 totaling \$8.1 million.

Tuition, Fees and Housing Rates – Recommendation

Mr. Thomas provided recommendations to the committee for 2018-19 tuition, fees, and housing rates. An increase of 2.84% in the in-state maintenance fee and out-of-state tuition for both undergraduate and graduate students is being recommended. The combined increase for the in-state maintenance fee and mandatory fees is 2.88%. This proposed increase complies with THEC's binding range of 0 – 3%.

Estimated 2017-18 Budget and 2018-19 Proposed Budget – Recommendation

Mr. Thomas also presented the 2017-2018 Estimated Budget and the 2018-19 Proposed Budget.

University's Compensation Plan – Recommendation

The recommended revisions to the University's compensation plan provide a 6% salary increase or the minimum of the new pay range for an employee whose position has been reclassified to a higher pay grade. For employees whose positions are reclassified more than one pay range, the recommended increase in their salary would be 9%. Current employees selected for another position on campus would be given the greater of 6% of current salary or a salary based on relevant experience, up to midpoint. These revisions would be effective July 1, 2018.

Allocation of \$6.1 Million Salary Pool – Recommendation

The committee recommends a cost of living allowing of 1.5% or \$500, whichever is greater, for regular employees, both full and part-time, on the payroll as of June 30, 2018, effective July 1, 2018. The cost of this salary increase is \$2.4 million, including benefits. The committee also approved allocation of the remaining \$1.7 million from the state-mandated salary pool, along with an additional \$2.0 million, for market adjustments and related benefits based on the University's compensation plan for employees on the payroll as of June 30, 2018, effective October 1, 2018.

Motion to Approve – Finance and Personnel Committee

A motion to approve actions taken by the Finance and Personnel Committee was made by Trustee DeLay and seconded by Trustee Karbowskiak. A voice vote was taken; the motion to approve passed unanimously.

Committee Report: Audit and Compliance Committee

Committee Chair Chris Karbowskiak provided the report for the Audit and Compliance Committee which met on May 30, 2018. The committee report contained two (2) informational items and one (1) recommendation to be considered and voted on by the Board.

Summary Report of the 2017 Conflict of Interest Disclosures – Information

The committee reviewed a summary report from the MTSU Conflict of Interest Committee to Dr. McPhee concerning conflict of interest disclosures reviewed during 2017. No conflicts were identified as violations of federal or state law.

Internal Audit Plan – Information

Ms. Brenda Burkhart, Chief Audit Executive, shared a quarterly status report of the Internal Audit Plan.

Revision to Policy 100 Use of Campus Property and Facilities Scheduling – Recommendation

Revisions to this policy were recommended in order to, among other revisions, comply with the “Campus Free Speech Protection Act,” Public Chapter 336. The committee approved the policy revisions unanimously.

Non-Public Executive Session - Information

The public meeting of the committee adjourned and the committee went into executive session to discuss audits and investigations.

Motion to Approve - Audit and Compliance Committee

A motion to approve actions taken by the Audit and Compliance Committee was made by Trustee Freeman and seconded by Trustee Wright. A voice vote was taken; the motion passed unanimously.

Report of the Board Secretary

Ms. Zimmerman reviewed minor formatting revisions made to policies since the last Board meeting.

Report of the President

Spring Commencement

Dr. McPhee indicated that a record 2,641 graduates received their degrees at the Spring Commencement ceremonies in May.

Summer Activities on Campus

Dr. McPhee informed the Board of some of the numerous activities that will take place on campus during the summer. From May through August there will be ten (10) freshman and eight (8) transfer student orientation sessions for approximately 4,000 students and more than 5,000 family members. A variety of athletic and academic activities and events are available for school-aged children across campus. Recruiting tours will take place throughout the summer

for prospective students and their families. The Tennessee Governor's School of the Arts celebrates its 33rd year at MTSU. The three-week camp has enrolled 327 students who will reside on campus and study with faculty from across the country. Approximately 125 cadets from the Tennessee Wing of Civil Air Patrol will attend the annual cadet training encampment. This is the third year for this weeklong event during which the cadets will spend time in the Aerospace department and with our Army ROTC detachment.

Forrest Hall

After discussion with the State Attorney General and key stakeholders, Dr. McPhee decided it would not be prudent to appeal the Tennessee Historical Commission's denial of the Petition for Waiver to rename Forrest Hall. He stressed that he continues to believe that renaming the building is the right thing to do. However, the cost of an appeal would be significant and there is a real possibility that the appeal would not be successful. The money that would have gone for payment to retain outside counsel to litigate this matter is better spent toward our mission of supporting student success, resulting in degree completion. Efforts to ensure that MTSU will remain an inclusive place where all students and staff feel welcome will continue unabated.

Dr. Sam Ingram, President Emeritus

Dr. Sam Ingram, a former president of MTSU, has decided to retire as President Emeritus effective June 30, 2018. Dr. Ingram provided leadership to the campus from 1979 to 1990. As President Emeritus he provided legislative insight in advising Dr. McPhee, and helped forge relationships with community colleges

College Overview: Honors College

Dr. McPhee introduced Dr. John Vile, Dean of University Honors College. Dr. Vile began his presentation by explaining that the Honors College building was made possible through contributions from the College's first graduate, Paul Martin, and his brother, Lee, along with other contributors such as Bridgestone Firestone. The goal of the College is to provide the equivalent of a small liberal arts experience with all the benefits of being part of a larger,

comprehensive university. Students are eligible to be part of the college if they come with at least a 3.5 GPA and an ACT score of 25 or higher. There are currently about 800 students in the College. One advantage of being an Honors student is that class size is smaller and the best faculty are used to teach courses. There are two signature programs at the College. The first is the Buchanan Scholarship through which 20 students attend tuition-free and receive \$500 as a book allowance, plus extra funds to study abroad or engage in other scholarly activities. This is a competitive program and students must have a minimum ACT of 29 (1360 SAT) and a 3.5 GPA to apply. The second is the Transfer Honors Fellowship through which 30 students are provided \$3500 for four semesters of study. These students must have a minimum 3.5 GPA and have completed 60 hours prior to enrollment at MTSU in order to be eligible. Overall enrollment in the College, including minority enrollment, has increased in the last several years. Honors students, who are undergraduates, may engage in thesis writing and Dr. Vile highlighted some recent theses. Honor students are frequently recipients of university, state and national academic awards including the Goldwater Scholarship, the Harold Love Award, the Fulbright Award and Rhodes Scholar. Dr. Vile stated that about 70% of their graduating Honors students go on to graduate or professional schools.

Siemens Industry Donation

Dr. McPhee informed the Board that Siemens Industry, a global leader in digital controls, has awarded a significant academic gift/grant to our Mechatronics Engineering program – the largest in-kind gift in the history of our University having a potential commercial value of \$278 million. This will allow for 325 seat licenses for the most advanced software for computer-aided design, modeling and systems simulation. MTSU Alumni, Ms. Judith Bell, Siemens executive, presented information about the software donation. She explained that the Digital Factory Division of Siemens helps companies make products that optimize life cycle processes from the design, planning and development through manufacturing, support and disposal. The software encompasses computer-aided design, computer-aided manufacturing, product data management and all the software components of digital manufacturing. These tools are ideally suited for engineering, engineering technology, manufacturing and industrial design. Very few

institutions of higher education have received similar awards, and this is one of the largest grants of its kind. It will benefit the MTSU Mechatronics program, one of the fastest growing programs at the University.

Recognition of Lindsey Weaver, Student Trustee

Chairman Smith thanked Lindsey Weaver who served as the first MTSU Student Trustee. He stated that she has done a remarkable job in representing the students the past 12 months as Trustee, and prior to that, through her service to the Student Government Association. Chairman Smith wished Lindsey the very best as she pursues a new career as Assistant Director of Student Leadership and Engagement at Union University in Jackson, Tennessee.

Appointment of Student Trustee - Recommendation

Pursuant to Article 4.5 of the Board of Trustees Bylaws, a one-year appointment of a Student Representative was presented. The process for selection of the nominee for Student Trustee is managed by the Office of the Vice President for Student Affairs and the Student Government Association. Applications were submitted to the Student Government Association office; that Executive Board reviewed the applications and selected applicants to be interviewed. After interviews were conducted, the three finalists' applications were sent to the Office of the President. Dr. McPhee then interviewed the top three applicants. Dr. McPhee recommended Mr. Peyton Tracy to serve a one (1) year term as the next Student Trustee. Peyton served as a Student Government Association Senator and Representative, and has engaged in many organizations and activities both on campus and in the community. Peyton received a Bachelor of Science degree in Organizational Communication, with a minor in Business Administration in May. Peyton plans to continue as a graduate student at MTSU in the fall. Peyton thanked the Board for the opportunity to serve as the next student trustee.

Motion to Approve Recommendation of Student Trustee

A motion to approve the recommendation of Mr. Peyton Tracy as the student representative for the MTSU Board of Trustees was made by Trustee Freeman and seconded by Trustee DeLay. A voice vote was taken; the motion passed unanimously.

Concluding Remarks

President McPhee expressed his thanks to the numerous people who help put on the meeting and who support the work of the Board. He also thanked the members of the Board for their service.

Chairman Smith adjourned the meeting at 2:10 p.m.

The next scheduled board meeting is September 18, 2018.

Respectfully Submitted,

Heidi Zimmerman
Board Secretary



**Middle Tennessee State University
Board of Trustees**

Tab 2

Academic Affairs, Student Life, and
Athletics Committee Meeting
August 28, 2018



**Middle Tennessee State University
Board of Trustees**

MEETING: September Quarterly Board Meeting

SUBJECT: *Academic Affairs, Student Life, and
Athletics Committee*

DATE: September 18, 2018

PRESENTER: Committee Chair Pam Wright

ACTION REQUIRED: Voice/Roll Call Vote

STAFF RECOMMENDATION: Approval

- Rule Promulgation and Related Policy Revision
 - Policy 312 – Academic Misconduct
 - Policy 540 – Student Conduct

- Approval of Expedited Tenure



**Middle Tennessee State University
Board of Trustees**

MEETING: September Quarterly Board Meeting

SUBJECT: Rule Promulgation and Related Policy
Revision: Academic Misconduct
Policy 312

DATE: September 18, 2018

BACKGROUND INFORMATION:

T.C.A. § 49-8-203(a)(1)(D) requires the promulgation of rules regarding academic misconduct. The proposed rule is drafted to comply with that requirement and is provided for review by the Academic Affairs, Student Life, and Athletics Committee. Upon its recommendation, the proposed rule must be approved by the Board of Trustees.

MTSU has a corresponding policy, Policy 312 Academic Misconduct, that is presented for revision. The policy revisions were initiated by the faculty, and there was extensive faculty input into the revised provisions. These include separate treatment for graduate students and a revision of the timeline of the disciplinary process.

The provisions of the rule and the policy are consistent with each other.

Department of State
Division of Publications
 312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower
 Nashville, TN 37243
 Phone: 615-741-2650
 Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: _____
 Rule ID(s): _____
 File Date: _____
 Effective Date: _____

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 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 ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Middle Tennessee State University
Division:	
Contact Person:	Heidi Zimmerman, University Counsel
Address:	1301 E. Main Street, CAB 209, Murfreesboro, TN
Zip:	37132
Phone:	615-898-2025
Email:	Heidi.zimmerman@mtsu.edu

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0240-07-04	Academic Misconduct
Rule Number	Rule Title
0240-07-04-.01	Purpose
0240-07-04-.02	Scope
0240-07-04-.03	Definitions
0240-07-04-.04	Process
0240-07-04-.05	University Sanctions for Academic Misconduct
0240-07-04-.06	Appeal of Decision
0240-07-04-.07	UAPA Hearing
0240-07-04-.08	Records Maintenance

Rules
of
Middle Tennessee State University, Murfreesboro
Chapter 0240-07-04
Academic Misconduct

New

Table of Contents is added to Chapter 0240-07-04 Academic Misconduct and shall read as follows:

Table of Contents

0240-07-04.01 Purpose
0240-07-04.02 Scope
0240-07-04.03 Definitions
0240-07-04.04 Process
0240-07-04.05 University Sanctions for Academic Misconduct
0240-07-04.06 Appeal of Decision
0240-07-04.07 UAPA Hearing
0240-07-04.08 Records Maintenance

0240-07-04-.01 Purpose is added to Chapter 0240-07-04 Academic Misconduct and shall read as follows:

0240-07-04-.01 Purpose

This rule sets out the procedure to be followed when a Middle Tennessee State University (“MTSU” or “University”) faculty member believes a student has engaged in academic misconduct.

Authority: T.C.A. § 49-8-203(a)(1)(D).

0240-07-04-.02 Scope is added to Chapter 0240-07-04 Academic Misconduct and shall read as follows:

0240-07-04-.02 Scope

This rule applies only to situations where a faculty member alleges that a student has engaged in academic misconduct. Any allegation of misconduct related to externally-sponsored research should not be evaluated under this rule. Students wishing to appeal final course grades must do so through the process set out in University policy.

Authority: T.C.A. § 49-8-203(a)(1)(D).

0240-07-04-.03 Definitions is added to Chapter 0240-07-04 Academic Misconduct and shall read as follows:

0240-07-04-.03 Definitions

(1) Academic Exercise. Academic Exercise may consist of all forms of work submitted by a student for academic credit or hours.

(2) Academic Misconduct. Academic Misconduct may consist of acts of plagiarism, cheating, or fabrication.

(a) Plagiarism. Plagiarism includes, but is not limited to, the adoption or reproduction of ideas, words, statements, images, or works of another person as one's own without proper attribution. This includes self-plagiarism, which occurs when an author submits material or research from a previous academic exercise to satisfy the requirements of another academic exercise and uses it without proper citation of its reuse.

(b) Cheating. Cheating includes, but is not limited to, using or attempting to use unauthorized materials, information, or aids in any academic exercise or test/examination. Cheating also includes unapproved

collaboration, which occurs when a student works with others on an individual academic exercise without the express permission of the faculty member.

(c) Fabrication. Fabrication includes, but is not limited to, unauthorized falsification or invention of any information or citation in an academic exercise.

(3) Academic Misconduct Committee (Committee) refers to the Committee established under University policy.

(4) Faculty member. For the purposes of this rule, a faculty member is the University employee teaching a course or serving in a supervisory, advisory, or evaluative capacity in relation to the student(s) accused of academic misconduct, including graduate teaching assistants who are instructors of record. Graduate teaching assistants or others who are not instructors of record should present documentation of suspected misconduct to the supervising faculty member.

(5) Director of Student Academic Ethics (DSAE). A designee of the Vice Provost for Faculty Affairs whose responsibilities are to manage and ensure fairness in the investigation and timely resolution of alleged academic misconduct. The DSAE does not vote in academic misconduct hearings.

(6) Notice. For the purposes of this rule, a notice is a written communication sent to the student's official MTSU email account, or to the student's local address as indicated in the student information system, or both as specified in this rule. Students have the responsibility to check their University-issued email accounts regularly and to ensure that the local mailing address on file with MTSU is current. The requirement to provide notice will be satisfied and any period for response will begin on the date the notice is sent.

Authority: T.C.A. § 49-8-203(a)(1)(D).

0240-07-04-.04 Process is added to Chapter 0240-07-04 Academic Misconduct and shall read as follows:

0240-07-04-.04 Process

(1) Academic misconduct is prohibited. Whenever a faculty member believes that academic misconduct has occurred, he/she must provide notice to the student and submit a Student Academic Misconduct Referral Form (Referral) to the DSAE within seven (7) business days from the time the faculty member concludes that the alleged misconduct occurred. The Referral will provide:

(a) the name of the student;

(b) the course in which the academic misconduct occurred;

(c) a description of the misconduct;

(d) supporting documentary evidence (if available);

(e) the course syllabus.

(2) A student who has been referred by a faculty member pursuant to this rule is prohibited from dropping a course in which misconduct is alleged, pending final resolution of the case. Students should continue attending class, absent a disciplinary sanction to the contrary, while this procedure is ongoing. If found responsible for committing academic misconduct, a student will not be allowed to drop the course, though continued class attendance is neither prohibited nor required. (Students receiving federal financial aid who stop attending a course may incur significant financial penalties. Students are encouraged to consult the MT One Stop.) Failure to comply with this directive will result in referral to the Office of Student Conduct for violation of general rules and regulations and violation of imposed disciplinary sanctions under University policy.

(3) The referring faculty member will assign neither a grade on the referred academic exercise, nor a final grade for the course, pending the resolution of the referral (if the referred exercise will affect the final grade). If a grade needs to be submitted at the end of the semester, a referred student will receive a temporary grade of

"Incomplete" (I) until the case is resolved.

- (4) The DSAE will review the case within five (5) business days of receipt of the Referral. If, in the DSAE's opinion, the Referral lacks substance or is otherwise deficient, the DSAE may consult with the referring faculty member and indicate either that additional information is needed or encourage that the Referral be withdrawn. Such a consultation may take place before and/or after the DSAE has met with the student.
- (5) For any Referral not withdrawn by mutual consent between the DSAE and the referring faculty member, the DSAE will send notice to the student and schedule a meeting to discuss the alleged academic misconduct violation. During this meeting the student can accept responsibility or not accept responsibility for the alleged academic misconduct. If the student accepts responsibility, the DSAE will decide on University sanctions (see Rule 0240-07-04-.05) appropriate to the case, and the matter will be resolved at that point. The DSAE will note the resolution on the Referral and provide copies to the faculty member and the department chair. This notice will be sent to the student's official MTSU email account with a hard copy letter sent via first class USPS mail to the student's local address as indicated in the student information system.
- (6) If a referred student fails to attend a scheduled meeting with the DSAE without a reasonable excuse, the DSAE may find the student responsible in absentia and determine appropriate sanctions. Cases heard in absentia may not be appealed.
- (7) If the student does not accept responsibility, the case will be heard by the Committee. The DSAE will:
 - (a) Determine whether the matter warrants consideration of suspension or expulsion of the student should the Committee find academic misconduct. If so, the student must be given the option of a hearing held pursuant to the Uniform Administrative Procedures Act (UAPA) as set forth in Rule 0240-07-04-.07, below. A waiver of this option must also be in writing.
 - (b) As the designee of the Vice Provost for Faculty Affairs, form the Committee from the pool of members for the purpose of the hearing according to University policy.
- (8) Institutional Hearing
 - (a) If the sanction of suspension or expulsion will not be considered or if the student has waived a hearing under the UAPA, the Committee will set an institutional hearing for the matter as soon as is feasible, ideally within fifteen (15) business days of the student's request for a committee hearing, allowing reasonable time for preparation. Both the faculty member and the student will be notified of the hearing.
 - (b) Outside of regular Fall and Spring semesters, hearings will be scheduled under only two (2) circumstances:
 1. If lack of resolution affects the student's ability to graduate in the Spring or Summer; or
 2. If the Vice Provost for Faculty Affairs determines that there are extenuating circumstances to warrant a special hearing.
 - (c) The DSAE will advise the student, in writing, of the following:
 1. The conduct violation and the circumstances alleged by the faculty member to constitute academic misconduct;
 2. The date, time, and place of the hearing;
 3. That the student may appeal a grade given by the faculty member in response to academic misconduct;
 4. The right to receive a list of the witnesses the University expects to present at the proceeding and those the University may present if the need arises;

5. The right to request a copy of the University's investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974, (20 U.S.C. § 1232g), and the federal regulations implementing that statute, as amended;
 6. The right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence the University has in its possession, custody, or control and may use to support claims or defenses, unless the use would be solely for impeachment; and
 7. The rights the student will be afforded at the hearing as specified in Rule 0240-07-04-.04(8)(e).
- (d) The hearing will take place at the scheduled time, regardless of whether the student and/or the referring faculty member choose to attend. Failure to appear at a scheduled hearing abrogates the rights listed under Rule 0240-07-04-.04(8)(e) or (f), as applicable. A hearing may be rescheduled, under extraordinary circumstances, at the discretion of the DSAE.
- (e) The rights applicable to the referred student at the hearing include:
1. The right to present evidence pertinent to the case and to hear and respond to all testimony;
 2. The right to be accompanied by an advisor. An advisor may not actively or directly participate in the hearing, but may only consult with the student;
 3. The right to call witnesses; and
 4. The right to confront witnesses in support of the misconduct allegation.
- (f) The rights applicable to the referring faculty member at the hearing include:
1. The right to present evidence pertinent to the case and to hear and respond to all testimony;
 2. The right to be accompanied by an advisor. An advisor may not actively or directly participate in the hearing, but may only consult with the faculty member;
 3. The right to call witnesses; and
 4. The right to confront witnesses against the misconduct allegation.
- (g) The hearing will not be open to the public.
- (h) The Committee may exclude evidence it deems immaterial, irrelevant, or unduly repetitious.
- (i) Decisions shall be by majority vote of the Committee members present and voting. The DSAE is a non-voting ex-officio member of the Committee. The Committee may ask the referred student, referring faculty member, and any advisors present to leave the hearing while they deliberate and vote. Votes of individual Committee members will not be reported. In the event of a tie vote, the charge of misconduct is dismissed.
- (j) The standard of proof required for a finding of academic misconduct shall be by a preponderance of the evidence.
- (k) The DSAE will, on behalf of the Committee, issue a written decision indicating its finding concerning the charge of academic misconduct. The decision must specify the factual basis for the determination, and, if academic misconduct is found, state whether disciplinary sanctions will be imposed. The decision will be provided to the student, the faculty member, and the Vice Provost for Faculty Affairs. For graduate students found responsible of misconduct, the decision will also be provided to the student's faculty advisor, graduate program director, and department chair.
- (l) The student and the faculty member must be notified of the right to appeal the Committee's decision to the Provost.

- (m) Once it has been determined whether academic misconduct has occurred or not, the faculty member shall determine a grade for the exercise or examination and/or course.

Authority: T.C.A. §§ 49-8-203(a)(1)(D), 10-7-504(a)(4) and 4-5-301, et. seq.

0240-07-04-.05 University Sanctions for Academic Misconduct is added to Chapter 0240-07-04 Academic Misconduct and shall read as follows:

0240-07-04-.05 University Sanctions for Academic Misconduct

- (1) For undergraduates, appropriate sanctions will be determined by majority vote of the Committee and reported to the Vice Provost for Faculty Affairs. For graduate students, sanctions will be determined by majority vote of the student's faculty advisor, graduate program director and department chair (or academic dean, whichever is applicable) and reported to the Vice Provost for Faculty Affairs. Students will be provided notice of all sanctions.
- (2) Any finding or admission of responsibility will result in a record that will be maintained and referred to by the Committee in the event that a subsequent misconduct case arises, regardless of the severity of sanctions imposed in those instances.
- (3) Subsequent determinations of academic misconduct may result in more severe University sanctions. If a student has been found responsible for academic misconduct more than once, the DSAE will inform the sitting members of the Committee of the nature of prior offenses so that appropriate sanctions may be determined. These facts will not be revealed prior to the Committee's determination of responsibility in the present case in order to avoid prejudice.
- (4) Sanctions may include suspension or expulsion from the University but only if the student was provided the option of a UAPA hearing. (See Rule 0240-07-04-.07 for conducting the hearing required in such a case.)
- (5) Sanctions include, but are not limited to:
 - (a) Reprimand. A written reprimand will be given to a student whose conduct violates any part of these policies, and warns a student that any further violation(s) may result in more serious consequences;
 - (b) Specified Educational Program. Requirement to participate in specified educational program(s) or project(s) relevant to the offense and overseen by the DSAE;
 - (c) Restriction. A restriction upon a student's privileges for a period of time may be imposed. This restriction may include, but not be limited to, for example, denial of the ability to represent MTSU at any event, ability to participate in University travel, or use of facilities (labs, etc.).
 - (d) Probation. Any student placed on probation will be notified of the terms and length of the probation. Any conduct in further violation of this rule while on probationary status or the failure to comply with the terms of the probationary period may result in the imposition of more severe disciplinary sanctions, up to and including suspension or expulsion;
 - (e) Suspension. Separation from the University for a specified period of time. This includes all instructional delivery methods (i.e., on ground, online, hybrid, etc.). Suspension may be accompanied by special conditions for readmission or recognition. Any student receiving a sanction of suspension shall be restricted from the campus of MTSU during the period of separation unless on official business with the University verified in writing by the Dean of Students. A suspended student must submit a written request to be on campus to the Dean of Students a minimum of forty-eight (48) hours in advance of the scheduled time of his/her business on campus. The request must specify the specific reason to be on campus and the location that the student wishes to visit. The Dean of Students will issue a written decision regarding the request to be on campus, and the student is expected to carry that written decision with him/her during the time of the visit.

- (f) Expulsion. Permanent separation from the University. The imposition of this sanction is a permanent bar to the student's admission to MTSU. Any student receiving a sanction of expulsion shall be restricted from the campus of MTSU unless on official business with the University verified in writing by the Dean of Students. An expelled student must submit a written request to be on campus to the Dean of Students a minimum of forty-eight (48) hours in advance of the scheduled time of his/her business on campus. The request must specify the specific reason to be on campus and the location that the student wishes to visit. The Dean of Students will issue a written decision regarding the request to be on campus, and the student is expected to carry that written decision during the time of their visit.
- (g) Revocation of Admission, Degree, or Credential. Under circumstances deemed appropriate, an offer of admission, a degree, or a credential awarded may be revoked or rescinded.
- (h) Other Sanctions. Additional or alternate sanctions may be created and designed as deemed appropriate to the offense and the student's individual need for education, growth, and reform.

Authority: T.C.A. § 49-8-203(a)(1)(D).

0240-07-04-.06 Appeal of Decision is added to Chapter 0240-07-04 Academic Misconduct and shall read as follows:

0240-07-04-.06 Appeal of Decision

- (1) The student or faculty member may appeal the Committee's decision to the Provost within five (5) business days of receipt of the decision.
- (2) An appeal must be submitted in writing and may only be filed based on one (1) or both of the following conditions:
 - (a) An error in procedural due process that prejudiced the Committee to the extent that the student was denied a fundamentally fair hearing as a result of the error; and/or
 - (b) The emergence of new evidence that could not have been previously discovered by the exercise of due diligence and which, had it been presented at the initial hearing, would have substantially affected the decision of the Committee.
- (3) The Provost may:
 - (a) Affirm the decision;
 - (b) Reverse the decision in whole or in part; or
 - (c) Return the matter to the DSAE or Committee for reconsideration of the sanction.
- (4) The decision of the Provost is final.

Authority: T.C.A. § 49-8-203(a)(1)(D).

0240-07-04-.07 UAPA Hearing is added to Chapter 0240-07-04 Academic Misconduct and shall read as follows:

0240-07-04-.07 UAPA Hearing

Any matter that may result in suspension or expulsion of a student from the University is subject to be heard pursuant to the contested case provisions of the Uniform Administrative Procedures Act, T.C.A. § 4-5-301, et. seq., and shall be processed in accordance with University policy, unless the student waives the right to such a hearing in writing.

Authority: T.C.A. §§ 49-8-203(a)(1)(D) and 4-5-301, et. seq.

0240-07-04-.08 Records Maintenance is added to Chapter 0240-07-04 Academic Misconduct and shall read as
SS-7038 (November 2017) RDA71693

follows:

0240-07-04-.08 Records Maintenance

Whenever there is a finding or admission of responsibility under this rule, these records will be maintained by the Vice Provost for Faculty Affairs permanently.

Authority: T.C.A. § 49-8-203(a)(1)(D).

* 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)
Andy Adams					
J.B. Baker					
Pete DeLay					
Darrell Freeman, Sr.					
Joey Jacobs					
Christine Karbowiak					
Stephen B. Smith					
Pamela Wright					
Tony Johnston					

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Board on _____ (date as mm/dd/yyyy), 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 ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: _____

Signature: _____

Name of Officer: Heidi Zimmerman

Title of Officer: University Counsel

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

Agency/Board/Commission: Middle Tennessee State University

Rule Chapter Number(s): Chapter 0240-07-04 Academic Misconduct

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.

Herbert H. Slatery III
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

This rule is not anticipated to have an impact on small businesses.

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://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule is not anticipated to have an impact on local government.

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;

In 2016, Middle Tennessee State University (MTSU) initiated a comprehensive review of its policies. This review was initiated due to the separation of MTSU from the Tennessee Board of Regents system. MTSU is in the process of establishing rules for necessary key areas.

This rule describes the expectations for student conduct and disciplinary sanctions with regard to academic misconduct that MTSU may impose through the disciplinary procedures outlined in this rule.

- (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. §4-5-102(12), the definition of "rule" under the UAPA includes agency statements that relate to the discipline of students.

- (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;

Students enrolled at MTSU are most directly affected by this rule. A policy that mirrors the proposed rule was reviewed and approved by the FOCUS Act Transition Team (Team). The Team included student, staff and faculty representatives. The faculty, staff and students of MTSU urge adoption of these rules.

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

None

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

Heidi Zimmerman, MTSU University Counsel and Cheryl Torsney, Vice Provost for Faculty Affairs.

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

Heidi Zimmerman, MTSU University Counsel, and Cheryl Torsney, Vice Provost for Faculty Affairs.

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

Heidi Zimmerman
MTSU University Counsel
1301 E. Main Street, CAB 209
Murfreesboro, TN 37132
615-898-2025
Heidi.zimmerman@mtsu.edu

Cheryl Torsney
Vice Provost for Faculty Affairs
1301 E. Main Street, CAB 111
Murfreesboro, TN 37132
615-898-2329
cheryl.torsney@mtsu.edu

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

--



312 Academic Misconduct

Approved by Board of Trustees

Effective Date: _____, 2018

Responsible Division: Academic Affairs

Responsible Office: University Provost

Responsible Officer: Vice Provost for Faculty Affairs

I. Purpose

This policy sets out the procedure to be followed when a Middle Tennessee State University (MTSU or University) faculty member believes a student has engaged in academic misconduct.

II. Scope

This policy applies only to situations where a faculty member alleges that a student has engaged in academic misconduct. Any allegations of misconduct related to externally-sponsored research should be evaluated under [Policy 211 Misconduct in Scholarly Activities and Research](#). Students wishing to appeal final course grades must do so through the process set out in [Policy 313 Student Grade Appeals](#).

III. Definitions

- A. Academic Exercise. All forms of work submitted by a student for academic credit or hours.
- B. Academic Misconduct. Acts of plagiarism, cheating, or fabrication.
 - 1. Plagiarism. Plagiarism includes, but is not limited to, the adoption or reproduction of ideas, words, statements, images, or works of another person as one's own without proper attribution. This includes self-plagiarism, which occurs when an author submits material or research from a previous academic exercise to satisfy the requirements of another academic exercise and uses it without proper citation of its reuse.
 - 2. Cheating. Cheating includes, but is not limited to, using or attempting to use unauthorized materials, information, or aids in any academic exercise or test/examination. Cheating also includes unapproved collaboration, which occurs

when a student works with others on an individual academic exercise without the express permission of the faculty member.

3. Fabrication. Fabrication includes, but is not limited to, unauthorized falsification or invention of any information or citation in an academic exercise.
- C. Academic Misconduct Committee (Committee) refers to the Committee established under [Policy 32 University Committees](#).
- D. Faculty member. For the purposes of this policy, a faculty member is the University employee teaching a course or serving in a supervisory, advisory, or evaluative capacity in relation to the student(s) accused of academic misconduct, including graduate teaching assistants who are instructors of record. Graduate teaching assistants or others who are not instructors of record should present documentation of suspected misconduct to the supervising faculty member.
- E. Director of Student Academic Ethics (DSAE). A designee of the Vice Provost for Faculty Affairs whose responsibilities are to manage and ensure fairness in the investigation and timely resolution of alleged academic misconduct. The DSAE does not vote in academic misconduct hearings.
- F. Notice. For the purposes of this policy, a notice is a written communication sent to the student's official MTSU email account, or to the student's local address as indicated in the student information system, or both as specified in this policy. Students have the responsibility to check their University-issued email accounts regularly and to ensure that the local mailing address on file with MTSU is current. The requirement to provide notice will be satisfied and any period for response will begin on the date the notice is sent.

IV. Process

- A. Academic misconduct is prohibited. Whenever a faculty member believes that academic misconduct has occurred, he/she must provide notice to the student and submit a Student [Academic Misconduct Referral Form](#) (Referral) to the DSAE within seven (7) business days from the time the faculty member concludes that the alleged misconduct occurred. The Referral will provide:
1. the name of the student;
 2. the course in which the academic misconduct occurred;
 3. a description of the misconduct;
 4. supporting documentary evidence (if available);

5. the course syllabus.
- B. A referred student is prohibited from dropping a course in which misconduct is alleged, pending final resolution of the case. Students should continue attending class, absent a disciplinary sanction to the contrary, while this procedure is ongoing. If found responsible for committing academic misconduct, a student will not be allowed to drop the course, though continued class attendance is neither prohibited nor required. (Students receiving federal financial aid who stop attending a course may incur significant financial penalties. Students are encouraged to consult the MT One Stop.) Failure to comply with this directive will result in referral to the Office of Student Conduct for violation of general rules and regulations and violation of imposed disciplinary sanctions under [Policy 540 Student Conduct](#).
- C. The referring faculty member will assign neither a grade on the referred academic exercise, nor a final grade for the course, pending the resolution of the referral (if the referred exercise will affect the final grade). If a grade needs to be submitted at the end of the semester, a referred student will receive a temporary grade of "Incomplete" (I) until the case is resolved.
- D. The DSAE will review the case within five (5) business days of receipt of the referral. If, in the DSAE's opinion, the referral lacks substance or is otherwise deficient, the DSAE may consult with the referring faculty member and indicate either that additional information is needed or encourage that the referral be withdrawn. Such a consultation may take place before and/or after the DSAE has met with the student.
- E. For any referral not withdrawn by mutual consent between the DSAE and the referring faculty member, the DSAE will send notice to the student and schedule a meeting to discuss the alleged academic misconduct violation. During this meeting the student can accept responsibility or not accept responsibility for the alleged academic misconduct. If the student accepts responsibility, the DSAE will decide on University sanctions (see Section V.) appropriate to the case, and the matter will be resolved at that point. The DSAE will note the resolution on the referral and provide copies to the faculty member and the department chair. This notice will be sent to the student's official MTSU email account with a hard copy letter sent via first class USPS mail to the student's local address as indicated in the student information system.
- F. If a referred student fails to attend a scheduled meeting with the DSAE without a reasonable excuse, the DSAE may find the student responsible in absentia and determine appropriate sanctions. Cases heard in absentia may not be appealed.
- G. If the student does not accept responsibility, the case will be heard by the Committee. The DSAE will:

1. Determine whether the matter warrants consideration of suspension or expulsion of the student should the Committee find academic misconduct. If so, the student must be given the option of a hearing held pursuant to the Uniform Administrative Procedures Act (UAPA) as set forth in Section VII, below. A waiver of this option must also be in writing.
2. As the designee of the Vice Provost for Faculty Affairs, form the Committee from the pool of members for the purpose of the hearing according to [Policy 32 University Committees](#).

H. Institutional Hearing

1. If the sanction of suspension or expulsion will not be considered or if the student has waived a hearing under the UAPA, the Committee will set an institutional hearing for the matter as soon as is feasible, ideally within fifteen (15) business days of the student's request for a committee hearing, allowing reasonable time for preparation. Both the faculty member and the student will be notified of the hearing.
2. Outside of regular Fall and Spring semesters, hearings will be scheduled under only two (2) circumstances:
 - a. If lack of resolution affects the student's ability to graduate in the Spring or Summer; or
 - b. If the Vice Provost for Faculty Affairs determines that there are extenuating circumstances to warrant a special hearing.
3. The DSAE will advise the student, in writing, of the following:
 - a. The conduct violation and the circumstances alleged by the faculty member to constitute academic misconduct;
 - b. The date, time, and place of the hearing;
 - c. That the student may appeal a grade given by the faculty member in response to academic misconduct;
 - d. The right to receive a list of the witnesses the University expects to present at the proceeding and those the University may present if the need arises;
 - e. The right to request a copy of the University's investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974, (20

U.S.C. § 1232(g), and the federal regulations implementing that statute, as amended;

- f. The right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence the University has in its possession, custody, or control and may use to support claims or defenses, unless the use would be solely for impeachment; and
 - g. The rights the student will be afforded at the hearing as specified in Section IV.H.5.
4. The hearing will take place at the scheduled time, regardless of whether the student and/or the referring faculty member choose to attend. Failure to appear at a scheduled hearing abrogates the rights listed under Section IV.H.5. or 6., as applicable. A hearing may be rescheduled, under extraordinary circumstances, at the discretion of the DSAE.
 5. The rights applicable to the referred student at the hearing include:
 - a. The right to present evidence pertinent to the case and to hear and respond to all testimony;
 - b. The right to be accompanied by an advisor. An advisor may not actively or directly participate in the hearing, but may only consult with the student;
 - c. The right to call witnesses; and
 - d. The right to confront witnesses in support of the misconduct allegation.
 6. The rights applicable to the referring faculty member at the hearing include:
 - a. The right to present evidence pertinent to the case and to hear and respond to all testimony;
 - b. The right to be accompanied by an advisor. An advisor may not actively or directly participate in the hearing, but may only consult with the faculty member;
 - c. The right to call witnesses; and
 - d. The right to confront witnesses against the misconduct allegation.
 7. The hearing will not be open to the public.

8. The Committee may exclude evidence it deems immaterial, irrelevant, or unduly repetitious.
9. Decisions shall be by majority vote of the Committee members present and voting. The DSAE is a non-voting ex-officio member of the Committee. The Committee may ask the referred student, referring faculty member, and any advisors present to leave the hearing while they deliberate and vote. Votes of individual Committee members will not be reported. In the event of a tie vote, the charge of misconduct is dismissed.
10. The standard of proof required for a finding of academic misconduct shall be by a preponderance of the evidence.
11. The DSAE will, on behalf of the Committee, issue a written decision indicating its finding concerning the charge of academic misconduct. The decision must specify the factual basis for the determination, and, if academic misconduct is found, state whether disciplinary sanctions will be imposed. The decision will be provided to the student, the faculty member, and the Vice Provost for Faculty Affairs. For graduate students found responsible of misconduct, the decision will also be provided to the student's faculty advisor, graduate program director, and department chair.
12. The student and the faculty member must be notified of the right to appeal the Committee's decision to the Provost.
13. Once it has been determined whether academic misconduct has occurred or not, the faculty member shall determine a grade for the exercise or examination and/or course.

V. University Sanctions for Academic Misconduct

- A. For undergraduates, appropriate sanctions will be determined by majority vote of the Committee and reported to the Vice Provost for Faculty Affairs. For graduate students, sanctions will be determined by majority vote of the student's faculty advisor, graduate program director and department chair (or academic dean, whichever is applicable) and reported to the Vice Provost for Faculty Affairs. Students will be provided notice of all sanctions.
- B. Any finding or admission of responsibility will result in a record that will be maintained and referred to by the Committee in the event that a subsequent misconduct case arises, regardless of the severity of sanctions imposed in those instances.
- C. Subsequent determinations of academic misconduct may result in more severe University sanctions. If a student has been found responsible for academic misconduct more than once, the DSAE will inform the sitting members of the Committee of the

nature of prior offenses so that appropriate sanctions may be determined. These facts will not be revealed prior to the Committee's determination of responsibility in the present case in order to avoid prejudice.

- D. Sanctions may include suspension or expulsion from the University but only if the student was provided the option of a UAPA hearing. (See Section VII. for conducting the hearing required in such a case.)
- E. Sanctions include, but are not limited to:
1. Reprimand. A written reprimand will be given to a student whose conduct violates any part of these policies, and warns a student that any further violation(s) may result in more serious consequences;
 2. Specified Educational Program. Requirement to participate in specified educational program(s) or project(s) relevant to the offense and overseen by the DSAE;
 3. Restriction. A restriction upon a student's privileges for a period of time may be imposed. This restriction may include, but not be limited to, for example, denial of the ability to represent MTSU at any event, ability to participate in University travel, or use of facilities (labs, etc.).
 4. Probation. Any student placed on probation will be notified of the terms and length of the probation. Any conduct in further violation of these policies while on probationary status or the failure to comply with the terms of the probationary period may result in the imposition of more severe disciplinary sanctions, up to and including suspension or expulsion;
 5. Suspension. Separation from the University for a specified period of time. This includes all instructional delivery methods (i.e., on ground, online, hybrid, etc.). Suspension may be accompanied by special conditions for readmission or recognition. Any student receiving a sanction of suspension shall be restricted from the campus of MTSU during the period of separation unless on official business with the University verified in writing by the Dean of Students. A suspended student must submit a written request to be on campus to the Dean of Students a minimum of forty-eight (48) hours in advance of the scheduled time of his/her business on campus. The request must specify the specific reason to be on campus and the location that the student wishes to visit. The Dean of Students will issue a written decision regarding the request to be on campus, and the student is expected to carry that written decision with him/her during the time of the visit.
 6. Expulsion. Permanent separation from the University. The imposition of this sanction is a permanent bar to the student's admission to MTSU. Any student receiving a sanction of expulsion shall be restricted from the campus of MTSU unless on official

business with the University verified in writing by the Dean of Students. An expelled student must submit a written request to be on campus to the Dean of Students a minimum of forty-eight (48) hours in advance of the scheduled time of his/her business on campus. The request must specify the specific reason to be on campus and the location that the student wishes to visit. The Dean of Students will issue a written decision regarding the request to be on campus, and the student is expected to carry that written decision during the time of their visit.

7. Revocation of Admission, Degree, or Credential. Under circumstances deemed appropriate, an offer of admission, a degree, or a credential awarded may be revoked or rescinded.
8. Other Sanctions. Additional or alternate sanctions may be created and designed as deemed appropriate to the offense and the student's individual need for education, growth, and reform.

VI. Appeal of Decision

- A. The student or faculty member may appeal the Committee's decision to the Provost within five (5) business days of receipt of the decision.
- B. An appeal must be submitted in writing and may only be filed based on one (1) or both of the following conditions:
 1. An error in procedural due process that prejudiced the Committee to the extent that the student was denied a fundamentally fair hearing as a result of the error; and/or
 2. The emergence of new evidence that could not have been previously discovered by the exercise of due diligence and which, had it been presented at the initial hearing, would have substantially affected the decision of the Committee.
- C. The Provost may:
 1. Affirm the decision;
 2. Reverse the decision in whole or in part; or
 3. Return the matter to the DSAE or Committee for reconsideration of the sanction.
- D. The decision of the Provost is final.

VII. UAPA Hearing

Any matter that may result in suspension or expulsion of a student from the University is subject to be heard pursuant to the contested case provisions of the Uniform Administrative Procedures Act, T.C.A. § 4-5-301, et. seq., and shall be processed in accordance with [Policy 110 Cases Heard Pursuant to the Uniform Administrative Procedures Act](#), unless the student waives the right to such a hearing in writing.

VIII. Records Maintenance

Whenever there is a finding or admission of responsibility under this policy, these records will be maintained by the Vice Provost for Faculty Affairs permanently.

Forms:

Student [Academic Misconduct Referral](#)

Revisions: June 5, 2017 (original); _____, 2018.

References: T.C.A. § 4-5-301, et. seq., Policies 32 University Committees; 110 Cases Heard Pursuant to the Uniform Administrative Procedures Act; 211 Misconduct in Scholarly Activities and Research; 313 Student Grade Appeals; 540 Student Conduct.



312 Academic Misconduct

Approved by ~~President~~ Board of Trustees

Effective Date: _____ June 5, 2018

Responsible Division: Academic Affairs

Responsible Office: University Provost

Responsible Officer: Vice Provost for Faculty Affairs

I. Purpose

This policy sets out the procedure to be followed when a Middle Tennessee State [University](#) (MTSU or University) faculty member believes a student has engaged in academic misconduct.

II. Scope

This policy applies only to situations where a faculty member ~~charge~~ alleges that s-a student ~~with~~ has engaged in academic misconduct. Any allegations of misconduct related to externally-sponsored research ~~or other scholarly activity~~ should ~~first~~ be evaluated under [Policy 211 Misconduct in Scholarly Activities and Research](#). Students wishing to appeal final course grades must do so through the process set out in [Policy 313 Student Grade Appeals](#).

III. Definitions

- A. Academic ~~E~~exercise. All forms of work submitted by a student for academic credit or hours.
- B. Academic Misconduct. ~~Academic misconduct may consist of a~~ acts of plagiarism, cheating, or fabrication.
 1. Plagiarism. Plagiarism includes, but is not limited to, Tthe adoption or reproduction of ideas, words, statements, images, or works of another person as one's own without proper attribution. This includes self-plagiarism, which occurs when an author submits material or research from a previous academic exercise to satisfy the requirements of another academic exercise and uses it without proper citation of its reuse.
 2. Cheating. Cheating includes, but is not limited to, Uusing or attempting to use unauthorized materials, information, or aids in any academic exercise or

- test/examination. Cheating also includes unapproved collaboration, which occurs when a student works with others on an individual academic exercise without the express permission of the faculty member.
3. Fabrication. Fabrication includes, but is not limited to, Uunauthorized falsification or invention of any information or citation in an academic exercise.
- C. Academic Misconduct Committee (Committee) refers to the eCCommittee established under Policy 32 University Committees.
- D. Faculty member. For the purposes of this policy, a faculty member is the UUniversity employee teaching a course or serving in a supervisory, advisory, or evaluative capacity in relation to the student(s) accused of academic misconduct, including graduate teaching assistants who are instructors of record. Graduate teaching assistants or others who are not instructors of record should present documentation of suspected misconduct to the supervising faculty member.
- E. Director of Student Academic Ethics (DSAE). A designee of the Vice Provost for Faculty Affairs whose responsibilities are to manage and ensure fairness in the investigation and timely prosecution-resolution of alleged academic misconduct, and to conduct their timely resolution. The DSAE can not t arbitrate cases anddbut does not vote in a academic misconduct hearings.
- ~~Ad hoc graduate disciplinary committee. a committee composed of the director of the graduate program in which the student is enrolled, the student's academic advisor or another member of the graduate faculty, and the department chair. This ad hoc committee may determine additional sanctions and report them to the Vice Provost for Faculty Affairs.~~
- F. Notice. For the purposes of this policy, a notice is a written communication sent to the student's official MTSU email account, or to the student's local address as indicated in the student information system, or both as specified in a student as directed by this policy. A notice provided to a student will be sent via the student's official MTSU email account as well as a hard copy letter sent via first class USPS mail to the student's local address as indicated in the student information system. Students have the responsibility to regularly check their University-issued email accounts regularly and to ensure that the local mailing address on file with MTSU is current. The requirement to provide notice will be satisfied when sent as indicated and any period for response will begin on the date the notice is sent. email and/or letter is sent, whichever is sent first.

IV. Process

- A. Academic misconduct is Plagiarism, cheating, and other forms of academic dishonesty are prohibited. Additional disciplinary sanctions may be appropriate; this issue will be determined by the ComWhenever a faculty member believes that academic misconduct

has occurred, he/she must provide notice to the student and submit an Student Academic Misconduct Referral Form (~~#~~Referral) ~~must be submitted to the DSAE within five (5) business day from time of misconduct discovery~~ in a timely manner within seven (7) five (5) business days from the time the faculty member concludes that the alleged misconduct occurred. The form#Referral will provide:

1. the name of the student;
2. the course in which the academic misconduct occurred;
3. a description of the misconduct;
4. supporting documentary evidence (if available);
5. ~~and~~ the course syllabus.

A.B. A referred student ~~may not drop~~ is prohibited from dropping a cCourse in which misconduct is alleged, s may not be dropped pending the final resolution of an allegation of academic misconductthe case. Students ~~may~~ should continue attending class, absent a disciplinary sanction to the contrary, while this procedure is ongoing. If found responsible ~~for~~ of committing academic misconduct ~~for which a grade penalty was the result,~~ a student will not be allowed to ~~may not~~ drop the course, though continued class attendance is neither prohibited nor required. (Students receiving federal financial aid who stop attending a course may incur significant financial penalties. Students are encouraged to consult the MT One Stop.) Failure to comply with this directive will result in referral to the Office of Student Conduct for violation of general rules and regulations and violation of imposed disciplinary sanctions under MTSU Policy 540 Student Conduct.

~~1. Whenever a faculty member identifies an instance of academic misconduct, an must be completed. The form will provide the name of the student, the course in which the academic misconduct occurred, a description of the misconduct, and whether the faculty member assigned a grade for the exercise or examination, or assigned an "F" in the course. Either a copy of the referral form or a detailed memorandum describing the allegation will be provided to the student, the faculty member's Department Chair, and the Vice Provost for Faculty Affairs (Vice Provost hereinafter to include his/her designee, the Coordinator of Academic Misconduct) within three (3) business days of the faculty member determining that academic misconduct has occurred.~~

C. The referring faculty member will assign neither a grade on the referred academic exerciseassignment, nor a final grade for the course, pending the resolution of the referral (if the referred assignmentexercise will affect the final grade). If a grade needs to be submitted at the end of the semester, a referred student will receive a temporary grade of "Incomplete" (I) until the case is resolved.

D. ~~As soon as is feasible after receipt of a referral, t~~The DSAE will review the ~~form case~~ within ~~five~~^{three (3)} business days of receipt of the referral. ~~and, within three (3) business days of receipt of the form.~~ If, in the DSAE's opinion, the referral lacks substance or is otherwise deficient, the DSAE may consult with the referring faculty member ~~and~~ ~~and either indicate either that additional information is needed or encourage that the referral be withdrawn.~~ Such a consultation may take place before and/or after the DSAE has met with the student.

E. For any referral not withdrawn by mutual consent between the DSAE and the referring faculty member, the DSAE will ~~contact~~ send notice to the student and schedule a meeting to discuss the alleged academic misconduct violation. During this meeting the student can ~~choose to allow~~ ~~accept~~ ~~mit~~ responsibility or not accept responsibility for the alleged academic misconduct to the DSAE, or request that the ~~to hear their case or go be heard by~~ to the Academic Misconduct Committee. If the student ~~chooses to let the DSAE hear the case and the student is found~~ admits responsibility. If the student ~~accepts responsibility,~~ the DSAE will decide on University sanctions (see Section ~~GV~~.) appropriate to the case, and the matter will be resolved at that point. The DSAE will note the resolution on the ~~referral Academic Misconduct form~~ and provide copies to the faculty member and the department chair. This notice will be sent to the student's official MTSU email account with a hard copy letter sent via first class USPS mail to the student's local address as indicated in the student information system.

~~B-F.~~ If a referred student fails to attend a scheduled meeting with the DSAE without a reasonable excuse, the DSAE may find the student responsible in absentia and determine appropriate sanctions. Cases heard in absentia may not be appealed.

~~C-G.~~ If the student ~~chooses to have~~ does not accept responsibility, the case ~~will be heard by the committee~~ Committee., ~~The~~ ~~or has previously been found responsible for academic misconduct, the DSAE~~ will:

~~2-1.~~ Determine whether the matter warrants consideration of suspension or expulsion of the student should the Committee find academic misconduct. If so, the student must be given the option of a hearing held pursuant to the Uniform Administrative Procedures Act (UAPA) as set forth in Section ~~VII-V-1,~~ below. A waiver of this option must also be in writing.

~~3-2.~~ As the designee of the Vice Provost for Faculty Affairs, ~~f~~Form the Committee from the pool of members ~~for the purpose of an institutional~~ the hearing according to Policy 32 University Committees.

~~D-H.~~ Institutional Hearing

1. If the sanction of suspension or expulsion will not be considered or if the student has waived a hearing under the UAPA, the Committee will set an institutional hearing for

- the matter as soon as is feasible, ideally within fifteen (15) business days of the ~~Vice Provost's/DSAE's receipt of the form~~ referral student's request for a committee hearing, allowing reasonable time for preparation. Both the faculty member and the student will be notified of the hearing.
2. Outside of regular Fall and Spring semesters, hearings will be scheduled under only two (2) circumstances:
 - a. If lack of resolution affects the student's ability to graduate in the Spring or Summer; or
 - b. If the Vice Provost for Faculty Affairs determines that there are extenuating circumstances to warrant a special hearing.
 3. The DSAE will advise the student, in writing, of the following:
 - a. The conduct violation and the circumstances alleged by the faculty member to constitute academic misconduct;
 - b. The date, time, and place of the hearing;
 - c. That the student may appeal a grade given by the faculty member in response to academic misconduct;
 - ~~b.~~d. The right to receive a list of the witnesses the University expects to present at the proceeding and those the University may present if the need arises;
 - ~~e.~~e. The right to request a copy of the University's investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974, (20 U.S.C. § 1232(g), and the federal regulations implementing that statute, as amended;
 - ~~d.~~f. The right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence the University has in its possession, custody, or control and may use to support claims or defenses, unless the use would be solely for impeachment; and
 - g. The rights the student will be afforded at the hearing as specified in Section IV.H.5.
 4. The hearing will take place at the scheduled time, regardless of whether the student and/or the referring faculty member choose to attend. Failure to appear at a scheduled hearing abrogates the rights listed under Section IV.H.5. or 6., as

~~applicable IV:F:5 and 6. A hearing may be rescheduled, under extraordinary circumstances, at the discretion of the DSAE.~~

5. The rights applicable to the referred student at the hearing include:

a. The right to present evidence pertinent to the case and to hear and respond to all testimony;

b. The right to be accompanied by an advisor. An advisor may not actively or directly participate in the hearing, but may only consult with the student;

c. The right to call witnesses; and

d. The right to confront witnesses in support of the misconduct allegation.

6. The rights applicable to the referring faculty member at the hearing include:

a. The right to present evidence pertinent to the case and to hear and respond to all testimony;

b. The right to be accompanied by an advisor. An advisor may not actively or directly participate in the hearing, but may only consult with the faculty member;

c. The right to call witnesses; and

d. The right to confront witnesses against the misconduct allegation.

~~7. The right to present evidence pertinent to the case and to hear and respond to all testimony;~~

~~The right to be accompanied by an advisor. An advisor may not actively or directly participate in the hearing, but may only consult with the faculty member;~~

~~The right to call witnesses; and,~~

~~(4) The right to confront witnesses against the misconduct allegation.~~

The hearing will not be ~~opened~~ to the public.

8. ~~Formal rules of evidence will not be applicable, and~~ The Committee may exclude evidence ~~that~~ ~~which~~ it deems immaterial, irrelevant, or unduly repetitious.
9. Decisions shall be by majority vote of the [Committee members present and voting](#). [The DSAE is a non-voting ex-officio member of the Committee. The Committee may ask the referred student, referring faculty member, and any advisors present to leave the hearing while they deliberate and vote. Votes of individual Committee members will not be reported. In the event of a tie vote, the charge of misconduct is dismissed.](#)~~members present and voting.~~
10. The standard of proof required for a finding of academic misconduct shall be by a preponderance of the evidence.
11. The [DSAE](#) will, on behalf of the Committee, issue a written decision indicating its finding concerning the charge of academic misconduct. The decision must specify the factual basis for the determination, and, if academic misconduct is found, state whether ~~additional~~ disciplinary sanctions will be imposed. ~~Additionally, if the faculty member assigned a grade as a consequence of academic misconduct and the Committee determines no academic misconduct occurred, it will address whether that grade should stand or be changed.~~ The decision will be provided to the student, the faculty member, and the Vice Provost [for Faculty Affairs](#). [For graduate students found responsible of misconduct, the decision will also be provided to the student's academic faculty advisor, graduate program director, and department chair. so that an ad hoc disciplinary committee may be convened to consider additional sanctions \(see V:E , below\).](#)
12. The student and the faculty member must be notified of the right to appeal the Committee's decision to the Provost.
13. [Once it has been determined whether academic misconduct has occurred or not, if academic misconduct has been determined to not have occurred, the faculty member shall determine a grade for the exercise or examination and/or course.](#)

[VG. University Sanctions for Academic Misconduct](#)

- A. [For undergraduates, appropriate sanctions will be determined by majority vote of the Committee and reported to the Vice Provost for Faculty Affairs. For graduate students, sanctions will be determined by majority vote of the student's faculty advisor, graduate program director and department chair \(or academic dean, whichever is applicable\) and reported to the Vice Provost for Faculty Affairs. Students will be provided notice of all sanctions.](#)

~~3~~6B. Any finding or admission of responsibility will result in a record that will be maintained and referred to by the Committee in the event that a subsequent misconduct case arises, regardless of the severity of sanctions imposed in those instances.

C. Subsequent determinations of academic misconduct may result in additional and more severe University sanctions.~~4~~D. If a student has been found responsible for academic misconduct more than once, the DSAE will inform the sitting members of the Academic Misconduct Committee of the nature of prior offenses so that appropriate sanctions may be determined. These facts will not be revealed prior to the Committee's determination of responsibility in the present case in order to avoid prejudice.

~~5~~D. For undergraduates, appropriate sanctions will be determined by majority vote of the Committee and reported to the Vice Provost for Faculty Affairs. For graduate students, additional sanctions may will be determined by majority vote of the student's academic advisor, graduate program director and department chair, ad hoc graduate committee defined in Section III:F of this policy, and reported to the Vice Provost for Faculty Affairs.

~~6~~ED. Sanctions may include suspension or expulsion from the University but only if the student was provided the option of a UAPA hearing. (See Section VII. IV. for conducting the hearing required in such a case.)

E. Sanctions include, but are not limited to:

1. Reprimand. A written reprimand will be given to a student whose conduct violates any part of these policies, and warns a student that any further violation(s) may result in more serious consequences;
2. Specified Educational Program. Requirement to participate in specified educational program(s) or project(s) relevant to the offense and overseen by the DSAE;
3. Restriction. A restriction upon a student's privileges for a period of time may be imposed. This restriction may include, but not be limited to, for example, denial of the ability to represent MTSU at any event, ability to participate in University travel, or use of facilities (labs, etc.).
4. Probation. Any student placed on probation will be notified of the terms and length of the probation. Any conduct in further violation of these policies while on probationary status or the failure to comply with the terms of the probationary period may result in the imposition of more severe disciplinary sanctions, up to and including suspension or expulsion;
5. Suspension. Separation from the University for a specified period of time. This includes all instructional delivery methods (i.e., on ground, on-line, distance education hybrid, etc.). Suspension may be accompanied by special conditions for

- readmission or recognition. Any student receiving a sanction of suspension shall be restricted from the campus of MTSU during the period of separation unless on official business with the University verified in writing by the Dean of Students. A suspended student must submit a written request to be on campus to the Dean of Students a minimum of forty-eight (48) hours in advance of the scheduled time of his/her business on campus. The request must specify the specific reason to be on campus and the location that the student wishes to visit. The Dean of Students will issue a written decision regarding the request to be on campus, and the student is expected to carry that written decision with him/her during the time of the visit.
6. Expulsion. Permanent separation from the University. The imposition of this sanction is a permanent bar to the student's admission to MTSU. Any student receiving a sanction of expulsion shall be restricted from the campus of MTSU unless on official business with the University verified in writing by the Dean of Students. An expelled student must submit a written request to be on campus to the Dean of Students a minimum of forty-eight (48) hours in advance of the scheduled time of his/her business on campus. The request must specify the specific reason to be on campus and the location that the student wishes to visit. The Dean of Students will issue a written decision regarding the request to be on campus, and the student is expected to carry that written decision during the time of their visit.
7. Revocation of Admission, Degree, or Credential. Under circumstances deemed appropriate, an offer of admission, a degree, or a credential awarded may be revoked or rescinded.
8. Other Sanctions. Additional or alternate sanctions may be created and designed as deemed appropriate to the offense and the student's individual need for education, growth, and reform.

VI. Appeal of Decision

- A. The student or faculty member may appeal the ~~DSAE's or~~ Committee's decision to the Provost within five (5) business days of receipt of the decision.
- AB. An appeal must be submitted in writing and may only be filed based on one (1) or both of the following conditions:
1. An error in procedural due process that prejudiced the ~~DSAE or e~~Committee to the extent that the student was denied a fundamentally fair hearing as a result of the error; and /or
 2. The emergence of new evidence that could not have been previously discovered by the exercise of due diligence and which, had it been presented at the initial hearing, would have substantially affected the decision of the ~~DSAE or Ce~~Committee.

BC. The Provost may:

1. Affirm the decision;
2. Reverse the decision in whole or in part; or
3. Return the matter to the DSAE or Committee for reconsideration of the sanction.

DC. The decision of the Provost ~~shall be~~ final.

VII. UAPA Hearing

Any matter that may result in suspension or expulsion of a student from the University institution is subject to be heard pursuant to the contested case provisions of the Uniform Administrative Procedures Act, T.C.A. § 4-5-~~31~~01, et. seq., and shall be processed in accordance with MTSU Policy 110 Cases Heard Pursuant to the Uniform Administrative Procedures Act, unless the student waives the right to such a hearing in writing.

VIII. Records Maintenance

~~Records of Academic Misconduct determined under this policy will be maintained by the Vice Provost for Faculty Affairs for five academic years from the time of the violation. Whenever there is a finding or admission of responsibility under this policy, these records will be maintained by the Vice Provost for Faculty Affairs permanently for _____ () consecutive years from the time of the violation. However, if the student was suspended or expelled as a result of academic misconduct, this record will be maintained permanently.~~

Forms:

Student Academic Misconduct Referral

Revisions: ~~none~~ June 5, 2017 (original); _____, 2018.

References: T.C.A. § 4-5-~~31~~01, et. seq., Policies 32 University Committees; 110 Cases Heard Pursuant to the Uniform Administrative Procedures Act; 211 Misconduct in Scholarly Activities and Research; 313 Student Grade Appeals; 540 Student Conduct.



**Middle Tennessee State University
Board of Trustees**

MEETING: September Quarterly Board Meeting

SUBJECT: Rule Promulgation and Related Policy
Revision: Student Conduct
Policy 540

DATE: September 18, 2018

BACKGROUND INFORMATION:

T.C.A. § 49-8-203(a)(1)(D) requires the promulgation of rules regarding student conduct. The proposed rule is drafted to comply with that requirement and is provided for review by the Academic Affairs, Student Life, and Athletics Committee. Upon its recommendation, the proposed rule must be approved by the Board of Trustees.

MTSU has a corresponding policy, Policy 540 Student Conduct, that is presented for revision. The policy revisions are being proposed to update the policy to confirm to recent legislative amendments (PC 824). Others reflect revisions to Policy 755 Alcoholic Beverages which allow for the sale and consumption of alcoholic beverages on campus, or consumption at approved events. A revision is proposed that would allow for considering imposition of an interim involuntary withdrawal or suspension should a student violate an interim of final "No Contact Directive" issued in conjunction with violation of the sexual harassment policy. Several additional revisions were made for purposes of clarity.

The provisions of the rule and the policy are consistent with each other.

**Department of State
Division of Publications**

312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: _____
Rule ID(s): _____
File Date: _____
Effective Date: _____

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 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 ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Middle Tennessee State University
Division:	
Contact Person:	Heidi Zimmerman, University Counsel
Address:	1301 E. Main Street, CAB 209, Murfreesboro, TN
Zip:	37132
Phone:	615-898-2025
Email:	Heidi.zimmerman@mtsu.edu

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0240-07-03	Student Conduct
Rule Number	Rule Title
0240-07-03-.01	Purpose
0240-07-03-.02	Definitions
0240-07-03-.03	Responsibility and Jurisdiction
0240-07-03-.04	Student Conduct Rules: Values and Behavioral Expectations
0240-07-03-.05	Classroom Misconduct
0240-07-03-.06	Disciplinary Sanctions
0240-07-03-.07	Student Conduct Hearing Officers and/or Boards
0240-07-03-.08	Disciplinary Procedures
0240-07-03-.09	Alternative Resolution of Disciplinary Incidents
0240-07-03-.10	Victim's Rights
0240-07-03-.11	Authority of the President

Rules
of
Middle Tennessee State University, Murfreesboro
Chapter 0240-07-03
Student Conduct

New

Table of Contents is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

Table of Contents

0240-07-03.01 Purpose
0240-07-03.02 Definitions
0240-07-03.03 Responsibility and Jurisdiction
0240-07-03.04 Student Conduct Rules: Values and Behavioral Expectations
0240-07-03.05 Classroom Misconduct
0240-07-03.06 Disciplinary Sanctions
0240-07-03.07 Student Conduct Hearing Officers and/or Boards
0240-07-03.08 Disciplinary Procedures
0240-07-03.09 Alternative Resolution of Disciplinary Incidents
0240-07-03.10 Victim's Rights
0240-07-03.11 Authority of the President

0240-07-03-.01 Purpose is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

0240-07-03-.01 Purpose.

- (1) Middle Tennessee State University (MTSU or University) is committed to fostering a campus environment that is devoted to learning, growth, and service. We accept and practice the core values of honesty and integrity, respect for diversity, positive engagement in the community, and commitment to non-violence. The Office of Student Conduct was created to uphold these values, educate the community about behavioral expectations, and hold members of the student community accountable to these rules and expectations.
- (2) Student members of the University community are expected to uphold and abide by standards of conduct that form the basis of these rules. Each member of the University community bears responsibility for their conduct. When community members fail to exemplify and uphold these standards of conduct, student conduct procedures are used to assert and uphold these standards.
- (3) The student conduct process at MTSU exists to protect the interests of the University community and the individual student while striking a balance between these two interests. Students and student organizations that do not act in accordance with MTSU rules and expectations will be challenged and may be sanctioned accordingly. Sanctions are designed to assist students and student organizations in achieving acceptable standards of behavior while providing tools and resources for life-long learning and conflict resolution.
- (4) The University is committed to respecting students' constitutional rights. These rules shall be interpreted in a way that does not violate students' constitutional rights, including, without limitation, the rights protected by the First Amendment to the United States Constitution.

Authority: T.C.A. § 49-8-203 (a)(1)(D); T.C.A. § 49-8-101 (a)(2)(A).

0240-07-03-.02 Definitions is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

0240-07-03-.02 Definitions.

- (1) Student. For the purposes of these rules, a student shall mean any person who is admitted and/or registered for study at MTSU for any academic period, either full-time or part-time, undergraduate, graduate, or professional studies. 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 University. Finally, a 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 these rules. In summary, the University considers a person a student when an offer of admission has been extended and thereafter as long as the student has a continuing educational interest in the University.
- (2) Student organization. For the purposes of these rules, a student organization is a group consisting primarily of currently enrolled students which has become officially recognized by the University following successful completion of the registration process.
- (3) University Official(s). For the purposes of these rules, a University Official is an administrator within the Office of Student Conduct, specifically, the Assistant Dean for Student Conduct and/or the Student Conduct Coordinator.
- (4) Notice. For the purposes of these rules, a notice is a written communication sent to a student or student organization as directed by these rules. A notice provided to a student will be sent via the student's official MTSU email account as well as a hard copy letter sent via first class USPS mail to the student's local address as indicated in the student information system. A notice sent to a student organization will be sent to the organization's president at that student's MTSU email address and his/her local address. Students have the responsibility to regularly check their University-issued email accounts and to ensure that the local address on file with MTSU is current. The requirement to provide notice will be satisfied when sent as indicated and any period for response will begin on the date the email and/or letter is sent, whichever is sent first.

Authority: T.C.A. § 49-8-203 (a)(1)(D); T.C.A. § 49-8-101 (a)(2)(A).

0240-07-03-.03 Responsibility and Jurisdiction is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

0240-07-03-.03 Responsibility and Jurisdiction.

- (1) The President of MTSU is authorized to take such action as may be necessary to maintain campus conditions and to preserve the integrity of the University and its educational environment. The President has determined that the responsibility for the administration of student conduct at MTSU is a function of the Dean of Students' office and/or the appropriate adjudicating body. The Dean of Students' designees are University Officials as defined in this rule at 0240-07-03-.02(3). The University Officials are authorized to make the determination and/or recommendation of the method of hearing for each complaint or allegation and to provide other opportunities for conflict resolution outside of the conduct process consistent with these rules. The University Officials shall implement policies and procedures for the administration of the student conduct program.
- (2) Matters concerning academic misconduct are the responsibility of the Office of the University Provost and/or the University Academic Misconduct Committee. This process is set out in detail in University policy.
- (3) Students and student organizations are responsible for compliance with University rules and policies at all times. 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.
- (4) Disciplinary action may be taken against a student or student organization for violations of these rules which occur on University 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 University activity or the mission, processes, and functions of the University. MTSU may

also take disciplinary action for any off-campus behavior that affects a substantial University interest. A substantial University interest is defined to include:

- (a) Any situation where a student's conduct may present a danger or threat to the health or safety of others;
 - (b) Any situation that significantly impinges upon the rights, property, or achievements of others;
 - (c) Any situation that is detrimental to the educational mission and/or interests of the University.
- (5) MTSU may enforce these rules regardless of the status or outcome of any external proceedings instituted in any other forum, including any civil or criminal proceeding. Should a student withdraw from the University with University disciplinary action pending, the student's record may be encumbered by the appropriate University office until the proceedings have been concluded. The University may take action even if a student is absent from the proceeding.
- (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 "education records" and are confidential within the meaning of those Acts.

Authority: T.C.A. § 49-8-203 (a)(1)(D); T.C.A. § 49-8-101 (a)(2)(A); T.C.A. § 10-7-504(a)(4).

0240-07-03-.04 Student Conduct Rules: Values and Behavioral Expectations is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

0240-07-03-.04 Student Conduct Rules. Values and Behavioral Expectations. MTSU has adopted the following Community Standards of conduct. Each person who joins or affiliates with the University community does so freely and is expected to abide by these Community Standards. Following each Community Standard is a non-exclusive list of prohibited behaviors for which both students and student organizations may be subject to disciplinary action if such prohibited behavior is engaged in. These prohibited behaviors are considered inappropriate and in opposition to the Community Standards and expectations set forth by MTSU.

- (1) Community Standard: MTSU is committed to developing and nurturing a community devoted to learning, growth, and service. Behavior by students or student organizations including, but not limited to, the following, may be considered as being in violation of this Community Standard.

(a) Alcoholic Beverages.

1. The use and/or possession of alcoholic beverages on University owned or controlled property. This offense includes the violation of any local ordinance, state, or federal law concerning alcoholic beverages, on or off University owned or controlled property, where an affiliated group or organization has alcoholic beverages present and available for consumption. It will not be considered a violation of this rule if a student of legal drinking age possesses or consumes alcohol purchased from a third-party vendor during approved events taking place at a sports authority facility so long as the beverage is consumed within the sports authority facility. It will also not be considered a violation of this policy if a student of legal drinking age possesses or consumes alcohol provided at an event approved by the President to serve alcoholic beverages so long as the beverage is consumed within the confines of the designated area of the event.
2. A student who is under the influence of alcohol should not be reluctant to seek assistance in the event of a health or safety emergency for fear of being sanctioned. The Office of Student Conduct will generally not pursue disciplinary action against a student (or against a witness) for his/her improper use of alcohol (e.g., underage drinking) under that circumstance. This practice only applies to amnesty from violations of this rule. It does not grant amnesty for criminal, civil, or legal consequences for violations of federal, state, or local law.

(b) Drugs.

1. 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:
 - (i) the violation of any local ordinance, state, or federal law concerning the unlawful possession or use of drugs, on or off University owned or controlled property;
 - (ii) abusing legally obtained drugs by failing to take the drug as prescribed/directed and/or providing the prescribed drug to another person;
 - (iii) using a prescription drug that has not been prescribed to the individual.
 2. Any reasonable suspicion of drug use or possession including, but not limited to, the odor of burnt or raw marijuana, physical characteristics of impairment, and/or possession of any paraphernalia that can be used for drug consumption may lead to an investigation and possible violation of this rule.
 3. A student who is under the influence of drugs should not be reluctant to seek assistance in the event of a health or safety emergency for fear of being sanctioned. The Office of Student Conduct will generally not pursue disciplinary action against a student (or against a witness) for his/her improper possession or use of drugs under that circumstance. This practice only applies to amnesty from violations of this rule. It does not grant amnesty for criminal, civil, or legal consequences for violations of federal, state, or local law.
- (c) 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, but is not limited to, the violation of any local ordinance, state, or federal law concerning the unlawful possession of drug paraphernalia, on or off University owned or controlled property.
- (d) Public Intoxication.
1. Appearing on University owned or controlled property or at a University sponsored event while under the influence of a controlled substance or of any other intoxicating substance to the degree that the individual may be endangered; there is endangerment to other persons or property; or, the individual unreasonably annoys people in the vicinity.
 2. A student who is under the influence of alcohol or drugs should not be reluctant to seek assistance in the event of a health or safety emergency for fear of being sanctioned. The Office of Student Conduct will generally not pursue disciplinary action against a student (or against a witness) for his/her improper use of alcohol (e.g., underage drinking) under that circumstance. This practice only applies to amnesty from violations of this rule. It does not grant amnesty for criminal, civil, or legal consequences for violations of federal, state, or local law.
- (e) Explosives, Fireworks, and Flammable Materials. The unauthorized possession, ignition, or detonation of any object or article which could 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.
- (f) Violation of General Policies. Any violation of the general policies or procedures of the University as published in an official University publication or posted on an official University web page or social media page.
- (g) Violation 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.
- (h) Disorderly Conduct. Any behavior that unreasonably disrupts the academic environment (e.g., including, but not limited to, that which interferes with teaching, classroom operations, research, etc.) or unreasonably interferes with operations, events, or programs on University owned or controlled

property, or during a University event. This includes, but is not limited to, unauthorized use of sirens, loudspeakers, and other sound amplification equipment.

- (i) 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 or University property, fire alarms, fire equipment, elevators, telephones, University keys, library materials, and/or safety devices.
- (j) Obstruction of or Interference with University Activities or Facilities. Any intentional interference with, or obstruction of, any University program, event, or facility including, but not limited to, the following:
 - 1. Any unauthorized occupancy of facilities owned or controlled by the University or blockage of access to or from such facilities;
 - 2. Interference with the right of any University member or other authorized person to gain access to any activity, program, event, or facilities sponsored or controlled by the University;
 - 3. Any obstruction or delay of a campus security officer, public safety officer, police officer, firefighter, EMT, or any official of the University, or failure to comply with any emergency directive issued by such person in the performance of his/her duty;
 - 4. Participation in, or inciting others to participate in, activities that substantially impede University operations;
 - 5. Interference of either: (1) the instructor's ability to conduct class; or (2) the ability of other students to participate in and profit from instructional activity; or,
 - 6. Obstruction of the free flow of pedestrian or vehicular traffic on University owned or controlled property, or at a University event.
- (k) Unacceptable Conduct in Disciplinary Proceedings. Any conduct at any stage of a University disciplinary process or investigation that is contemptuous, disrespectful, threatening, or disorderly. This includes, but is not limited to, false complaints, retaliation, providing false 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.
- (l) Unauthorized Access to University Facilities and/or Grounds. Any unauthorized access and/or occupancy of University 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, or being present in academic buildings after hours without permission.
- (m) Pornography or Obscenity. Public display on property owned, leased, or controlled by the University of literature, films, pictures, or other materials which an average person applying contemporary community standards would find taken as a whole, appeals to the prurient interest; depicts or describes sexual conduct in a patently offensive way; and, taken as a whole, lacks serious literary, artistic, political, or scientific value.
- (n) Student Identification Cards. Failure to possess at all times a valid student identification card or an alternate ID that will prove student status; or, failure to surrender ID card to a University Official upon proper request.
- (o) Gambling. Unlawful gambling in any form.
- (p) 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 University.

- (q) Litter. Dispersing litter in any form onto the grounds or facilities of the University.
 - (r) Sirens and Loudspeakers. Unauthorized use of sirens, loudspeakers, and other sound amplification equipment.
 - (s) Graffiti. Damage or defacement of MTSU property by painting, chalking, writing, stenciling, or by any other means of application on such property.
- (2) Community Standard: Honesty and Integrity. The notions of personal and academic honesty and integrity are central to the existence of the MTSU community. All members of the community will strive to achieve and maintain the highest standards of academic achievement in the classroom, and personal and social responsibility on and off campus. Behavior by students or student organizations including, but not limited to, the following, may be considered as being in violation of this Community Standard.
- (a) Theft, Misappropriation, or Unauthorized Sale of Property. Any act of theft, misappropriation, or unauthorized possession or sale of University property, or any such act against a member of the University community or a guest of the University, including identity theft.
 - (b) Failure to Cooperate with University Officials. Failure to comply with directions or directives of University Officials acting in the performance of their duties.
 - (c) Providing False Information. Giving any false information to, or withholding necessary information from, any University Official acting in the performance of his/her duties in connection with a student's admission, enrollment, or status in the University.
 - (d) Misuse of Documents or Identification Cards. Any forgery, alteration of, or unauthorized use of University documents, forms, records, or identification cards including, but not limited to, the giving of any false information, or withholding of necessary information, in connection with a student's admission, enrollment, or status in the University.
 - (e) Financial Irresponsibility. Failure to meet financial responsibilities to the University promptly including, but not limited to, knowingly passing a worthless check or money order in payment to the University.
 - (f) Violation of Imposed Disciplinary Sanctions. Intentional or unintentional violation of a disciplinary sanction officially imposed by a University Official or a constituted body of the University.
 - (g) 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 restrooms, and storing, sharing, and/or distributing of such unauthorized images by any means.
 - (h) Unauthorized Duplication or Possession of Keys. Making, causing to be made, or the possession of any key for a University facility without proper authorization.
 - (i) Fire Drills. Failure to evacuate University facilities or willfully disregarding any emergency or fire alarm signal.

- (3) Community Standard: Respect for Diversity. The MTSU community is composed of individuals representing different races, ethnicities, sexual orientations, cultures, and ways of thinking. We respect individual differences and perspectives and acknowledge our commonalities. Behavior by students or student organizations including, but not limited to, the following may be considered as being in violation of this Community Standard.
- (a) Harassment or Retaliation. Any act against another person or group in violation of MTSU policies, as well as federal and/or state laws prohibiting discrimination or retaliation.
 - (b) Retaliation also includes, in this context, an act intended or reasonably likely to dissuade a person from participating in the student disciplinary process or pursuing a complaint about a violation of MTSU policies, as well as, state or federal law.
- (4) Community Standard: Commitment to Non-violence. MTSU is committed to the principles of nonviolence and peaceful conflict resolution. Community members will freely express their ideas and resolve differences using reason and persuasion. Behavior by students or student organizations including, but not limited to, the following, may be considered as being in violation of this Community Standard.
- (a) Threatening or Dangerous Conduct. Any conduct, or attempted conduct, which poses a threat to the safety of others or when the behavior is disruptive of the University's learning environment.
 - (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) Firearms and Other Dangerous Weapons. Except as may otherwise be permitted by law, the possession or use of firearms, explosives, fireworks, inflammables, dangerous chemical mixtures, and/or dangerous weapons of any kind including, but not limited to, knives, tasers, asp batons, tactical or telescoping batons, brass knuckles, whips, BB guns, pellet guns, propelled missiles, and/or stun guns is prohibited. The possession or use of ammunition, which includes, but is not limited to, bullets, paint balls, pellets, and BBs is prohibited. Any possession or use of replica/toy guns including, but not limited to, BB guns or cap guns, pellet guns, paintball guns, water guns, "Super Soakers," toy knives, slingshots, or other items that simulate firearms or dangerous weapons is prohibited.
 - (d) Sexual Misconduct.
 1. Sexual misconduct includes dating violence, domestic violence, stalking and sexual assault as defined by University policy.
 2. A student who is a victim of sexual misconduct and who was under the influence of alcohol or drugs during the sexual misconduct incident should not be reluctant to seek assistance for fear of being sanctioned for his/her improper use of alcohol or drugs. The Office of Student Conduct will generally not pursue disciplinary action against the victim (or against a witness) for his/her improper use of alcohol or drugs (e.g., underage drinking) if the victim or witness is making a good faith report of sexual misconduct. Amnesty for improper use of alcohol or drugs will not be accorded to a student charged with sexual misconduct. This practice only applies to amnesty from violations of this rule. It does not grant amnesty for criminal, civil, or legal consequences for violations of federal, state, or local law.

Authority: T.C.A. § 49-8-203 (a)(1)(D); T.C.A. § 49-8-101 (a)(2)(A); T.C.A. § 49-7-123(a)(1).

0240-07-03-.05 Classroom Misconduct is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

0240-07-03-.05 Classroom Misconduct.

- (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 disorderly conduct as defined in Rule 0240-07-03-.04(1)(h), or conduct that violates the general policies of the University 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 University. If an instructor wishes to remove a student from the classroom for a longer period of time or permanently, he/she must refer the student to the Office of Student Conduct.
- (2) The instructor is expected to outline behavioral expectations for each class at the beginning of the academic term and as needed throughout the semester.

Authority: T.C.A. § 49-8-203 (a)(1)(D); T.C.A. § 49-8-101 (a)(2)(A).

0240-07-03-.06 Disciplinary Sanctions is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

0240-07-03-.06 Disciplinary Sanctions.

- (1) A disciplinary sanction is a consequence for being found in violation of University rules and policies. The following disciplinary sanctions are applicable to both students and student organizations. Upon a determination that a student or student organization has violated these rules or the general policies of the University, disciplinary sanctions may be imposed, either singly or in combination, by the appropriate University Official.
- (2) Pursuant to T.C.A. § 49-7-146, the University will notify the parent/guardian of students under the age of twenty-one (21) who have been found responsible for alcohol and/or drug-related violations. In addition, the parent/guardian may be contacted in any instance in which the safety of the student has been threatened either through the student's own behavior or the behavior of others.
- (3) Definition of Sanctions:
 - (a) Restitution. Restitution may be required in situations which involve destruction, damage, loss of property, or unreimbursed medical expenses resulting from physical injury. When restitution is required, the student or student organization is obligated 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, labor, or financial loss.
 - (b) Reprimand. A written or verbal reprimand or notice may be given to any student or student organization whose conduct violates any part of this rule and provides notice that any further violation(s) may result in more serious consequences.
 - (c) Service to the University or Local Community. A student or student organization may be required to donate a specified number of service hours to the University or the local community. All community service hours must be approved by the Office of Student Conduct prior to a student or student organization beginning the service.
 - (d) 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.
 - (e) 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 violation.
 - (f) Fines. Penalties in the form of monetary fines may be imposed against a student or student organization whenever the appropriate University 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 being taken.

- (g) Restriction. A restriction upon a student's or student organization's privileges for a period of time may be imposed. This restriction may include, but not be limited to, denial of the ability to represent the University at any event, ability to participate in University travel, eligibility to hold office in a student organization, use of facilities, parking privileges, participation in extracurricular activities, and/or restriction of organizational privileges.
- (h) Probation. Official notice that the continued enrollment of a student or recognition of a student organization on probation will be conditioned upon adherence to these rules. Any student or student organization placed on probation will be notified in writing of the terms and conditions of the probation. Any conduct in further violation of these rules while on probationary status or the failure to comply with the terms and conditions of the probation may result in the imposition of more severe disciplinary sanctions, specifically suspension or expulsion.
- (i) Housing Probation. Continued residence in campus or student housing may be conditioned upon adherence to these rules, as well as, University housing policies. Any student 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 student, including any other appropriate special condition(s). If a student incurs additional violations during the probationary period, the student may become a candidate for housing suspension.
- (j) Involuntary Housing Reassignment. A student may be involuntarily moved to another housing assignment if necessary.
- (k) Housing Suspension and Forfeiture. Removal from University housing for a specified period of time or permanently. A student suspended from housing may not reside, visit, or make any use whatsoever of a University housing facility or participate in any University housing activity during the period for which the sanction is in effect. A suspended student shall be required to forfeit housing fees (including any unused portion thereof and the Housing Pre-Payment). A suspended student must vacate the housing unit as directed by University staff. This sanction may be enforced with a University Police trespass restriction, if necessary.
- (l) Suspension. Separation of a student or a student organization from the University for a specified period of time. This includes all instructional delivery methods (including, but not limited to, on ground, on-line, distance education, etc.). Suspension may be accompanied by special conditions for readmission or recognition. Any student or student organization receiving a sanction of suspension shall be restricted from the campus of MTSU during the period of separation unless on official business with the University verified in writing by the Dean of Students' office. A suspended student must submit a written request to be on campus to the Dean of Students a minimum of forty-eight (48) hours in advance of the scheduled time of his/her business on campus. The request must specify the specific reason the student seeks to be on campus and the location that the student wishes to visit. The Dean of Students will issue a written decision regarding the request to be on campus, and the student is expected to carry that written decision with him/her during the time of the visit, if the request is approved. Students who have been suspended are not permitted to live or board in University facilities or housing unless otherwise approved or provided by the University. This sanction will be enforced with a University Police trespass restriction, if necessary.
- (m) Expulsion. Permanent separation from the University. The imposition of this sanction is a permanent bar to the student's admission, or a student organization's recognition by the University. A student or student organization that has been expelled may not enter University property or facilities without obtaining prior approval from the Dean of Students. Any student receiving a sanction of expulsion shall be permanently restricted from the campus of MTSU unless on official business with the University verified in writing by the Dean of Students. An expelled student must submit a written request to be on campus to the Dean of Students' office a minimum of forty-eight (48) hours in advance of the scheduled time of his/her business on campus. The request must specify the specific reason the student seeks to be on campus and the location that the student wishes to visit. The Dean of Students will issue a written decision regarding the request to be on campus, and the student is

expected to carry that written decision with him/her during the time of the visit, if the request is approved. Students who have been expelled are not permitted to live or board in University facilities or housing unless otherwise approved or provided by the University. This sanction will be enforced with a University Police trespass restriction, if necessary.

- (n) Revocation of Admission, Degree, or Credential. Under circumstances deemed appropriate, an offer of admission, a degree or a credential awarded may be revoked or rescinded.
- (o) Other Sanctions. Additional or alternate sanctions may be created and designed as deemed appropriate to the offense and the student's or student organization's need for education, growth, and reform.
- (p) Interim Involuntary Withdrawal or Suspension. As a general rule, the status of a student or student organization accused of violation of these rules should not be altered until a final determination has been made in regard to the charges. However, interim involuntary withdrawal or suspension, pending the completion of disciplinary procedures, may be imposed upon a finding by the appropriate University Official that the conduct or attempted conduct of the student or student organization poses a direct threat to the safety of any other member of the University, its guests, or property; or, if the behavior is materially and substantially disruptive of the University's learning environment or other campus activities. Violation of an interim or final "No Contact Directive" or other restriction issued in conjunction with an investigation conducted pursuant to MTSU policy concerning misconduct, discrimination, and harassment based on sex, including pregnancy, sexual orientation, and gender identity/expression may result in temporary discipline up to and including an interim involuntary withdrawal or suspension being imposed on the violating student. In any case of interim involuntary withdrawal or suspension, the student or student organization, shall be given an opportunity at the time of the decision, or as soon thereafter as reasonably possible, to contest the interim involuntary withdrawal or suspension in an interim involuntary withdrawal/suspension hearing. During an interim involuntary withdrawal or suspension, the student or student organization shall be denied access to residence halls, campus (including all classes), and/or all other University activities or privileges for which the student or student organization might otherwise be eligible, as the Dean of Students or designee may determine to be appropriate. A preliminary hearing will be held by a designee of the Dean of Students in consultation with appropriate University Officials and the Vice President for Student Affairs, within four (4) working days of the interim involuntary withdrawal or suspension to determine if the interim involuntary withdrawal or suspension should continue until a formal hearing of the charges by a University adjudicating body can be held. During this preliminary hearing, the student or student organization will be given notice of the allegations supporting the imposition of interim involuntary withdrawal or suspension and a summary of the evidence that supports the allegations. The student or student organization will be afforded an opportunity to respond to the allegations. If the interim involuntary withdrawal or suspension is upheld, the formal hearing concerning withdrawal, suspension, or expulsion shall be held as soon as practical. Conditions may be placed on a student or student organization for his/her/its return to the University. The student or student organization may be required to provide documentation that he/she/it has taken steps to mitigate the previous behavior (e.g., including, but not limited to, having followed a treatment plan, submitted periodic reports, granted permission for the University to talk to the treating professional).
- (q) Temporary Student Organization Cease and Desist. A temporary organizational cease and desist is instituted when the University has received information indicating that the continued activity of the student organization could (1) potentially put students or the community at risk; (2) cause irreparable harm to the University or student organization; (3) influence the integrity of an investigation; and/or (4) increase the student organization's or University's fault or liability. A temporary student organization cease and desist can be issued by the University alone or in conjunction with a national/regional organization cease and desist. The Office of Student Conduct will notify the parent office (i.e. Student Organizations and Service and/or Fraternity and Sorority Life) and the designated student representative that the student organization has been temporarily restricted from conducting business. During the time of the temporary cease and desist, the student organization will be prohibited from conducting organizational business including, but not limited to, organizational meetings, social activities, philanthropic activities, and representation of the University. The cease and desist duration will be determined on a case by case basis.

Authority: T.C.A. § 49-8-203 (a)(1)(D); T.C.A. § 49-8-101 (a)(2)(A); T.C.A. § 49-7-146.

0240-07-03-.07 Student Conduct Hearing Officers and/or Boards is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

0240-07-03-.07 Student Conduct Hearing Officers and/or Boards. Violations under these rules may be heard by the following administrative judge, hearing officers and/or boards:

- (1) The University Official shall conduct all preliminary reviews and disciplinary conferences. These staff members will also conduct investigations as necessary.
- (2) The Student Judicial Board shall consist of nine (9) students. The Board may be convened to hear cases involving alleged violations of University rules committed by students and student organizations. If the student or student organization is found responsible, the Board recommends appropriate disciplinary sanctions to the Dean of Students. This Board may also be convened to hear matters relative to the interpretations of the Student Government Association constitution and any other policies passed by the Senate, as well as cases regarding student parking citations. Information regarding application, selection procedures, qualifications, and vacancies can be found in the Student Government Association constitution.
- (3) The University Discipline Committee consists of eight (8) faculty members and six (6) students. The Committee determines whether or not a student is to be held responsible for violation(s) of these rules. If found responsible, the Committee recommends appropriate disciplinary sanctions to the Vice President for Student Affairs.
- (4) The Student Appeals Committee consists of four (4) faculty members and four (4) students, and hears appeals of disciplinary decisions rendered by the Student Judicial Board and the University Discipline Committee.

Authority: T.C.A. § 49-8-203 (a)(1)(D); T.C.A. § 49-8-101 (a)(2)(A).

0240-07-03-.08 Disciplinary Procedures is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

0240-07-03-.08 Disciplinary Procedures.

- (1) Responsibility for Administration. The administration of discipline is a function of the Dean of Students Office and/or the appropriate adjudicating body with the exception of matters concerning academic misconduct which is a function of the Office of the University Provost and/or the Academic Misconduct Committee. Complaints involving sexual discrimination, sexual harassment, dating violence, domestic violence, or stalking will be investigated pursuant to MTSU policy. If a violation is determined to have occurred, the student or student organization will be subject to the disciplinary process provided in this rule.
- (2) Standard of Proof. The standard of proof utilized in all student disciplinary matters is the preponderance of the evidence. Students should be aware that the student conduct process is different from criminal and civil court proceedings. The student conduct process is built on fundamental fairness. Due process, as defined in this rule, includes written notice of the student conduct rules that are in question and an opportunity to be heard by an objective decision-maker. Students will only be found in violation of the student conduct rules when it is more likely than not that a violation occurred. This is called a preponderance of the evidence. Sanctions will be fundamentally proportional to the severity of the violation, the student's willingness to comply with student conduct rules in the future, and the cumulative conduct history of the student.
- (3) Disciplinary Referral. Reports of behaviors and incidents involving students may be referred for evaluation and possible disciplinary action by the University Police, residence hall staff members, faculty, staff, students, and other members of the University and city community. Referrals should be in writing and should be directed to the Assistant Dean for Student Conduct. A hard copy of a written referral may also

be dropped off at the Office of Student Conduct. Contact information and email and office addresses can be located on the Office of Student Conduct website.

- (4) Preliminary Review. All disciplinary referrals will undergo a preliminary review. The appropriate University Official will review the referral to determine if the possibility exists that a student conduct rule was violated, if additional information is needed prompting an investigation, if immediate action is warranted, and if there are other University entities that need to be put on notice that the behavior has occurred. If the University Official determines that there is a possibility that a student conduct rules violation has occurred and additional information is not needed, he/she will issue a disciplinary charge(s) against the student or student organization. If the University Official determines that additional information is needed, he/she will conduct an investigation. If immediate action is needed, the University Official will consult with the appropriate University Officials such as, but not limited to, the Office of the University Counsel, to determine the best course of action. If other entities need to be informed of the matter, the University Official will consult with the appropriate University Officials to determine the specific information that will be shared about the behavior or incident.
- (5) Notice of Disciplinary Charges and Disciplinary Conference.
 - (a) A disciplinary charge means an allegation of a potential violation of the student conduct rules. The purpose of a disciplinary conference is to determine whether there is a preponderance of the evidence to support the charges, and if so, to determine responsibility and appropriate sanctions. When disciplinary charges are issued to a student or student organization, the Student Conduct office will issue a written notice of the alleged violation(s) and the student's rights, and establish a disciplinary conference meeting date and time for the student or student organization, and assigned University Official. During this disciplinary conference, the student or student organization will be reminded which University policy/policies have allegedly been violated, and the student or student organization will be given an opportunity to explain his/her/its version of the behavior or incident, or to otherwise refute the allegations. Students and student organizations must be notified in writing that they are afforded the following rights in the disciplinary conference:
 1. The right to know what disciplinary violation(s) they have been charged with;
 2. The right to tell their side of the story, present evidence, and request that fact witnesses be permitted to share information on their behalf;
 3. The right to be accompanied by an advisor of their choosing whose participation is limited to advising the student or student organization. The advisor cannot speak on behalf of the student or student organization or represent the student or student organization. The advisor cannot be a student who has been charged with a violation of the student conduct rules related to the same incident for which the meeting has been called;
 4. The right to receive the decision and their imposed sanctions in writing.
 - (b) The University Official will review the incident taking into account all information gathered pertinent to the matter, as well as the information provided by, or on behalf of, the student or student organization. A determination will be made as to whether or not there has been a violation of the student conduct rules and, if so, what the appropriate sanction(s) will be. The University Official may also determine that additional information or follow-up is needed prior to being able to make a determination regarding responsibility for a student conduct rules violation and may delay a decision until such a time that the needed information is acquired. The University Official can also refer the matter to the University Discipline Committee, if the case is particularly complex or the student or student organization would be best served by having a committee review the case.
 - (c) If the student or student organization alleged to have engaged in misconduct does not respond after having been provided notice of the disciplinary conference, the University Official will make a determination as to responsibility for the conduct violation based on the information gathered to that point and will impose a sanction as deemed appropriate.

(6) Hearing Options. The majority of student disciplinary cases are resolved at the Disciplinary Conference level when the student or student organization accepts responsibility for the violation and the recommended sanction(s). However, if this does not occur, the matter may proceed to a hearing. If the recommended sanction is suspension, expulsion or revocation of recognition of the student organization, the student or student organization has two (2) choices regarding resolution of the disciplinary case. The first choice is to request a hearing before the University Discipline Committee. The second choice is to request a hearing pursuant to the Uniform Administrative Procedures Act (UAPA). The University Official will explain the two (2) choices, and the student or student organization will indicate his/her/its selection in writing. Once the selection is made, the student or student organization cannot elect another option or revert back to the original decision rendered by the University Official. In addition, the Office of Student Conduct can refer a matter to a hearing when the case is unusually complex and/or problematic.

(a) Student Judicial Board (SJB) and University Discipline Committee (UDC) hearings.

1. The SJB and UDC will hear student disciplinary cases when requested by a student or student organization, or when referred by the Office of Student Conduct. The SJB and UDC makes its recommendation(s) to the Dean of Students or Vice President for Student Affairs, respectively. The Dean of Students and Vice President can uphold the recommendation(s), reverse the recommendation(s), or send the recommendation(s) back to the SJB or UDC for reconsideration of the sanctions only.
2. The Office of Student Conduct has the responsibility for scheduling SJB and UDC hearings, including the selection of date, time, and location as well as providing information to the student or student organization about the hearing format and process. The student or student organization will be notified of the hearing schedule a minimum of four (4) business days in advance of the actual hearing date. These hearings are closed to the public unless all parties agree, in writing, to an open hearing.
3. Students and student organizations are afforded the rights guaranteed in the Disciplinary Conference (see Rule 0240-07-03-.08 (5)(a)) as well as the following additional rights, which shall be provided in writing:
 - (i) The right to receive notice of the date, time, and place of the hearing at least four (4) business days in advance of the hearing;
 - (ii) The right to receive a list of the witnesses the University expects to present at the proceeding and those the University may present if the need arises;
 - (iii) The right to request a copy of the University's investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974, (20 U.S.C. § 1232(g), and the federal regulations implementing that statute, as amended;
 - (iv) The right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence the University has in its possession, custody or control and may use to support claims or defenses, unless the use would be solely for impeachment;
 - (v) The right to be accompanied by more than one (1) advisor at the discretion of the adjudicating body and the Office of Student Conduct. The advisor(s) cannot be another student who has been charged with a violation of the student conduct rules related to the same incident as the student. The student may choose to be advised by legal counsel; however, legal counsel's participation shall be limited to directly advising the student. Legal counsel cannot engage in direct or cross-examination, make opening or closing statements, or engage in argument;
 - (vi) The right to call witnesses on his/her/its behalf. It is the student or student organization's responsibility to contact his/her/its witnesses and inform them of the hearing unless the witness is also a University witness. University witnesses are contacted by the Office of Student Conduct;
 - (vii) The right to question witnesses;

(viii) The right to be informed of an appeal option, if applicable.

(b) Uniform Administrative Procedures Act.

1. All cases which may result in: (a) suspension or expulsion of a student from the University for disciplinary reasons; or, (b) revocation of the registration of a student organization, are subject to the contested case provisions of the Uniform Administrative Procedures Act (UAPA), T.C.A. § 4-5-301, et. seq., and shall be processed in accordance with the Uniform Contested Case procedures unless the student or student organization waives those procedures and chooses to have the case disposed of administratively in a disciplinary conference or by going before the University Discipline Committee. If the student/student organization wishes to pursue the case administratively or through the UDC, he/she/it must waive the right to a UAPA hearing in writing. Prior to making this decision, the University Official assigned to the matter will explain the differences between the hearing options and will provide to the student/student organization a document setting out the student/student organization's rights as are found in Rule 0240-07-03-.08 (E)(F).
2. In all cases involving a hearing under the UAPA contested case provisions, the President or designee shall determine, based upon the nature of the case, whether the hearing shall be before an administrative judge or a hearing officer alone or a Hearing Committee presided over by an administrative judge or a hearing officer. The President is responsible for appointing an administrative judge, a hearing officer and/or hearing committee at the request of the Office of Student Conduct. The Office of Student Conduct has the responsibility for working with the Office of the University Counsel to schedule UAPA hearings including the selection of date, time, and location as well as assisting in the scheduling of any necessary preliminary meetings.
3. The case will proceed pursuant to University policy and the UAPA.

(7) Separation of Functions

- (a) A person who has served as an investigator, University Official or advocate in a student disciplinary matter may not serve as an administrative judge or hearing officer, or assist or advise an administrative judge or hearing officer in the same proceeding.
- (b) A person who is subject to the supervision, direction or discretion of one who has served as investigator, University Official or advocate in a student disciplinary matter may not serve as an administrative judge or hearing officer or assist, or advise an administrative judge or hearing officer in the same proceeding.
- (c) A person may serve as an administrative judge or hearing officer at successive stages of the same disciplinary matter, unless a party demonstrates grounds for disqualifications in accordance with T.C.A. § 4-5-302.
- (d) A University Official may serve on the hearing committee, or as an administrative judge or hearing officer in the UAPA hearing where authorized by law and not subject to disqualification or other cause provided in T.C.A. Title 4, Chapter 5.
- (e) Nothing in this Rule prohibits an attorney for the University from providing legal advice to multiple University employees who serve in different roles in the process of disciplining a student.

(8) Interim Involuntary Withdrawal or Suspension Hearings.

- (a) Hearings conducted with regard to interim involuntary withdrawals or suspensions imposed prior to or pending the outcome of a disciplinary investigation or proceeding shall be conducted consistent with the minimum requirements of due process applicable to a UDC hearing, taking into account the need for a timely hearing. The evidence presented at the hearing shall be limited to that which is relevant to the basis asserted for imposition of the interim involuntary withdrawal or suspension. The following special conditions apply to involuntary withdrawal/suspension hearings:

1. The University shall conduct an assessment to consider the nature, duration, severity, and probability of the threat posed and/or disruption caused by the student or student organization, relying on the best available objective evidence and, if applicable and obtainable, the most current medical evidence;
 2. Failure of the student or representative of a student organization to appear for or cooperate with a mandated assessment will result in an involuntary withdrawal without further process;
 3. The University shall also determine whether reasonable modifications of its policies, practices, or procedures could sufficiently mitigate the identified risk;
 4. Absent exigent circumstances creating an imminent risk of harm, the University will make the decision to involuntarily withdraw or suspend based on the threat the student or student organization poses to others;
- (b) If exigent circumstances warrant the immediate removal of a student or student organization from the University, the student or student organization will receive, at a minimum, notice and an initial opportunity to present evidence immediately after being placed on the interim involuntary withdrawal or suspension, and the opportunity to initiate full due process within thirty (30) days of the removal.

(9) Appeals

- (a) Eligibility. A student who has been suspended or expelled from the University, or a student organization whose recognition has been revoked as the result of disciplinary action has the right to file an appeal. Students or student organizations subject to disciplinary action that does not include suspension or expulsion from the University, or revocation of recognition of the student organization do not have an appeals option.
- (b) It is the responsibility of the adjudicating body to inform the student or student organization of the right to appeal and to whom the appeal should be presented. It is not the function of the appeals process to permit a rehearing of the factual issues presented to the adjudicating body, but rather to ensure that the disciplinary procedure has been implemented fairly and consistently with these rules.
- (c) For UAPA decisions, the appeal procedures are set forth in University policy and the UAPA.
- (d) UDC decisions.
1. Time Limitations. An appeal must be submitted in writing and received by the Dean of Students within forty-eight (48) hours of the date on which notice was sent to the student or student organization as provided at 0240-07-03-.02(4) of this rule that the approving authority has affirmed the suspension or expulsion.
 2. Grounds for Appeal. The appeal must specify grounds which would justify consideration. The written appeal must contain the substantive proof on which the student or student organization is basing the appeal. Appeals that do not include the specific information that substantiates the appeal will be immediately denied. General dissatisfaction with the outcome of the decision shall not be accorded as a basis for consideration of an appeal. An appeal may be filed based on one (1) or both of the following conditions:
 - (i) an error in procedural due process by the adjudicating body which prejudiced the disciplined student or student organization to the extent that a fundamentally fair hearing was denied as a result of the error;
 - (ii) the emergence of new evidence which could not have been previously discovered by the exercise of due diligence and which, had it been presented at the initial hearing, would have substantially affected the original decision of the adjudicating body.

3. The Dean of Students will review the written appeal to determine if the appellant has met the requirements for filing an appeal. Appeals which do not allege sufficient grounds shall be denied consideration and dismissed. Appeals which do allege sufficient grounds will be accepted for consideration and forwarded to the appellate body. The appellate body shall not conduct a re-hearing, but will consider only the record made by the adjudicating body. The appellate body may, at its own discretion, permit written or oral statements from the concerned parties in interest at the time the appeal is considered. The alternatives available to the appellate body are affirmation of the recommended sanction, reversal of the decision, and return to the original adjudicating body for reconsideration of sanctions only.
- (10) Effect of Noncooperation. A student who fails to respond to a notice of disciplinary charges and disciplinary conference within the time frame specified will have a hold placed on his/her records. The hold will be removed at such time as the sanction imposed has been completed and the matter closed. In the event a student or student organization fails to cooperate, ignores, or otherwise does not respond after a reasonable amount of time to a notice of a Disciplinary Conference, he/she/it will be deemed to have waived the opportunity for a hearing. Decisions concerning responsibility and the imposition of sanctions may be made in the student's absence.
 - (11) Retention of Records. Disciplinary records are maintained by the Office of Student Conduct. A permanent disciplinary file will be maintained if a student is suspended or expelled from the University. Files developed in cases in which a lesser sanction has been imposed will be retained for a period of five (5) years after date of action unless sanctions specify that they should be retained for a longer period. Files developed in cases that are covered under the Clery Act will be retained for a period of seven (7) years after the date of action per federal requirements. Files developed in cases where a student is found not responsible for student conduct rules violations will be maintained for statistical purposes; however, the record will not be reportable as an official disciplinary record in that student's name.

Authority: T.C.A. § 49-8-203 (a)(1)(D); T.C.A. § 49-8-101 (a)(2)(A); T.C.A. § 4-5-301, et. seq.

0240-07-03-.09 Alternative Resolution of Disciplinary Incidents is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

0240-07-03-.09 Alternative Resolution of Disciplinary Incidents.

- (1) Mediation. Students involved in conflict(s) with another individual(s) may elect to have the conflict(s) mediated with the assistance of a third party mediator assigned by the appropriate University Official. The Office of Student Conduct must agree that mediation is an appropriate resolution to the presenting disciplinary incident. The following conditions must be accepted by the parties:
 - (a) All parties involved must willingly agree to the mediation process;
 - (b) The resolution that results from the mediation process will be written, signed by all parties, and will bind the parties to the agreed terms until such terms are completed or an alternative agreement is developed by the parties;
 - (c) The agreement reached through mediation is not subject to any appeals process;
 - (d) If the agreement is not upheld, the parties may be referred back to the Office of Student Conduct for appropriate disciplinary action to be taken;
 - (e) If no form of resolution can be determined by mutual consent, the matter will be referred to the appropriate student conduct body.
- (2) Informal Agreement. There may be times when it is appropriate for a student to come to an informal agreement with the University regarding his/her behavior and attempts to correct the behavior. The Office of Student Conduct will make these determinations on a case by case basis. An informal agreement can only be initiated by the Student Conduct Coordinator, Assistant Dean for Student Conduct, and/or the Dean of Students.

Authority: T.C.A. § 49-8-203 (a)(1)(D); T.C.A. § 49-8-101 (a)(2)(A).

0240-07-03-.10 Victim's Rights is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

0240-07-03-.10 Victim's Rights.

- (1) Generally, a victim's input shall be sought during the disciplinary process; however, the right and responsibility for disposition of any individual complaint is reserved by the University. If a victim withdraws his/her/its complaint or refuses to offer testimony during the course of a disciplinary proceeding, the University reserves the right to proceed without his/her/its input.
- (2) Victims of sexual misconduct, sexual harassment, dating violence, domestic violence, and stalking are guaranteed specific rights within University policies. These victims are afforded the following rights:
 - (a) The victim shall be advised in writing of the date, time, and place of the hearing at least five (5) business days in advance of the hearing;
 - (b) The victim shall be given the opportunity to meet with the appropriate University Official to discuss the disciplinary process;
 - (c) The victim shall be given an opportunity to submit a written account of the alleged incident;
 - (d) The victim shall have the right to be accompanied at all stages of the disciplinary process by an advisor whose participation shall be limited to advising the victim. The advisor cannot be a student who has been charged with a violation of the student conduct rules related to the same incident as the victim or a student who has an open complaint against the victim. The victim may also be accompanied by legal counsel; however, counsel's participation shall be limited to directly advising the victim, i.e., legal counsel may not conduct direct or cross-examination, make opening or closing statements, or engage in argument. The victim may be accompanied by more than one (1) advisor at the discretion of the adjudicating officer or body. The intent of the victim to be accompanied by an advisor shall be indicated in writing to the student conduct coordinator at least five (5) days prior to the disciplinary hearing;
 - (e) The victim shall be afforded an opportunity to testify as a witness during a disciplinary hearing;
 - (f) The victim may reserve the right to decline to testify during a disciplinary hearing with the knowledge that such action could result in dismissal of allegations of University rules violations for lack of evidence;
 - (g) The victim shall be allowed to submit a written victim impact statement to the adjudicating body for their consideration during the sanction phase of the disciplinary process.

Authority: T.C.A. § 49-8-203 (a)(1)(D); T.C.A. § 49-8-101 (a)(2)(A).

0240-07-03-.11 Authority of the President is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

0240-07-03-.11 Authority of the President. The President of the University retains final authority on all University matters, including disciplinary decisions. Therefore, any disciplinary action is subject to final review by the President. At his/her discretion, the President may determine 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 (a)(1)(D); T.C.A. § 49-8-101 (a)(2)(A).

* 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)
Andy Adams					
J.B. Baker					
Pete DeLay					
Darrell Freeman, Sr.					
Joey Jacobs					
Christine Karbowiak					
Stephen B. Smith					
Pamela Wright					
Tony Johnston					

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Board on _____, 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 ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: _____

Signature: _____

Name of Officer: Heidi Zimmerman

Title of Officer: University Counsel

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

Agency/Board/Commission: Middle Tennessee State University

Rule Chapter Number(s): Chapter 0240-07-03 Student Conduct

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.

Herbert H. Slatery III
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

This rule is not anticipated to have an impact on small businesses.

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://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule is not anticipated to have an impact on local government.

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;

In 2016, Middle Tennessee State University (MTSU) initiated a comprehensive review of the Student Conduct policy. This review was initiated due to the separation of MTSU from the Tennessee Board of Regents system. MTSU is in the process of establishing rules for necessary key areas.

This rule describes the expectations for student conduct and the disciplinary sanctions that MTSU may impose through the disciplinary procedures outlined in this rule.

- (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. 4-5-102(12)(E)(ii)-the definition of "rule" under the UAPA includes agency statements that relate to discipline of students.

- (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;

Students of MTSU are most directly affected by this rule. A policy that mirrors the proposed rule was reviewed and approved by the FOCUS Act Transition Team. The Transition Team included student, staff, and faculty representatives. The faculty, staff and students of MTSU urge adoption of these rules.

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

None

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

Heidi Zimmerman, MTSU University Counsel and Sarah Sudak, MTSU Dean of Students

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

Heidi Zimmerman, MTSU University Counsel and Sarah Sudak, MTSU Dean of Students

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

Heidi Zimmerman, MTSU University Counsel 1301 E. Main Street, CAB 209 Murfreesboro, TN 37132 615-898-2025 heidi.zimmerman@mtsu.edu	Sarah Sudak 1301 E. Main St. Murfreesboro, TN 37132 615-898-5297 sarah.sudak@mtsu.edu
--	---

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

--

**Department of State
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: _____
Rule ID(s): _____
File Date: _____
Effective Date: _____

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 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 ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Middle Tennessee State University
Division:	
Contact Person:	Heidi Zimmerman, University Counsel
Address:	1301 E. Main Street, CAB 209, Murfreesboro, TN
Zip:	37132
Phone:	615-898-2025
Email:	Heidi.zimmerman@mtsu.edu

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0240-07-03	Student Conduct
Rule Number	Rule Title
0240-07-03-.01	Purpose
0240-07-03-.02	Definitions
0240-07-03-.03	Responsibility and Jurisdiction
0240-07-03-.04	Student Conduct Rules: Values and Behavioral Expectations
0240-07-03-.05	Classroom Misconduct
0240-07-03-.06	Disciplinary Sanctions
0240-07-03-.07	Student Conduct Hearing Officers and/or Boards
0240-07-03-.08	Disciplinary Procedures
0240-07-03-.09	Alternative Resolution of Disciplinary Incidents
0240-07-03-.10	Victim's Rights
0240-07-03-.11	Authority of the President

SS-7038 (June 2016)

1

RDA 1693

Rules
of
Middle Tennessee State University, Murfreesboro
Chapter 0240-07-03
Student Conduct

New

Table of Contents is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

Table of Contents

0240-07-03.01 Purpose
0240-07-03.02 Definitions
0240-07-03.03 Responsibility and Jurisdiction
0240-07-03.04 Student Conduct Rules: Values and Behavioral Expectations
0240-07-03.05 Classroom Misconduct
0240-07-03.06 Disciplinary Sanctions
0240-07-03.07 Student Conduct Hearing Officers and/or Boards
0240-07-03.08 Disciplinary Procedures
0240-07-03.09 Alternative Resolution of Disciplinary Incidents
0240-07-03.10 Victim's Rights
0240-07-03.11 Authority of the President

0240-07-03-.01 Purpose is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

0240-07-03-.01 Purpose.

- (1) Middle Tennessee State University (MTSU or University) is committed to fostering a campus environment that is devoted to learning, growth, and service. We accept and practice the core values of honesty and integrity, respect for diversity, positive engagement in the community, and commitment to non-violence. The Office of Student Conduct was created to uphold these values, educate the community about behavioral expectations, and hold members of the student community accountable to these rules and expectations.
- (2) Student members of the University community are expected to uphold and abide by standards of conduct that form the basis of these rules. Each member of the University community bears responsibility for their conduct. When community members fail to exemplify and uphold these standards of conduct, student conduct procedures are used to assert and uphold these standards.
- (3) The student conduct process at MTSU exists to protect the interests of the University community and the individual student while striking a balance between these two interests. Students and student organizations that do not act in accordance with MTSU rules and expectations will be challenged and may be sanctioned accordingly. Sanctions are designed to assist students and student organizations in achieving acceptable standards of behavior while providing tools and resources for life-long learning and conflict resolution.
- (4) The University is committed to respecting students' constitutional rights. These rules shall be interpreted in a way that does not violate students' constitutional rights, including, without limitation, the rights protected by the First Amendment to the United States Constitution.

Authority: T.C.A. § 49-8-203 (a)(1)(D); T.C.A. § 49-8-101 (a)(2)(A).

0240-07-03-.02 Definitions is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

0240-07-03-.02 Definitions.

- (1) Student. For the purposes of these rules, a student shall mean any person who is admitted and/or registered for study at MTSU for any academic period, either full-time or part-time, undergraduate,

SS-7038 (June 2016)

2

RDA 1693

graduate, or professional studies. 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 University. Finally, a 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 these rules. In summary, the University considers a person a student when an offer of admission has been extended and thereafter as long as the student has a continuing educational interest in the University.

- (2) Student organization. For the purposes of these rules, a student organization is a group consisting primarily of currently enrolled students which has become officially recognized by the University following successful completion of the registration process.
- (3) University Official(s). For the purposes of these rules, a University Official is an administrator within the Office of Student Conduct, specifically, the Assistant Dean for Student Conduct and/or the Student Conduct Coordinator.
- (4) Notice. For the purposes of these rules, a notice is a written communication sent to a student or student organization as directed by these rules. A notice provided to a student will be sent via the student's official MTSU email account as well as a hard copy letter sent via first class USPS mail to the student's local address as indicated in the student information system. A notice sent to a student organization will be sent to the organization's president at that student's MTSU email address and his/her local address. Students have the responsibility to regularly check their University-issued email accounts and to ensure that the local address on file with MTSU is current. The requirement to provide notice will be satisfied when sent as indicated and any period for response will begin on the date the email and/or letter is sent, whichever is sent first.

Authority: T.C.A. § 49-8-203 (a)(1)(D); T.C.A. § 49-8-101 (a)(2)(A).

0240-07-03-.03 Responsibility and Jurisdiction is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

0240-07-03-.03 Responsibility and Jurisdiction.

- (1) The President of MTSU is authorized to take such action as may be necessary to maintain campus conditions and to preserve the integrity of the University and its educational environment. The President has determined that the responsibility for the administration of student conduct at MTSU is a function of the Dean of Students' office and/or the appropriate adjudicating body. The Dean of Students' designees are the University Officials as defined in this rule at 0240-07-03-.02(3). The University Officials are authorized to make the determination and/or recommendation of the method of hearing for each complaint or allegation and to provide other opportunities for conflict resolution outside of the conduct process consistent with these rules. The University Officials shall implement policies and procedures for the administration of the student conduct program.
- (2) Matters concerning academic misconduct are the responsibility of the Office of the University Provost and/or the University Academic Misconduct Committee. This process is set out in detail in University policy.
- (3) Students and student organizations are responsible for compliance with University rules and policies at all times. 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.
- (4) Disciplinary action may be taken against a student or student organization for violations of these rules which occur on University 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 University activity or the mission, processes, and functions of the University. MTSU may also take disciplinary action for any off-campus behavior that affects a substantial University interest. A substantial University interest is defined to include:

- (a) Any situation where a student's conduct may present a danger or threat to the health or safety of others;
 - (b) Any situation that significantly impinges upon the rights, property, or achievements of others;
 - (c) Any situation that is detrimental to the educational mission and/or interests of the University.
- (5) MTSU may enforce these rules regardless of the status or outcome of any external proceedings instituted in any other forum, including any civil or criminal proceeding. Should a student withdraw from the University with University disciplinary action pending, the student's record may be encumbered by the appropriate University office until the proceedings have been concluded. The University may take action even if a student is absent from the proceeding.
- (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 "education records" and are confidential within the meaning of those Acts.

Authority: T.C.A. § 49-8-203 (a)(1)(D); T.C.A. § 49-8-101 (a)(2)(A); T.C.A. § 10-7-504(a)(4).

0240-07-03-.04 Student Conduct Rules: Values and Behavioral Expectations is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

0240-07-03-.04 Student Conduct Rules. Values and Behavioral Expectations. MTSU has adopted the following Community Standards of conduct. Each person who joins or affiliates with the University community does so freely and is expected to abide by these Community Standards. Following each Community Standard is a non-exclusive list of prohibited behaviors for which both students and student organizations may be subject to disciplinary action if such prohibited behavior is engaged in. These prohibited behaviors are considered inappropriate and in opposition to the Community Standards and expectations set forth by MTSU.

- (1) Community Standard: MTSU is committed to developing and nurturing a community devoted to learning, growth, and service. Behavior by students or student organizations including, but not limited to, the following, may be considered as being in violation of this Community Standard.

- (a) Alcoholic Beverages.

The use and/or possession of alcoholic beverages on University owned or controlled property. This offense includes the violation of any local ordinance, state, or federal law concerning alcoholic beverages, on or off University owned or controlled property, where an affiliated group or organization has alcoholic beverages present and available for consumption. It will not be considered a violation of this rule if a student of legal drinking age possesses or consumes alcohol purchased from a third-party vendor during approved events taking place at a sports authority facility so long as the beverage is consumed within the sports authority facility. It will also not be considered a violation of this policy if a student of legal drinking age possesses or consumes alcohol provided at an event approved by the President to serve alcoholic beverages so long as the beverage is consumed within the confines of the designated area of the event.

Deleted: .

- 1. A student who is under the influence of alcohol should not be reluctant to seek assistance in the event of a health or safety emergency for fear of being sanctioned. The Office of Student Conduct will generally not pursue disciplinary action against a student (or against a witness) for his/her improper use of alcohol (e.g., underage drinking) under that circumstance. This practice only applies to amnesty from violations of this rule. It does not grant amnesty for criminal, civil, or legal consequences for violations of federal, state, or local law.

- (b) Drugs.

- 1. 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:

- (i) the violation of any local ordinance, state, or federal law concerning the unlawful possession or use of drugs, on or off University owned or controlled property;
 - (ii) abusing legally obtained drugs by failing to take the drug as prescribed/directed and/or providing the prescribed drug to another person;
 - (iii) using a prescription drug that has not been prescribed to the individual.
2. Any reasonable suspicion of drug use or possession including, but not limited to, the odor of burnt or raw marijuana, physical characteristics of impairment, and/or possession of any paraphernalia that can be used for drug consumption may lead to an investigation and possible violation of this rule.
 3. A student who is under the influence of drugs should not be reluctant to seek assistance in the event of a health or safety emergency for fear of being sanctioned. The Office of Student Conduct will generally not pursue disciplinary action against a student (or against a witness) for his/her improper possession or use of drugs under that circumstance. This practice only applies to amnesty from violations of this rule. It does not grant amnesty for criminal, civil, or legal consequences for violations of federal, state, or local law.
- (c) 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, but is not limited to, the violation of any local ordinance, state, or federal law concerning the unlawful possession of drug paraphernalia, on or off University owned or controlled property.
- (d) Public Intoxication.
1. Appearing on University owned or controlled property or at a University sponsored event while under the influence of a controlled substance or of any other intoxicating substance to the degree that the individual may be endangered; there is endangerment to other persons or property; or, the individual unreasonably annoys people in the vicinity.
 2. A student who is under the influence of alcohol or drugs should not be reluctant to seek assistance in the event of a health or safety emergency for fear of being sanctioned. The Office of Student Conduct will generally not pursue disciplinary action against a student (or against a witness) for his/her improper use of alcohol (e.g., underage drinking) under that circumstance. This practice only applies to amnesty from violations of this rule. It does not grant amnesty for criminal, civil, or legal consequences for violations of federal, state, or local law.
- (e) 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.
- (f) Violation of General Policies. Any violation of the general policies or procedures of the University as published in an official University publication or posted on an official University web page or social media page.
- (g) Violation 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.
- (h) Disorderly Conduct. Any behavior that unreasonably disrupts the academic environment (e.g., including, but not limited to, that which interferes with teaching, classroom operations, research, etc.) or unreasonably interferes with operations, events, or programs on University owned or controlled property, or during a University event. This includes, but is not limited to, unauthorized use of sirens, loudspeakers, and other sound amplification equipment.
- (i) 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

Deleted:

not limited to, any personal or University property, fire alarms, fire equipment, elevators, telephones, University keys, library materials, and/or safety devices.

- (j) Obstruction of or Interference with University Activities or Facilities. Any intentional interference with, or obstruction of, any University program, event, or facility including, but not limited to, the following:
 - 1. Any unauthorized occupancy of facilities owned or controlled by the University or blockage of access to or from such facilities;
 - 2. Interference with the right of any University member or other authorized person to gain access to any activity, program, event, or facilities sponsored or controlled by the University;
 - 3. Any obstruction or delay of a campus security officer, public safety officer, police officer, firefighter, EMT, or any official of the University, or failure to comply with any emergency directive issued by such person in the performance of his/her duty;
 - 4. Participation in, or inciting others to participate in, activities that substantially impede University operations;
 - 5. Interference of either: (1) the instructor's ability to conduct class; or (2) the ability of other students to participate in and profit from instructional activity; or,
 - 6. Obstruction of the free flow of pedestrian or vehicular traffic on University owned or controlled property, or at a University event.
- (k) Unacceptable Conduct in Disciplinary Proceedings. Any conduct at any stage of a University disciplinary process or investigation that is contemptuous, disrespectful, threatening, or disorderly. This includes, but is not limited to, false complaints, retaliation, providing false 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.
- (l) Unauthorized Access to University Facilities and/or Grounds. Any unauthorized access and/or occupancy of University 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, or being present in academic buildings after hours without permission.
- (m) Pornography or Obscenity. Public display [on property owned, leased or controlled by the University](#) of literature, films, pictures, or other materials which an average person applying contemporary community standards would find taken as a whole, appeals to the prurient interest; depicts or describes sexual conduct in a patently offensive way; and taken as a whole, lacks serious literary, artistic, political, or scientific value.
- (n) Student Identification Cards. Failure to possess at all times a valid student identification card or an alternate ID that will prove student status; or, failure to surrender ID card to a University Official upon proper request.
- (o) Gambling. Unlawful gambling in any form.
- (p) 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 University.
- (q) Litter. Dispersing litter in any form onto the grounds or facilities of the [University](#).

Deleted: campus

- (r) Sirens and Loudspeakers. Unauthorized use of sirens, loudspeakers, and other sound amplification equipment.
 - (s) Graffiti. Damage or defacement of MTSU property by painting, chalking, writing, stenciling, or by any other means of application on such property.
- (2) Community Standard: Honesty and Integrity. The notions of personal and academic honesty and integrity are central to the existence of the MTSU community. All members of the community will strive to achieve and maintain the highest standards of academic achievement in the classroom, and personal and social responsibility on and off campus. Behavior by students or student organizations including, but not limited to, the following, may be considered as being in violation of this Community Standard.
- (a) Theft, Misappropriation, or Unauthorized Sale of Property. Any act of theft, misappropriation, or unauthorized possession or sale of University property, or any such act against a member of the University community or a guest of the University, including identity theft.
 - (b) Failure to Cooperate with University Officials. Failure to comply with directions or directives of University Officials acting in the performance of their duties.
 - (c) Providing False Information. Giving any false information to, or withholding necessary information from, any University Official acting in the performance of his/her duties in connection with a student's admission, enrollment, or status in the University.
 - (d) Misuse of Documents or Identification Cards. Any forgery, alteration of, or unauthorized use of University documents, forms, records, or identification cards including, but not limited to, the giving of any false information, or withholding of necessary information, in connection with a student's admission, enrollment, or status in the University.
 - (e) Financial Irresponsibility. Failure to meet financial responsibilities to the University promptly including, but not limited to, knowingly passing a worthless check or money order in payment to the University.
 - (f) Violation of Imposed Disciplinary Sanctions. Intentional or unintentional violation of a disciplinary sanction officially imposed by a University Official or a constituted body of the University.
 - (g) 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 restrooms, and storing, sharing, and/or distributing of such unauthorized images by any means.
 - (h) Unauthorized Duplication or Possession of Keys. Making, causing to be made, or the possession of any key for a University facility without proper authorization.
 - (i) Fire Drills. Failure to evacuate University facilities or willfully disregarding any emergency or fire alarm signal.
- (3) Community Standard: Respect for Diversity. The MTSU community is composed of individuals representing different races, ethnicities, sexual orientations, cultures, and ways of thinking. We respect individual differences and perspectives and acknowledge our commonalities. Behavior by students or student organizations including, but not limited to, the following, may be considered as being in violation of this Community Standard.
- (a) Harassment or Retaliation. Any act against another person or group in violation of MTSU policies, as well as federal and/or state laws prohibiting discrimination or retaliation.
 - (b) Retaliation also includes, in this context, an act intended or reasonably likely to dissuade a person from participating in the student disciplinary process or pursuing a complaint about a violation of MTSU policies, as well as, state or federal law.

(4) Community Standard: Commitment to Non-violence. MTSU is committed to the principles of nonviolence and peaceful conflict resolution. Community members will freely express their ideas and resolve differences using reason and persuasion. Behavior by students or student organizations including, but not limited to, the following, may be considered as being in violation of this Community Standard.

- (a) Threatening or Dangerous Conduct. Any conduct, or attempted conduct, which poses a threat to the safety of others or when the behavior is disruptive of the University's learning environment.
- (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) Firearms and Other Dangerous Weapons. Except as may otherwise be permitted by law, the possession or use of firearms, explosives, fireworks, inflammables, dangerous chemical mixtures, and/or dangerous weapons of any kind including, but not limited to, knives, tasers, asp batons, tactical or telescoping batons, brass knuckles, whips, BB guns, pellet guns, propelled missiles, and/or stun guns is prohibited. The possession or use of ammunition, which includes, but is not limited to, bullets, paint balls, pellets, and BBs is prohibited. Any possession or use of replica/toy guns including, but not limited to, BB guns or cap guns, pellet guns, paintball guns, water guns, "Super Soakers," toy knives, slingshots, or other items that simulate firearms or dangerous weapons is prohibited.
- (d) Sexual Misconduct.
 - 1. Sexual misconduct includes dating violence, domestic violence, stalking and sexual assault as defined by MTSU policy.
 - 2. A student who is a victim of sexual misconduct and who was under the influence of alcohol or drugs during the sexual misconduct incident should not be reluctant to seek assistance for fear of being sanctioned for his/her improper use of alcohol or drugs. The Office of Student Conduct will generally not pursue disciplinary action against the victim (or against a witness) for his/her improper use of alcohol or drugs (e.g., underage drinking) if the victim or witness is making a good faith report of sexual misconduct. Amnesty for improper use of alcohol or drugs will not be accorded to a student charged with sexual misconduct. This practice only applies to amnesty from violations of this rule. It does not grant amnesty for criminal, civil, or legal consequences for violations of federal, state, or local law.

Authority: T.C.A. § 49-8-203 (a)(1)(D); T.C.A. § 49-8-101 (a)(2)(A); T.C.A. § 49-7-123(a)(1).

0240-07-03-.05 Classroom Misconduct is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

0240-07-03-.05 Classroom Misconduct.

- (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 disorderly conduct as defined in Rule 0240-07-03-.04(1)(h), or conduct that violates the general policies of the University 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 University. If an instructor wishes to remove a student from the classroom for a longer period of time or permanently, he/she must refer the student to the Office of Student Conduct.
- (2) The instructor is expected to outline behavioral expectations for each class at the beginning of the [academic term](#) and as needed throughout the semester.

Deleted: semester

Authority: T.C.A. § 49-8-203 (a)(1)(D); T.C.A. § 49-8-101 (a)(2)(A).

0240-07-03-.06 Disciplinary Sanctions is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

0240-07-03-.06 Disciplinary Sanctions.

- (1) A disciplinary sanction is a consequence for being found in violation of University rules and policies. The following disciplinary sanctions are applicable to both students and student organizations. Upon a determination that a student or student organization has violated these rules or the general policies of the University, disciplinary sanctions may be imposed, either singly or in combination, by the appropriate University Official.
- (2) Pursuant to T.C.A. § 49-7-146, the University will notify the parent/guardian of students under the age of twenty-one (21) who have been found responsible for alcohol and/or drug-related violations. In addition, the parent/guardian may be contacted in any instance in which the safety of the student has been threatened either through the student's own behavior or the behavior of others.
- (3) Definition of Sanctions:
 - (a) Restitution. Restitution may be required in situations which involve destruction, damage, loss of property, or unreimbursed medical expenses resulting from physical injury. When restitution is required, the student or student organization is obligated 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, labor, or financial loss.
 - (b) Reprimand. A written or verbal reprimand or notice may be given to any student or student organization whose conduct violates any part of this rule and provides notice that any further violation(s) may result in more serious consequences.
 - (c) Service to the University or Local Community. A student or student organization may be required to donate a specified number of service hours to the University or the local community. All community service hours must be approved by the Office of Student Conduct prior to a student or student organization beginning the service.
 - (d) 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.
 - (e) 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 violation.
 - (f) Fines. Penalties in the form of monetary fines may be imposed against a student or student organization whenever the appropriate University 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 being taken.
 - (g) Restriction. A restriction upon a student's or student organization's privileges for a period of time may be imposed. This restriction may include, but not be limited to, denial of the ability to represent the University at any event, ability to participate in University travel, eligibility to hold office in a student organization, use of facilities, parking privileges, participation in extracurricular activities, and/or restriction of organizational privileges.
 - (h) Probation. Official notice that the continued enrollment of a student or recognition of a student organization on probation will be conditioned upon adherence to these rules. Any student or student organization placed on probation will be notified in writing of the terms and conditions of the probation. Any conduct in further violation of these rules while on probationary status or the failure to comply with the terms and conditions of the probation may result in the imposition of more severe disciplinary sanctions, specifically suspension or expulsion.

- (i) Housing Probation. Continued residence in campus or student housing may be conditioned upon adherence to these rules, as well as, University housing policies. Any student 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 student, including any other appropriate special condition(s). If a student incurs additional violations during the probationary period, the student may become a candidate for housing suspension.
- (j) Involuntary Housing Reassignment. A student may be involuntarily moved to another housing assignment if necessary.
- (k) Housing Suspension and Forfeiture. Removal from University housing for a specified period of time or permanently. A student suspended from housing may not reside, visit, or make any use whatsoever of a University housing facility or participate in any University housing activity during the period for which the sanction is in effect. A suspended student shall be required to forfeit housing fees (including any unused portion thereof and the Housing Pre-Payment). A suspended student must vacate the housing unit as directed by University staff. This sanction may be enforced with a University Police trespass restriction, if necessary.
- (l) Suspension. Separation of a student or a student organization from the University for a specified period of time. This includes all instructional delivery methods (including, but not limited to, on ground, on-line, distance education, etc.). Suspension may be accompanied by special conditions for readmission or recognition. Any student or student organization receiving a sanction of suspension shall be restricted from the campus of MTSU during the period of separation unless on official business with the University verified in writing by the Dean of Students' office. A suspended student must submit a written request to be on campus to the Dean of Students a minimum of forty-eight (48) hours in advance of the scheduled time of his/her business on campus. The request must specify the specific reason the student seeks to be on campus and the location that the student wishes to visit. The Dean of Students will issue a written decision regarding the request to be on campus, and the student is expected to carry that written decision with him/her during the time of the visit, if the request is approved. Students who have been suspended are not permitted to live or board in University facilities or housing unless otherwise approved or provided by the University. This sanction will be enforced with a University Police trespass restriction, if necessary.
- (m) Expulsion. Permanent separation from the University. The imposition of this sanction is a permanent bar to the student's admission, or a student organization's recognition by the University. A student or student organization that has been expelled may not enter University property or facilities without obtaining prior approval from the Dean of Students. Any student receiving a sanction of expulsion shall be permanently restricted from the campus of MTSU unless on official business with the University verified in writing by the Dean of Students. An expelled student must submit a written request to be on campus to the Dean of Students' office a minimum of forty-eight (48) hours in advance of the scheduled time of his/her business on campus. The request must specify the specific reason the student seeks to be on campus and the location that the student wishes to visit. The Dean of Students will issue a written decision regarding the request to be on campus, and the student is expected to carry that written decision with him/her during the time of the visit, if the request is approved. Students who have been expelled are not permitted to live or board in University facilities or housing unless otherwise approved or provided by the University. This sanction will be enforced with a University Police trespass restriction, if necessary.
- (n) Revocation of Admission, Degree, or Credential. Under circumstances deemed appropriate, an offer of admission, a degree or a credential awarded may be revoked or rescinded.
- (o) Other Sanctions. Additional or alternate sanctions may be created and designed as deemed appropriate to the offense and the student's or student organization's need for education, growth, and reform.
- (p) Interim Involuntary Withdrawal or Suspension. As a general rule, the status of a student or student organization accused of violation of these rules should not be altered until a final determination has been made in regard to the charges. However, interim involuntary withdrawal or suspension, pending the completion of disciplinary procedures, may be imposed upon a finding by the appropriate University Official that the conduct or attempted conduct of the student or student organization poses

a direct threat to the safety of any other member of the University, its guests, or property; or, if the behavior is materially and substantially disruptive of the University's learning environment or other campus activities. [Violation of an interim or final "No Contact Directive" or other restriction issued in conjunction with an investigation conducted pursuant to MTSU policy concerning misconduct, discrimination, and harassment based on sex, including pregnancy, sexual orientation, and gender identity/expression may result in temporary discipline up to and including an interim involuntary withdrawal or suspension being imposed on the violating student.](#) In any case of interim involuntary withdrawal or suspension, the student or student organization, shall be given an opportunity at the time of the decision, or as soon thereafter as reasonably possible, to contest the interim involuntary withdrawal or suspension in an interim involuntary withdrawal/suspension hearing. During an interim involuntary withdrawal or suspension, the student or student organization shall be denied access to residence halls, campus (including all classes), and/or all other University activities or privileges for which the student or student organization might otherwise be eligible, as the Dean of Students or designee may determine to be appropriate. A preliminary hearing will be held by a designee of the Dean of Students in consultation with appropriate University Officials and the Vice President for Student Affairs, within four (4) working days of the interim involuntary withdrawal or suspension to determine if the interim involuntary withdrawal or suspension should continue until a formal hearing of the charges by a University adjudicating body can be held. During this preliminary hearing, the student or student organization will be given notice of the allegations supporting the imposition of interim involuntary withdrawal or suspension and a summary of the evidence that supports the allegations. The student or student organization will be afforded an opportunity to respond to the allegations. If the interim involuntary withdrawal or suspension is upheld, the formal hearing concerning withdrawal, suspension, or expulsion shall be held as soon as practical. Conditions may be placed on a student or student organization for his/her/its return to the University. The student or student organization may be required to provide documentation that he/she/it has taken steps to mitigate the previous behavior (e.g., including, but not limited to, having followed a treatment plan, submitted periodic reports, granted permission for the University to talk to the treating professional).

- (q) Temporary Student Organization Cease and Desist. A temporary organizational cease and desist is instituted when the University has received information indicating that the continued activity of the student organization could (1) potentially put students or the community at risk; (2) cause irreparable harm to the University or student organization; (3) influence the integrity of an investigation; and/or (4) increase the student organization's or University's fault or liability. A temporary student organization cease and desist can be issued by the University alone or in conjunction with a national/regional organization cease and desist. The Office of Student Conduct will notify the parent office (i.e. Student Organizations and Service and/or Fraternity and Sorority Life) and the designated student representative that the student organization has been temporarily restricted from conducting business. During the time of the temporary cease and desist, the student organization will be prohibited from conducting organizational business including, but not limited to, organizational meetings, social activities, philanthropic activities, and representation of the University. The cease and desist duration will be determined on a case by case basis.

Authority: T.C.A. § 49-8-203 (a)(1)(D); T.C.A. § 49-8-101 (a)(2)(A); T.C.A. § 49-7-146.

0240-07-03-.07 Student Conduct Hearing Officers and/or Boards is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

0240-07-03-.07 Student Conduct Hearing Officers and/or Boards. Violations under these rules may be heard by the following [administrative judge](#), hearing officers and/or boards:

- (1) The University Official shall conduct all preliminary reviews and disciplinary conferences. These staff members will also conduct investigations as necessary.
- (2) The Student Judicial Board shall consist of nine (9) students. The Board may be convened to hear cases involving alleged violations of University rules committed by students and student organizations. If the student or student organization is found responsible, the Board recommends appropriate disciplinary sanctions to the Dean of Students. This Board may also be convened to hear matters relative to the interpretations of the Student Government Association constitution and any other policies passed by the Senate, as well as cases regarding student parking citations. Information regarding application, selection

procedures, qualifications, and vacancies can be found in the Student Government Association constitution.

- (3) The University Discipline Committee consists of eight (8) faculty members and six (6) students. The Committee determines whether or not a student is to be held responsible for violation(s) of these rules. If found responsible, the Committee recommends appropriate disciplinary sanctions to the Vice President for Student Affairs.
- (4) The Student Appeals Committee consists of four (4) faculty members and four (4) students, and hears appeals of disciplinary decisions rendered by the Student Judicial Board and the University Discipline Committee.

Authority: T.C.A. § 49-8-203 (a)(1)(D); T.C.A. § 49-8-101 (a)(2)(A).

0240-07-03-.08 Disciplinary Procedures is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

0240-07-03-.08 Disciplinary Procedures.

- (1) Responsibility for Administration. The administration of discipline is a function of the Dean of Students Office and/or the appropriate adjudicating body with the exception of matters concerning academic misconduct which is a function of the Office of the University Provost and/or the Academic Misconduct Committee. Complaints involving sexual discrimination, sexual harassment, dating violence, domestic violence, or stalking will be investigated pursuant to MTSU policy. If a violation is determined to have occurred, the student will be subject to the disciplinary process provided in this rule.
- (2) Standard of Proof. The standard of proof utilized in all student disciplinary matters is the preponderance of the evidence. Students should be aware that the student conduct process is different from criminal and civil court proceedings. The student conduct process is built on fundamental fairness. Due process, as defined in this rule, includes written notice of the student conduct rules that are in question and an opportunity to be heard by an objective decision-maker. Students will only be found in violation of the student conduct rules when it is more likely than not that a violation occurred. This is called a preponderance of the evidence. Sanctions will be fundamentally proportional to the severity of the violation, the student's willingness to comply with student conduct rules in the future, and the cumulative conduct history of the student.
- (3) Disciplinary Referral. Reports of behaviors and incidents involving students may be referred for evaluation and possible disciplinary action by the University Police, residence hall staff members, faculty, staff, students, and other members of the University and city community. Referrals should be in writing and should be directed to the Assistant Dean for Student Conduct. A hard copy of a written referral may also be dropped off at the Office of Student Conduct. Contact information and email and office addresses can be located on the Office of Student Conduct website.
- (4) Preliminary Review. All disciplinary referrals will undergo a preliminary review. The appropriate University Official will review the referral to determine if the possibility exists that a student conduct rule was violated, if additional information is needed prompting an investigation, if immediate action is warranted, and if there are other University entities that need to be put on notice that the behavior has occurred. If the University Official determines that there is a possibility that a student conduct rules violation has occurred and additional information is not needed, he/she will issue a disciplinary charge(s) against the student or student organization. If the University Official determines that additional information is needed, he/she will conduct an investigation. If immediate action is needed, the University Official will consult with the appropriate University Officials such as, but not limited to, the Office of the University Counsel, to determine the best course of action. If other entities need to be informed of the matter, the University Official will consult with the appropriate University Officials to determine the specific information that will be shared about the behavior or incident.
- (5) Notice of Disciplinary Charges and Disciplinary Conference.
 - (a) A disciplinary charge means an allegation of a potential violation of the student conduct rules. The purpose of a disciplinary conference is to determine whether there is a preponderance of the

SS-7038 (June 2016)

12

RDA 1693

evidence to support the charges, and if so, to determine responsibility and appropriate sanctions. When disciplinary charges are issued to a student or student organization, the Student Conduct office will issue a written notice of the alleged violation(s) and the student's rights, and establish a disciplinary conference meeting date and time for the student or student organization, and assigned University Official. During this disciplinary conference, the student or student organization will be reminded which University rule(s) have allegedly been violated, and the student or student organization will be given an opportunity to explain his/her/its version of the behavior or incident, or to otherwise refute the allegations. Students and student organizations must be notified in writing that they are afforded the following rights in the disciplinary conference:

1. The right to know what disciplinary violation(s) they have been charged with;
 2. The right to tell their side of the story, present evidence, and request that fact witnesses be permitted to share information on their behalf;
 3. The right to be accompanied by an advisor of their choosing whose participation is limited to advising the student or student organization. The advisor cannot speak on behalf of the student or student organization or represent the student or student organization. The advisor cannot be a student who has been charged with a violation of the student conduct rules related to the same incident for which the meeting has been called;
 4. The right to receive the decision and their imposed sanctions in writing.
- (b) The University Official will review the incident taking into account all information gathered pertinent to the matter, as well as the information provided by, or on behalf of, the student or student organization. A determination will be made as to whether or not there has been a violation of the student conduct rules and, if so, what the appropriate sanction(s) will be. The University Official may also determine that additional information or follow-up is needed prior to being able to make a determination regarding responsibility for a student conduct rules violation and may delay a decision until such a time that the needed information is acquired. The University Official can also refer the matter to the University Discipline Committee, if the case is particularly complex or the student or student organization would be best served by having a committee review the case.
- (c) If the student or student organization alleged to have engaged in misconduct does not respond after having been provided notice of the disciplinary conference, the University Official will make a determination as to responsibility for the conduct violation based on the information gathered to that point and will impose a sanction as deemed appropriate.
- (6) Hearing Options. The majority of student disciplinary cases are resolved at the Disciplinary Conference level when the student or student organization accepts responsibility for the violation and the recommended sanction(s). However, if this does not occur, the matter may proceed to a hearing. If the recommended sanction is suspension, expulsion or revocation of recognition of the student organization, the student or student organization has two (2) choices regarding resolution of the disciplinary case. The first choice is to request a hearing before the University Discipline Committee. The second choice is to request a hearing pursuant to the Uniform Administrative Procedures Act (UAPA). The University Official will explain the two (2) choices, and the student or student organization will indicate his/her/its selection in writing. Once the selection is made, the student or student organization cannot elect another option or revert back to the original decision rendered by the University Official. In addition, the Office of Student Conduct can refer a matter to a hearing when the case is unusually complex and/or problematic.
- (a) Student Judicial Board (SJB) and University Discipline Committee (UDC) hearings.
1. The SJB and UDC will hear student disciplinary cases when requested by a student or student organization, or when referred by the Office of Student Conduct. The SJB and UDC makes its recommendation(s) to the Dean of Students or Vice President for Student Affairs, respectively. The Dean of Students and Vice President can uphold the recommendation(s), reverse the recommendation(s), or send the recommendation(s) back to the SJB or UDC for reconsideration of the sanctions only.

Deleted: The University Official will explain the sanctions and options for case resolution.

2. The Office of Student Conduct has the responsibility for scheduling SJB and UDC hearings, including the selection of date, time, and location as well as providing information to the student or student organization about the hearing format and process. The student or student organization will be notified of the hearing schedule a minimum of four (4) business days in advance of the actual hearing date. These hearings are closed to the public unless all parties agree, in writing, to an open hearing.
3. Students and student organizations are afforded the rights guaranteed in the Disciplinary Conference ([see Rule 0240-07-03-.08 \(5\)\(a\)](#)) as well as the following additional rights, which shall be provided in writing:
 - (i) The right to receive notice of the date, time, and place of the hearing at least four (4) business days in advance of the hearing;
 - (ii) The right to receive a list of the witnesses the University expects to present at the proceeding and those the University may present if the need arises;
 - (iii) The right to request a copy of the University's investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974, (20 U.S.C. § 1232(g), and the federal regulations implementing that statute, as amended;
 - (iv) The right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence the University has in its possession, custody or control and may use to support claims or defenses, unless the use would be solely for impeachment;
 - (v) The right to be accompanied by more than one (1) advisor at the discretion of the adjudicating body and the Office of Student Conduct. The advisor(s) cannot be another student who has been charged with a violation of the student conduct rules related to the same incident as the student. The student may choose to be advised by legal counsel; however, legal counsel's participation shall be limited to directly advising the student. Legal counsel cannot engage in direct or cross-examination, make opening or closing statements, or engage in argument;
 - (vi) The right to call witnesses on his/her/its behalf. It is the student or student organization's responsibility to contact his/her/its witnesses and inform them of the hearing unless the witness is also a University witness. University witnesses are contacted by the Office of Student Conduct;
 - (vii) The right to question witnesses;
 - (viii) The right to be informed of an appeal option, if applicable.

Deleted: ii

Deleted: iii

Deleted: i

(b) Uniform Administrative Procedures Act.

1. All cases which may result in: (a) suspension or expulsion of a student from the University for disciplinary reasons; or, (b) revocation of the registration of a student organization, are subject to the contested case provisions of the Uniform Administrative Procedures Act (UAPA), T.C.A. § 4-5-301, et. seq., and shall be processed in accordance with the Uniform Contested Case procedures unless the student or student organization waives those procedures and chooses to have the case disposed of administratively in a disciplinary conference or by going before the University Discipline Committee. If the student/[student organization](#) wishes to pursue the case administratively or through the UDC, he/she/[it](#) must waive the right to a UAPA hearing in writing. Prior to making this decision, the University Official assigned to the matter will explain the differences between the hearing options and will provide to the student/student organization a document setting out the student/student organization's rights as are found in Rule 0240-07-03-.08 (E)(F).
2. In all cases involving a hearing under the UAPA contested case provisions, the President or designee shall determine, based upon the nature of the case, whether the hearing shall be before [an administrative judge or a hearing officer alone](#) or a Hearing Committee presided over by [an administrative judge or a hearing officer](#). The President is responsible for appointing [an](#)

administrative judge, a hearing officer and/or hearing committee at the request of the Office of Student Conduct. The Office of Student Conduct has the responsibility for working with the Office of the University Counsel to schedule UAPA hearings including the selection of date, time, and location as well as assisting in the scheduling of any necessary preliminary meetings.

3. The case will proceed pursuant to University policy and the UAPA.

(7) Separation of Functions

- (a) A person who has served as an investigator, University Official or advocate in a student disciplinary matter may not serve as an administrative judge or hearing officer, or assist or advise an administrative judge or hearing officer in the same proceeding.
- (b) A person who is subject to the supervision, direction or discretion of one who has served as investigator, University Official or advocate in a student disciplinary matter may not serve as an administrative judge or hearing officer or assist, or advise an administrative judge or hearing officer in the same proceeding.
- (c) A person may serve as an administrative judge or hearing officer at successive stages of the same disciplinary matter, unless a party demonstrates grounds for disqualifications in accordance with T.C.A. § 4-5-302.
- (d) A University Official may serve on the hearing committee, or as an administrative judge or hearing officer in the UAPA hearing where authorized by law and not subject to disqualification or other cause provided in T.C.A. Title 4, Chapter 5.
- (e) Nothing in this Rule prohibits an attorney for the University from providing legal advice to multiple University employees who serve in different roles in the process of disciplining a student.

(8) Interim Involuntary Withdrawal or Suspension Hearings.

Deleted: 7

- (a) Hearings conducted with regard to interim involuntary withdrawals or suspensions imposed prior to or pending the outcome of a disciplinary investigation or proceeding shall be conducted consistent with the minimum requirements of due process applicable to a UDC hearing, taking into account the need for a timely hearing. The evidence presented at the hearing shall be limited to that which is relevant to the basis asserted for imposition of the interim involuntary withdrawal or suspension. The following special conditions apply to involuntary withdrawal/suspension hearings:
 - 1. The University shall conduct an assessment to consider the nature, duration, severity, and probability of the threat posed and/or disruption caused by the student or student organization, relying on the best available objective evidence and, if applicable and obtainable, the most current medical evidence;
 - 2. Failure of the student or representative of a student organization to appear for or cooperate with a mandated assessment will result in an involuntary withdrawal without further process;
 - 3. The University shall also determine whether reasonable modifications of its policies, practices, or procedures could sufficiently mitigate the identified risk;
 - 4. Absent exigent circumstances creating an imminent risk of harm, the University will make the decision to involuntarily withdraw or suspend based on the threat the student or student organization poses to others;
- (b) If exigent circumstances warrant the immediate removal of a student or student organization from the University, the student or student organization will receive, at a minimum, notice and an initial opportunity to present evidence immediately after being placed on the interim involuntary withdrawal or suspension, and the opportunity to initiate full due process within thirty (30) days of the removal.

(9) Appeals

Deleted: 8

- (a) Eligibility. A student who has been suspended or expelled from the University, or a student organization whose recognition has been revoked as the result of disciplinary action has the right to file an appeal. Students or student organizations subject to disciplinary action that does not include suspension or expulsion from the University, or revocation of recognition of the student organization do not have an appeals option.
- (b) It is the responsibility of the adjudicating body to inform the student or student organization of the right to appeal and to whom the appeal should be presented. It is not the function of the appeals process to permit a rehearing of the factual issues presented to the adjudicating body, but rather to ensure that the disciplinary procedure has been implemented fairly and consistently with these rules.
- (c) For UAPA decisions, the appeal procedures are set forth in University policy and the UAPA.
- (d) UDC decisions.
 - 1. Time Limitations. An appeal must be submitted in writing and received by the Dean of Students within forty-eight (48) hours of the date on which notice was sent to the student or student organization as provided at 0240-07-03-.02(4) of this rule that the approving authority has affirmed the suspension or expulsion.
 - 2. Grounds for Appeal. The appeal must specify grounds which would justify consideration. The written appeal must contain the substantive proof on which the student or student organization is basing the appeal. Appeals that do not include the specific information that substantiates the appeal will be immediately denied. General dissatisfaction with the outcome of the decision shall not be accorded as a basis for consideration of an appeal. An appeal may be filed based on one (1) or both of the following conditions:
 - (i) an error in procedural due process by the adjudicating body which prejudiced the disciplined student or student organization to the extent that a fundamentally fair hearing was denied as a result of the error;
 - (ii) the emergence of new evidence which could not have been previously discovered by the exercise of due diligence and which, had it been presented at the initial hearing, would have substantially affected the original decision of the adjudicating body.
 - 3. The Dean of Students will review the written appeal to determine if the appellant has met the requirements for filing an appeal. Appeals which do not allege sufficient grounds shall be denied consideration and dismissed. Appeals which do allege sufficient grounds will be accepted for consideration and forwarded to the appellate body. The appellate body shall not conduct a re-hearing, but will consider only the record made by the adjudicating body. The appellate body may, at its own discretion, permit written or oral statements from the concerned parties in interest at the time the appeal is considered. The alternatives available to the appellate body are affirmation of the recommended sanction, reversal of the decision, and return to the original adjudicating body for reconsideration of sanctions only.

(10) Effect of Noncooperation. A student who fails to respond to a notice of disciplinary charges and disciplinary conference within the time frame specified will have a hold placed on his/her records. The hold will be removed at such time as the sanction imposed has been completed and the matter closed. In the event a student or student organization fails to cooperate, ignores, or otherwise does not respond after a reasonable amount of time to a notice of a Disciplinary Conference, he/she/it will be deemed to have waived the opportunity for a hearing. Decisions concerning responsibility and the imposition of sanctions may be made in the student's absence.

Deleted: 9

(11) Retention of Records. Disciplinary records are maintained by the Office of Student Conduct. A permanent disciplinary file will be maintained if a student is suspended or expelled from the University. Files developed in cases in which a lesser sanction has been imposed will be retained for a period of five (5) years after date of action unless sanctions specify that they should be retained for a longer period. Files developed in cases that are covered under the Clery Act will be retained for a period of seven (7) years after the date of action per federal requirements. Files developed in cases where a student is found

Deleted: 0

not responsible for student conduct rules violations will be maintained for statistical purposes; however, the record will not be reportable as an official disciplinary record in that student's name.

Authority: T.C.A. § 49-8-203 (a)(1)(D); T.C.A. § 49-8-101 (a)(2)(A); T.C.A. § 4-5-301, et. seq.

0240-07-03-.09 Alternative Resolution of Disciplinary Incidents is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

0240-07-03-.09 Alternative Resolution of Disciplinary Incidents.

- (1) Mediation. Students involved in conflict(s) with another individual(s) may elect to have the conflict(s) mediated with the assistance of a third party mediator assigned by the appropriate University Official. The Office of Student Conduct must agree that mediation is an appropriate resolution to the presenting disciplinary incident. The following conditions must be accepted by the parties:
 - (a) All parties involved must willingly agree to the mediation process;
 - (b) The resolution that results from the mediation process will be written, signed by all parties, and will bind the parties to the agreed terms until such terms are completed or an alternative agreement is developed by the parties;
 - (c) The agreement reached through mediation is not subject to any appeals process;
 - (d) If the agreement is not upheld, the parties may be referred back to the Office of Student Conduct for appropriate disciplinary action to be taken;
 - (e) If no form of resolution can be determined by mutual consent, the matter will be referred to the appropriate student conduct body.
- (2) Informal Agreement. There may be times when it is appropriate for a student to come to an informal agreement with the University regarding his/her behavior and attempts to correct the behavior. The Office of Student Conduct will make these determinations on a case by case basis. An informal agreement can only be initiated by the Student Conduct Coordinator, Assistant Dean for Student Conduct, and/or the Dean of Students.

Authority: T.C.A. § 49-8-203 (a)(1)(D); T.C.A. § 49-8-101 (a)(2)(A).

0240-07-03-.10 Victim's Rights is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

0240-07-03-.10 Victim's Rights.

- (1) Generally, a victim's input shall be sought during the disciplinary process; however, the right and responsibility for disposition of any individual complaint is reserved by the University. If a victim withdraws his/her/its complaint or refuses to offer testimony during the course of a disciplinary proceeding, the University reserves the right to proceed without his/her/its input.
- (2) Victims of sexual misconduct, sexual harassment, dating violence, domestic violence, and stalking are guaranteed specific rights within University policies. These victims are afforded the following rights:
 - (a) The victim shall be advised in writing of the date, time, and place of the hearing at least five (5) business days in advance of the hearing;
 - (b) The victim shall be given the opportunity to meet with the appropriate University Official to discuss the disciplinary process;
 - (c) The victim shall be given an opportunity to submit a written account of the alleged incident;
 - (d) The victim shall have the right to be accompanied at all stages of the disciplinary process by an advisor whose participation shall be limited to advising the victim. The advisor cannot be a student who has been charged with a violation of the student conduct rules related to the same incident as

the victim or a student who has an open complaint against the victim. The victim may also be accompanied by legal counsel; however, counsel's participation shall be limited to directly advising the victim, i.e., legal counsel may not conduct direct or cross-examination, make opening or closing statements, or engage in argument. The victim may be accompanied by more than one (1) advisor at the discretion of the adjudicating officer or body. The intent of the victim to be accompanied by an advisor shall be indicated in writing to the student conduct coordinator at least five (5) days prior to the disciplinary hearing;

- (e) The victim shall be afforded an opportunity to testify as a witness during a disciplinary hearing;
- (f) The victim may reserve the right to decline to testify during a disciplinary hearing with the knowledge that such action could result in dismissal of allegations of University rules violations for lack of evidence;
- (g) The victim shall be allowed to submit a written victim impact statement to the adjudicating body for their consideration during the sanction phase of the disciplinary process.

Authority: T.C.A. § 49-8-203 (a)(1)(D); T.C.A. § 49-8-101 (a)(2)(A).

0240-07-03-.11 Authority of the President is added to Chapter 0240-07-03 Student Conduct and shall read as follows:

0240-07-03-.11 Authority of the President. The President of the University retains final authority on all University matters, including disciplinary decisions. Therefore, any disciplinary action is subject to final review by the President. At his/her discretion, the President may determine 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 (a)(1)(D); T.C.A. § 49-8-101 (a)(2)(A).

* 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)
Andy Adams					
J.B. Baker					
Pete DeLay					
Darrell Freeman, Sr.					
Joey Jacobs					
Christine Karbowiak					
Stephen B. Smith					
Pamela Wright					
Tony Johnston					

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Board on 3/27/2018, 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 ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: _____

Signature: _____

Name of Officer: Heidi Zimmerman

Title of Officer: University Counsel

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

Agency/Board/Commission: Middle Tennessee State University

Rule Chapter Number(s): Chapter 0240-07-03 Student Conduct

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.

Herbert H. Slatery III
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The rule is not anticipated to have an impact on small businesses.

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)

This rule is not anticipated to have an impact on local government.

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;

In 2016, Middle Tennessee State University (MTSU) initiated a comprehensive review of the Student Conduct policy. This review was initiated due to the separation of MTSU from the Tennessee Board of Regents system. MTSU is in the process of establishing rules for necessary key areas.

This rule describes the expectations for student conduct and the disciplinary sanctions that MTSU may impose through the disciplinary procedures outlined in this rule.

- (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. 4-5-102(12)(E)(ii)-the definition of "rule" under the UAPA includes agency statements that relate to discipline of students.

- (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;

Students of MTSU are most directly affected by this rule. A policy that mirrors the proposed rule was reviewed and approved by the FOCUS Act Transition Team. The Transition Team included student, staff, and faculty representatives. The faculty, staff and students of MTSU urge adoption of these rules.

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

None

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

Heidi Zimmerman, MTSU University Counsel and Sarah Sudak, MTSU Dean of Students

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

Heidi Zimmerman, MTSU University Counsel and Sarah Sudak, MTSU Dean of Students

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

SS-7038 (June 2016)

23

RDA 1693

Heidi Zimmerman, MTSU University Counsel
1301 E. Main Street, CAB 209
Murfreesboro, TN 37132
615-898-2025
heidi.zimmerman@mtsu.edu

Sarah Sudak
1301 E. Main St.
Murfreesboro, TN 37132
615-898-5297
sarah.sudak@mtsu.edu

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



540 Student Conduct

Approved by Board of Trustees

Effective Date: _____, 2018

Responsible Division: Student Affairs

Responsible Office: Dean of Students' Office

Responsible Officer: Dean of Students

I. Purpose

- A. Middle Tennessee State University (MTSU or University) is committed to fostering a campus environment that is devoted to learning, growth, and service. We accept and practice the core values of honesty and integrity, respect for diversity, positive engagement in the community, and commitment to non-violence. The Office of Student Conduct was created to uphold these values, educate the community about behavioral expectations, and hold members of the student community accountable to these rules and expectations.
- B. Student members of the university community are expected to uphold and abide by standards of conduct that form the basis of our Student Conduct Rules. Each member of the University community bears responsibility for their conduct. When community members fail to exemplify and uphold these standards of conduct, student conduct procedures are used to assert and uphold these standards.
- C. The student conduct process at MTSU exists to protect the interests of the University community and the individual student while striking a balance between these two interests. Students and student organizations that do not act in accordance with MTSU rules and expectations will be challenged and may be sanctioned accordingly. Sanctions are designed to assist students and student organizations in achieving acceptable standards of behavior while providing tools and resources for life-long learning and conflict resolution.
- D. The University is committed to respecting students' constitutional rights. This policy shall be interpreted in a way that does not violate students' constitutional rights including, without limitation, the rights protected by the First Amendment to the United States Constitution.

II. Definitions

- A. Student. For the purposes of this policy, a student shall mean any person who is admitted and/or registered for study at MTSU for any academic period, either full-time or part-time, undergraduate, graduate, or professional studies. 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 University. Finally, a 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 this policy. In summary, the University considers a person a student when an offer of admission has been extended and thereafter as long as the student has a continuing educational interest in the University.
- B. Student organization. For the purposes of this policy, a student organization is a group consisting primarily of currently enrolled students which has become officially recognized by the University following successful completion of the registration process.
- C. University Official(s). For the purposes of this policy, a University Official is an administrator within the Office of Student Conduct, specifically, the Assistant Dean for Student Conduct and/or the Student Conduct Coordinator.
- D. Notice. For the purposes of this policy, a notice is a written communication sent to a student or student organization as directed by this policy. A notice provided to a student will be sent via the student's official MTSU email account as well as a hard copy letter sent via first class USPS mail to the student's local address as indicated in the student information system. A notice sent to a student organization will be sent to the organization's president at that student's MTSU email address and his/her local address. Students have the responsibility to regularly check their University-issued email accounts and to ensure that the local address on file with MTSU is current. The requirement to provide notice will be satisfied when sent as indicated and any period for response will begin on the date the email and/or letter is sent, whichever is sent first.

III. Responsibility and Jurisdiction

- A. The President of MTSU is authorized to take such action as may be necessary to maintain campus conditions and to preserve the integrity of the University and its educational environment. The President has determined that the responsibility for the administration of student conduct at MTSU is a function of the Dean of Students' office and/or the appropriate adjudicating body. The Dean of Students' designees are University Officials as defined above. The University Officials are authorized to make the determination and/or recommendation of the method of hearing for each complaint or allegation and to provide other opportunities for conflict resolution outside of the

conduct process consistent with this policy. The University Officials shall implement policies and procedures for the administration of the student conduct program.

- B. Matters concerning academic misconduct are the responsibility of the Office of the University Provost and/or the University Academic Misconduct Committee. This process is set out in detail in [Policy 312 Academic Misconduct](#).
- C. Students and student organizations are responsible for compliance with University rules and policies at all times. 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.
- D. Disciplinary action may be taken against a student or student organization for violations of this policy which occur on University 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 University activity or the mission, processes, and functions of the University. MTSU may also take disciplinary action for any off-campus behavior that affects a substantial University interest. A substantial University interest is defined to include:
 1. Any situation where a student's conduct may present a danger or threat to the health or safety of others;
 2. Any situation that significantly impinges upon the rights, property, or achievements of others;
 3. Any situation that is detrimental to the educational mission and/or interests of the University.
- E. MTSU may enforce its policy regardless of the status or outcome of any external proceedings instituted in any other forum, including any civil or criminal proceeding. Should a student withdraw from the University with University disciplinary action pending, the student's record may be encumbered by the appropriate University office until the proceedings have been concluded. The University may take action even if a student is absent from the proceeding.
- F. 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 "education records" and are confidential within the meaning of those Acts.

IV. Student Conduct Rules: Values and Behavioral Expectations

MTSU has adopted the following Community Standards of conduct. Each person who joins or affiliates with the University community does so freely and is expected to abide by these Community Standards. Following each Community Standard is a non-exclusive list of prohibited behaviors for which both students and student organizations may be subject to disciplinary action if such prohibited behavior is engaged in. These prohibited behaviors are considered inappropriate and in opposition to the community standards and expectations set forth by MTSU.

- A. Community Standard: MTSU is committed to developing and nurturing a community devoted to learning, growth, and service. Behavior by students or student organizations including, but not limited to, the following, may be considered as being in violation of this Community Standard.

1. Alcoholic Beverages.

- a. The use and/or possession of alcoholic beverages on University owned or controlled property. This offense includes the violation of any local ordinance, state, or federal law concerning alcoholic beverages, on or off University owned or controlled property, where an affiliated group or organization has alcoholic beverages present and available for consumption. It will not be considered a violation of this policy if a student of legal drinking age possesses or consumes alcohol purchased from a third-party vendor during approved events taking place at a sports authority facility so long as the beverage is consumed within the sports authority facility. It will also not be considered a violation of this policy if a student of legal drinking age possesses or consumes alcohol provided at an event approved by the President to serve alcoholic beverages so long as the beverage is consumed within the confines of the designated area of the event. See Policy 755 Alcoholic Beverages.
- b. A student who is under the influence of alcohol should not be reluctant to seek assistance in the event of a health or safety emergency for fear of being sanctioned. The Office of Student Conduct will generally not pursue disciplinary action against a student (or against a witness) for his/her improper use of alcohol (e.g., underage drinking) under that circumstance. This practice only applies to amnesty from violations of this policy. It does not grant amnesty for criminal, civil, or legal consequences for violations of federal, state, or local law.

2. Drugs.

- a. 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:

- (1) the violation of any local ordinance, state, or federal law concerning the unlawful possession or use of drugs, on or off University owned or controlled property;
 - (2) abusing legally obtained drugs by failing to take the drug as prescribed/directed and/or providing the prescribed drug to another person;
 - (3) using a prescription drug that has not been prescribed to the individual.
- b. Any reasonable suspicion of drug use or possession including, but not limited to, the odor of burnt or raw marijuana, physical characteristics of impairment, and/or possession of any paraphernalia that can be used for drug consumption may lead to an investigation and possible violation of this policy.
 - c. A student who is under the influence of drugs should not be reluctant to seek assistance in the event of a health or safety emergency for fear of being sanctioned. The Office of Student Conduct will generally not pursue disciplinary action against a student (or against a witness) for his/her improper possession or use of drugs under that circumstance. This practice only applies to amnesty from violations of this policy. It does not grant amnesty for criminal, civil, or legal consequences for violations of federal, state, or local law.
3. 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, but is not limited to, the violation of any local ordinance, state, or federal law concerning the unlawful possession of drug paraphernalia, on or off University owned or controlled property.
4. Public Intoxication.
 - a. Appearing on University owned or controlled property or at a University sponsored event while under the influence of a controlled substance or of any other intoxicating substance to the degree that the individual may be endangered; there is endangerment to other persons or property; or, the individual unreasonably annoys people in the vicinity.
 - b. A student who is under the influence of alcohol or drugs should not be reluctant to seek assistance in the event of a health or safety emergency for fear of being sanctioned. The Office of Student Conduct will generally not pursue disciplinary action against a student (or against a witness) for his/her improper use of alcohol (e.g., underage drinking) under that circumstance. This practice only applies to amnesty from violations of this policy. It does not grant amnesty for criminal, civil, or legal consequences for violations of federal, state, or local law.

5. Explosives, Fireworks, and Flammable Materials. The unauthorized possession, ignition, or detonation of any object or article which could 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.
6. Violation of General Policies. Any violation of the general policies or procedures of the University as published in an official University publication or posted on an official University web page or social media page. These policies include, but are not limited to, the following:

[Policy 100 Use of Campus Property and Facilities Scheduling](#)

[Policy 312 Academic Misconduct](#)

[Policy 541 Residential Life and Housing Rules](#)

[Policy 750 Tobacco-Free Campus](#)

[Policy 775 Traffic, Parking, and Safety Enforcement](#)

[Policy 910 Information Technology Resources](#)

7. Violation 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.
8. Disorderly Conduct. Any behavior that unreasonably disrupts the academic environment (e.g., including, but not limited to, that which interferes with teaching, classroom operations, research, etc.) or unreasonably interferes with operations, events or programs on University owned or controlled property, or during a University event. This includes, but is not limited to, unauthorized use of sirens, loudspeakers, and other sound amplification equipment.
9. 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 or University property, fire alarms, fire equipment, elevators, telephones, University keys, library materials, and/or safety devices.
10. Obstruction of or Interference with University Activities or Facilities. Any intentional interference with or obstruction of any University program, event, or facility including, but not limited to, the following:
 - a. Any unauthorized occupancy of facilities owned or controlled by the University or blockage of access to or from such facilities;
 - b. Interference with the right of any University member or other authorized person to gain access to any activity, program, event, or facilities sponsored or controlled by the University;

- c. Any obstruction or delay of a campus security officer, public safety officer, police officer, firefighter, EMT, or any official of the University, or failure to comply with any emergency directive issued by such person in the performance of his/her duty;
 - d. Participation in, or inciting others to participate in, activities that substantially impede University operations;
 - e. Interference of either: (1) the instructor's ability to conduct class; or (2) the ability of other students to participate in and profit from instructional activity; or,
 - f. Obstruction of the free flow of pedestrian or vehicular traffic on University owned or controlled property, or at a University event.
11. Unacceptable Conduct in Disciplinary Proceedings. Any conduct at any stage of a University disciplinary process or investigation that is contemptuous, disrespectful, threatening, or disorderly. This includes, but is not limited to, false complaints, retaliation, providing false 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.
12. Unauthorized Access to University Facilities and/or Grounds. Any unauthorized access and/or occupancy of University 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, or being present in academic buildings after hours without permission.
13. Pornography or Obscenity. Public display on property owned, leased, or controlled by the University of literature, films, pictures, or other materials which an average person applying contemporary community standards would find taken as a whole, appeals to the prurient interest; depicts or describes sexual conduct in a patently offensive way; and, taken as a whole, lacks serious literary, artistic, political, or scientific value.
14. Student Identification Cards. Failure to possess at all times a valid student identification card or an alternate ID that will prove student status; or, failure to surrender ID card to a University official upon proper request.
15. Gambling. Unlawful gambling in any form.
16. 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 University.
17. Litter. Dispersing litter in any form onto the grounds or facilities of the University.
 18. Sirens and Loudspeakers. Unauthorized use of sirens, loudspeakers, and other sound amplification equipment.
 19. Graffiti. Damage or defacement of MTSU property by painting, chalking, writing, stenciling, or by any other means of application on such property.
- B. Community Standard: Honesty and Integrity. The notions of personal and academic honesty and integrity are central to the existence of the MTSU community. All members of the community will strive to achieve and maintain the highest standards of academic achievement in the classroom, and personal and social responsibility on and off campus. Behavior by students or student organizations including, but not limited to, the following, may be considered as being in violation of this Community Standard.
1. Theft, Misappropriation, or Unauthorized Sale of Property. Any act of theft, misappropriation, or unauthorized possession or sale of University property, or any such act against a member of the University community or a guest of the University, including identity theft.
 2. Failure to Cooperate with University Officials. Failure to comply with directions or directives of University officials acting in the performance of their duties.
 3. Providing False Information. Giving any false information to, or withholding necessary information from, any University official acting in the performance of his/her duties in connection with a student's admission, enrollment, or status in the University.
 4. Misuse of Documents or Identification Cards. Any forgery, alteration of, or unauthorized use of University documents, forms, records, or identification cards including, but not limited to, the giving of any false information, or withholding of necessary information, in connection with a student's admission, enrollment, or status in the University.
 5. Financial Irresponsibility. Failure to meet financial responsibilities to the University promptly including, but not limited to, knowingly passing a worthless check or money order in payment to the University.

6. Violation of Imposed Disciplinary Sanctions. Intentional or unintentional violation of a disciplinary sanction officially imposed by a University official or a constituted body of the University.
 7. 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 restrooms, and storing, sharing, and/or distributing of such unauthorized images by any means.
 8. Unauthorized Duplication or Possession of Keys. Making, causing to be made, or the possession of any key for a University facility without proper authorization.
 9. Fire Drills. Failure to evacuate University facilities or willfully disregarding any emergency or fire alarm signal.
- C. Community Standard: Respect for Diversity. The MTSU community is composed of individuals representing different races, ethnicities, sexual orientations, cultures, and ways of thinking. We respect individual differences and perspectives and acknowledge our commonalities. Behavior by students or student organizations including, but not limited to, the following may be considered as being in violation of this Community Standard.
1. Harassment or Retaliation. Any act against another person or group in violation of MTSU policies, as well as federal and/or state laws prohibiting discrimination or retaliation including, but not limited to, [Policies 25 Equal Opportunity, Affirmative Action, and Nondiscrimination](#), [26 Discrimination and Harassment Based on Protected Categories Other Than Sex](#), and [27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression](#).
 2. Retaliation also includes, in this context, an act intended or reasonably likely to dissuade a person from participating in the student disciplinary process or pursuing a complaint about a violation of MTSU policies, as well as state or federal law.
- D. Community Standard: Commitment to Non-violence. MTSU is committed to the principles of nonviolence and peaceful conflict resolution. Community members will freely express their ideas and resolve differences using reason and persuasion. Behavior by students or student organizations including, but not limited to, the following, may be considered as being in violation of this Community Standard.

1. Threatening or Dangerous Conduct. Any conduct, or attempted conduct, which poses a threat to the safety of others or when the behavior is disruptive of the University's learning environment.
2. Hazing. Hazing, as defined in T.C.A. § 49-7-123(a)(1), means any intentional or reckless act, on or off the property, of any higher education institution by an individual acting alone, or with others, which is directed against any other person(s) that endangers the mental or physical health or safety of that person(s), or which induces or coerces a person(s) to endanger such person(s) mental or physical health or safety. Hazing does not include customary athletic events or similar contests or competitions, and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization.
3. Firearms and Other Dangerous Weapons. Except as may otherwise be permitted by law, the possession or use of firearms as set forth in [Policy 705 Weapons on Campus](#), explosives, fireworks, inflammables, dangerous chemical mixtures, and/or dangerous weapons of any kind including, but not limited to, knives, tasers, asp batons, tactical or telescoping batons, brass knuckles, whips, BB guns, pellet guns, propelled missiles, and/or stun guns is prohibited. The possession or use of ammunition, which includes, but is not limited to, bullets, paint balls, pellets, and BBs is prohibited. Any possession or use of replica/toy guns including, but not limited to, BB guns or cap guns, pellet guns, paintball guns, water guns, "Super Soakers," toy knives, slingshots, or other items that simulate firearms or dangerous weapons is prohibited.
4. Sexual Misconduct.
 - a. Sexual misconduct includes dating violence, domestic violence, stalking and sexual assault. See [Policy 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation and Gender Identity/Expression](#) for more detailed definitions of those terms along with the University process for investigating allegations of sexual misconduct. Also note that disciplinary matters involving incidents of sexual misconduct will proceed through the process set out in [Policy 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression](#) rather than the process specified in Section VIII of this policy.
 - b. A student who is a victim of sexual misconduct and who was under the influence of alcohol or drugs during the sexual misconduct incident should not be reluctant to seek assistance for fear of being sanctioned for his/her improper use of alcohol or drugs. The Office of Student Conduct will generally not pursue disciplinary action against the victim (or against a witness) for his/her improper use of alcohol or drugs (e.g., underage drinking) if the victim or witness is making a good faith report of sexual misconduct. Amnesty for improper use of alcohol or

drugs will not be accorded to a student charged with sexual misconduct. This practice only applies to amnesty from violations of this policy. It does not grant amnesty for criminal, civil, or legal consequences for violations of federal, state, or local law.

V. Classroom Misconduct

- A. 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 disorderly conduct as defined in this policy, or conduct that violates the general policies of the University 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 University. If an instructor wishes to remove a student from the classroom for a longer period of time or permanently, he/she must refer the student to the Office of Student Conduct.
- B. The instructor is expected to outline behavioral expectations for each class at the beginning of the academic term and as needed throughout the semester.

VI. Disciplinary Sanctions

- A. A disciplinary sanction is a consequence for being found in violation of university rules and policies. The following disciplinary sanctions are applicable to both students and student organizations. Upon a determination that a student or student organization has violated these rules or the general policies of the University, disciplinary sanctions may be imposed, either singly or in combination, by the appropriate University official.
- B. Pursuant to T.C.A. § 49-7-146, the University will notify the parent/guardian of students under the age of twenty-one (21) who have been found responsible for alcohol and/or drug-related violations. In addition, the parent/guardian may be contacted in any instance in which the safety of the student has been threatened either through the student's own behavior or the behavior of others.
- C. Definition of Sanctions:
 - 1. Restitution. Restitution may be required in situations which involve destruction, damage, loss of property, or unreimbursed medical expenses resulting from physical injury. When restitution is required, the student or student organization is obligated 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, labor, or financial loss.

2. Reprimand. A written or verbal reprimand or notice may be given to any student or student organization whose conduct violates any part of this policy and provides notice that any further violation(s) may result in more serious consequences.
3. Service to the University or Local Community. A student or student organization may be required to donate a specified number of service hours to the University or the local community. All community service hours must be approved by the Office of Student Conduct prior to a student or student organization beginning the service.
4. 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.
5. 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 violation.
6. Fines. Penalties in the form of monetary fines may be imposed against a student or student organization whenever the appropriate University 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 being taken.
7. Restriction. A restriction upon a student's or student organization's privileges for a period of time may be imposed. This restriction may include, but not be limited to, denial of the ability to represent the University at any event, ability to participate in University travel, eligibility to hold office in a student organization, use of facilities, parking privileges, participation in extracurricular activities, and/or restriction of organizational privileges.
8. Probation. Official notice that the continued enrollment of a student or recognition of a student organization on probation will be conditioned upon adherence to these policies. Any student or student organization placed on probation will be notified in writing of the terms and conditions of the probation. Any conduct in further violation of these policies while on probationary status or the failure to comply with the terms and conditions of the probation may result in the imposition of more severe disciplinary sanctions, specifically suspension or expulsion.
9. Housing Probation. Continued residence in campus or student housing may be conditioned upon adherence to this policy as well as University housing policies. Any student 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 student, including any other appropriate special condition(s). If a student incurs

additional violations during the probationary period, the student may become a candidate for housing suspension.

10. Involuntary Housing Reassignment. A student may be involuntarily moved to another housing assignment if necessary.
11. Housing Suspension and Forfeiture. Removal from University housing for a specified period of time or permanently. A student suspended from housing may not reside, visit, or make any use whatsoever of a University housing facility or participate in any University housing activity during the period for which the sanction is in effect. A suspended student shall be required to forfeit housing fees (including any unused portion thereof and the Housing Pre-Payment). A suspended student must vacate the housing unit as directed by University staff. This sanction may be enforced with a University Police trespass restriction, if necessary.
12. Suspension. Separation of a student or a student organization from the University for a specified period of time. This includes all instructional delivery methods (including, but not limited to, on ground, on-line, distance education, etc.). Suspension may be accompanied by special conditions for readmission or recognition. Any student or student organization receiving a sanction of suspension shall be restricted from the campus of MTSU during the period of separation unless on official business with the University verified in writing by the Dean of Students' office. A suspended student must submit a written request to be on campus to the Dean of Students a minimum of forty-eight (48) hours in advance of the scheduled time of his/her business on campus. The request must specify the specific reason the student seeks to be on campus and the location that the student wishes to visit. The Dean of Students will issue a written decision regarding the request to be on campus, and the student is expected to carry that written decision with him/her during the time of the visit, if the request is approved. Students who have been suspended are not permitted to live or board in University facilities or housing unless otherwise approved or provided by the University. This sanction will be enforced with a University Police trespass restriction, if necessary.
13. Expulsion. Permanent separation from the University. The imposition of this sanction is a permanent bar to the student's admission, or a student organization's recognition by the University. A student or student organization that has been permanently expelled may not enter University property or facilities without obtaining prior approval from the Dean of Students. Any student receiving a sanction of expulsion shall be restricted from the campus of MTSU unless on official business with the University verified in writing by the Dean of Students. An expelled student must submit a written request to be on campus to the Dean of Students' office a minimum of forty-eight (48) hours in advance of the scheduled time of his/her business on campus. The request must specify the specific reason the student seeks to be on campus and the location that the student wishes to visit. The

- Dean of Students will issue a written decision regarding the request to be on campus, and the student is expected to carry that written decision with him/her during the time of the visit, if the request is approved. Students who have been expelled are not permitted to live or board in University facilities or housing unless otherwise approved or provided by the University. This sanction will be enforced with a University Police trespass restriction, if necessary.
14. Revocation of Admission, Degree, or Credential. Under circumstances deemed appropriate, an offer of admission, a degree or a credential awarded may be revoked or rescinded.
 15. Other Sanctions. Additional or alternate sanctions may be created and designed as deemed appropriate to the offense and the student's or student organization's need for education, growth, and reform.
 16. Interim Involuntary Withdrawal or Suspension. As a general rule, the status of a student or student organization accused of violation of these policies should not be altered until a final determination has been made in regard to the charges. However, interim involuntary withdrawal or suspension, pending the completion of disciplinary procedures, may be imposed upon a finding by the appropriate University Official that the conduct or attempted conduct of the student or student organization poses a direct threat to the safety of any other member of the University, its guests, or property; or, if the behavior is materially and substantially disruptive of the University's learning environment or other campus activities. Violation of an interim or final "No Contact Directive" or other restriction issued in conjunction with an investigation conducted pursuant to [Policy 27 Misconduct, Discrimination, and Harassment Based on Sex, Including Pregnancy, Sexual Orientation, and Gender Identity/Expression](#) may result in temporary discipline up to and including an interim involuntary withdrawal or suspension being imposed on the violating student. In any case of interim involuntary withdrawal or suspension, the student or student organization, shall be given an opportunity at the time of the decision, or as soon thereafter as reasonably possible, to contest the interim involuntary withdrawal or suspension in an interim involuntary withdrawal/suspension hearing. During an interim involuntary withdrawal or suspension, the student or student organization shall be denied access to residence halls, campus (including all classes), and/or all other University activities or privileges for which the student or student organization might otherwise be eligible, as the Dean of Students or designee may determine to be appropriate. A preliminary hearing will be held by a designee of the Dean of Students in consultation with appropriate University officials and the Vice President for Student Affairs, within four (4) working days of the interim involuntary withdrawal or suspension to determine if the interim involuntary withdrawal or suspension should continue until a formal hearing of the charges by a University adjudicating body can be held. During this preliminary hearing, the student or student organization will be given

notice of the allegations supporting the imposition of interim involuntary withdrawal or suspension against him/her and a summary of the evidence that supports the allegations. The student or student organization will be afforded an opportunity to respond to the allegations. If the interim involuntary withdrawal or suspension is upheld, the formal hearing concerning withdrawal, suspension, or expulsion shall be held as soon as practical. Conditions may be placed on a student or a student organization for his/her/its return to the University. The student or student organization may be required to provide documentation that he/she/it has taken steps to mitigate the previous behavior (e.g., including, but not limited to, having followed a treatment plan, submitted periodic reports, granted permission for the University to talk to the treating professional).

17. **Temporary Student Organization Cease and Desist.** A temporary organizational cease and desist is instituted when the University has received information indicating that the continued activity of the student organization could (1) potentially put students or the community at risk; (2) cause irreparable harm to the University or student organization; (3) influence the integrity of an investigation; and/or (4) increase the student organization's or University's fault or liability. A temporary student organization cease and desist can be issued by the University alone or in conjunction with a national/regional organization cease and desist. The Office of Student Conduct will notify the parent office (i.e. Student Organizations and Service and/or Fraternity and Sorority Life) and the designated student representative that the student organization has been temporarily restricted from conducting business. During the time of the temporary cease and desist, the student organization will be prohibited from conducting organizational business including, but not limited to, organizational meetings, social activities, philanthropic activities, and representation of the University. The cease and desist duration will be determined on a case by case basis.

VII. Student Conduct Hearing Officers and/or Boards

Violations under this policy may be heard by the following administrative judge, hearing officers and/or boards:

- A. The University Official shall conduct all preliminary reviews and disciplinary conferences. These staff members will also conduct investigations as necessary.
- B. The Student Judicial Board shall consist of nine (9) students. The Board may be convened to hear cases involving alleged violations of University rules committed by students and student organizations. If the student or student organization is found responsible, the Board recommends appropriate disciplinary sanctions to the Dean of Students. This Board may also be convened to hear matters relative to the interpretations of the Student Government Association constitution and any other

policies passed by the Senate, as well as cases regarding student parking citations. Information regarding application, selection procedures, qualifications, and vacancies can be found in the Student Government Association constitution (<http://www.mtsu.edu/sga/documents/constitution.pdf>).

- C. The University Discipline Committee. See [Policy 32 University Committees](#).
- D. The Student Appeals Committee. See [Policy 32 University Committees](#).

VIII. Disciplinary Procedures

- A. Responsibility for Administration. The administration of discipline is a function of the Dean of Students Office and/or the appropriate adjudicating body with the exception of matters concerning academic misconduct which is a function of the Office of the University Provost and/or the Academic Misconduct Committee, set out with specificity in [Policy 312 Academic Misconduct](#). Complaints involving sexual discrimination, sexual harassment, dating violence, domestic violence, or stalking will be investigated pursuant to [Policy 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression](#). If a violation is determined to have occurred, the student or student organization will be subject to the disciplinary process provided in this policy.
- B. Standard of Proof. The standard of proof utilized in all student disciplinary matters is the preponderance of the evidence. Students should be aware that the student conduct process is different from criminal and civil court proceedings. The student conduct process is built on fundamental fairness. Due process, as defined in this policy, includes written notice of the student conduct rules that are in question and an opportunity to be heard by an objective decision-maker. Students will only be found in violation of the student conduct rules when it is more likely than not that a violation occurred. This is called a preponderance of the evidence. Sanctions will be fundamentally proportional to the severity of the violation, the student's willingness to comply with student conduct rules in the future, and the cumulative conduct history of the student.
- C. Disciplinary Referral. Reports of behaviors and incidents involving students may be referred for evaluation and possible disciplinary action by the University Police, residence hall staff members, faculty, staff, students, and other members of the University and city community. Referrals should be in writing and should be directed to the Assistant Dean for Student Conduct. A hard copy of a written referral may also be dropped off at the Office of Student Conduct. Contact information and email and office addresses can be located on the Office of Student Conduct website.
- D. Preliminary Review. All disciplinary referrals will undergo a preliminary review. The appropriate University Official will review the referral to determine if the possibility exists that a student conduct rule was violated, if additional information is needed

prompting an investigation, if immediate action is warranted, and if there are other University entities that need to be put on notice that the behavior has occurred. If the University Official determines that there is a possibility that a student conduct rules violation has occurred and additional information is not needed, he/she will issue a disciplinary charge(s) against the student or student organization. If the University Official determines that additional information is needed, he/she will conduct an investigation. If immediate action is needed, the University Official will consult with the appropriate University Officials such as, but not limited to, the Office of the University Counsel, to determine the best course of action. If other entities need to be informed of the matter, the University Official will consult with the appropriate University officials to determine the specific information that will be shared about the behavior or incident.

E. Notice of Disciplinary Charges and Disciplinary Conference.

1. A disciplinary charge means an allegation of a potential violation of the student conduct rules. The purpose of a disciplinary conference is to determine whether there is a preponderance of the evidence to support the charges, and if so, to determine responsibility and appropriate sanctions. When disciplinary charges are issued to a student or student organization, the Student Conduct office will issue a written notice of the alleged violation(s) and the student's rights, and establish a disciplinary conference meeting date and time for the student or student organization and assigned University Official. During this disciplinary conference, the student or student organization will be reminded which University policy/policies have allegedly been violated, and the student or student organization will be given an opportunity to explain his/her/its version of the behavior or incident, or to otherwise refute the allegations. Students and student organizations must be notified in writing that they are afforded the following rights in the disciplinary conference:
 - a. The right to know what disciplinary violation(s) they have been charged with;
 - b. The right to tell their side of the story, present evidence, and request that fact witnesses be permitted to share information on their behalf;
 - c. The right to be accompanied by an advisor of their choosing whose participation is limited to advising the student or student organization. The advisor cannot speak on behalf of the student or student organization or represent the student or student organization. The advisor cannot be a student who has been charged with a violation of the student conduct rules related to the same incident for which the meeting has been called;
 - d. The right to receive the decision and their imposed sanctions in writing.

2. The University Official will review the incident taking into account all information gathered pertinent to the matter, as well as the information provided by, or on behalf of, the student or student organization. A determination will be made as to whether or not there has been a violation of the student conduct rules and, if so, what the appropriate sanction(s) will be. The University Official may also determine that additional information or follow-up is needed prior to being able to make a determination regarding responsibility for a student conduct rules violation and may delay a decision until such a time that the needed information is acquired. The University Official can also refer the matter to the University Discipline Committee, if the case is particularly complex or the student or student organization would be best served by having a committee review the case.
 3. If the student or student organization alleged to have engaged in misconduct does not respond after having been provided notice of the disciplinary conference, the University Official will make a determination as to responsibility for the conduct violation based on the information gathered to that point and will impose a sanction as deemed appropriate.
- F. Hearing Options. The majority of student disciplinary cases are resolved at the Disciplinary Conference level when the student or student organization accepts responsibility for the violation and the recommended sanction(s). However, if this does not occur, the matter may proceed to a hearing. If the recommended sanction is suspension, expulsion, or revocation of recognition of the student organization, the student or student organization has two (2) choices regarding resolution of the disciplinary case. The first choice is to request a hearing before the University Discipline Committee. The second choice is to request a hearing pursuant to the Uniform Administrative Procedures Act (UAPA). The University Official will explain the two (2) choices, and the student or student organization will indicate his/her/its selection in writing. Once the selection is made, the student or student organization cannot elect another option or revert back to the original decision rendered by the University Official. In addition, the Office of Student Conduct can refer a matter to a hearing when the case is unusually complex and/or problematic.
1. Student Judicial Board (SJB) and University Discipline Committee (UDC) hearings.
 - a. The SJB and UDC will hear student disciplinary cases when requested by a student or student organization, or when referred by the Office of Student Conduct. The SJB and UDC makes its recommendation(s) to the Dean of Students or Vice President for Student Affairs, respectively. The Dean of Students and Vice President can uphold the recommendation(s), reverse the recommendation(s), or send the recommendation(s) back to the SJB or UDC for reconsideration of the sanctions only.

- b. The Office of Student Conduct has the responsibility for scheduling SJB and UDC hearings, including the selection of date, time, and location as well as providing information to the student or student organization about the hearing format and process. The student or student organization will be notified of the hearing schedule a minimum of four (4) business days in advance of the actual hearing date. These hearings are closed to the public unless all parties agree, in writing, to an open hearing.

- c. Students and student organizations are afforded the rights guaranteed in the Disciplinary Conference (see Section VIII.E.1.) as well as the following additional rights, which shall be provided in writing:
 - (1) The right to receive notice of the date, time, and place of the hearing at least four (4) business days in advance of the hearing;
 - (2) The right to receive a list of the witnesses the University expects to present at the proceeding and those the University may present if the need arises;
 - (3) The right to request a copy of the University's investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974, (20 U.S.C. § 1232(g), and the federal regulations implementing that statute, as amended;
 - (4) The right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence the University has in its possession, custody or control and may use to support claims or defenses, unless the use would be solely for impeachment;
 - (5) The right to be accompanied by more than one (1) advisor at the discretion of the adjudicating body and the Office of Student Conduct. The advisor(s) cannot be another student who has been charged with a violation of the student conduct rules related to the same incident as the student. The student may choose to be advised by legal counsel; however, legal counsel's participation shall be limited to directly advising the student. Legal counsel cannot engage in direct or cross-examination, make opening or closing statements, or engage in argument;
 - (6) The right to call witnesses on his/her/its behalf. It is the student or student organization's responsibility to contact his/her/its witnesses and inform them of the hearing unless the witness is also a University witness. University witnesses are contacted by the Office of Student Conduct;
 - (7) The right to question witnesses;

(8) The right to be informed of an appeal option, if applicable.

2. Uniform Administrative Procedures Act.

- a. All cases which may result in: (a) suspension or expulsion of a student from the University for disciplinary reasons; or, (b) revocation of the registration of a student organization, are subject to the contested case provisions of the Uniform Administrative Procedures Act (UAPA), T.C.A. § 4-5-301, et. seq., and shall be processed in accordance with the Uniform Contested Case procedures unless the student or student organization waives those procedures and chooses to have the case disposed of administratively in a disciplinary conference or by going before the University Discipline Committee. If the student/student organization wishes to pursue the case administratively or through the UDC, he/she/it must waive the right to a UAPA hearing in writing. Prior to making this decision, the University Official assigned to the matter will explain the differences between the hearing options and will provide to the student/student organization a document setting out the student/student organization's rights as are found in Sections VIII.E.1. a. – d. and VIII.F.1.c.(1)-(8).
- b. In all cases involving a hearing under the UAPA contested case provisions, the President or designee shall determine, based upon the nature of the case, whether the hearing shall be before an administrative judge or a hearing officer alone or a Hearing Committee presided over by an administrative judge or a hearing officer. The President is responsible for appointing an administrative judge, a hearing officer and/or hearing committee at the request of the Office of Student Conduct. The Office of Student Conduct has the responsibility for working with the Office of the University Counsel to schedule UAPA hearings including the selection of date, time, and location as well as assisting in the scheduling of any necessary preliminary meetings.
- c. The case will proceed pursuant to University policy and the UAPA.

G. Separation of Functions

1. A person who has served as an investigator, University Official or advocate in a student disciplinary matter may not serve as an administrative judge or hearing officer, or assist or advise an administrative judge or hearing officer in the same proceeding.
2. A person who is subject to the supervision, direction or discretion of one who has served as investigator, University Official or advocate in a student disciplinary matter may not serve as an administrative judge or hearing officer or assist, or advise an administrative judge or hearing officer in the same proceeding.

3. A person may serve as an administrative judge or hearing officer at successive stages of the same disciplinary matter, unless a party demonstrates grounds for disqualifications in accordance with T.C.A. § 4-5-302.
4. A University Official may serve on the hearing committee, or as an administrative judge or hearing officer in the UAPA hearing where authorized by law and not subject to disqualification or other cause provided in T.C.A. Title 4, Chapter 5.
5. Nothing in this Section G. prohibits an attorney for the University from providing legal advice to multiple University employees who serve in different roles in the process of disciplining a student.

H. Interim Involuntary Withdrawal or Suspension Hearings.

1. Hearings conducted with regard to interim involuntary withdrawals or suspensions imposed prior to or pending the outcome of a disciplinary investigation or proceeding shall be conducted consistent with the minimum requirements of due process applicable to a UDC hearing, taking into account the need for a timely hearing. The evidence presented at the hearing shall be limited to that which is relevant to the basis asserted for imposition of the interim involuntary withdrawal or suspension. The following special conditions apply to involuntary withdrawal/suspension hearings:
 - a. The University shall conduct an assessment to consider the nature, duration, severity, and probability of the threat posed and/or disruption caused by the student or student organization, relying on the best available objective evidence and, if applicable and obtainable, the most current medical evidence;
 - b. Failure of the student or representative of a student organization to appear for or cooperate with a mandated assessment will result in an involuntary withdrawal without further process;
 - c. The University shall also determine whether reasonable modifications of its policies, practices, or procedures could sufficiently mitigate the identified risk;
 - d. Absent exigent circumstances creating an imminent risk of harm, the University will make the decision to involuntarily withdraw or suspend based on the threat the student or student organization poses to others;
2. If exigent circumstances warrant the immediate removal of a student or student organization from the University, the student or student organization will receive, at a minimum, notice and an initial opportunity to present evidence immediately after being placed on the interim involuntary withdrawal or suspension, and the opportunity to initiate full due process within thirty (30) days of the removal.

I. Appeals

1. Eligibility. A student who has been suspended or expelled from the University, or a student organization whose recognition has been revoked as the result of disciplinary action has the right to file an appeal. Students or student organizations subject to disciplinary action that does not include suspension or expulsion from the University, or revocation of recognition of the student organization do not have an appeals option.
2. It is the responsibility of the adjudicating body to inform the student or student organization of the right to appeal and to whom the appeal should be presented. It is not the function of the appeals process to permit a rehearing of the factual issues presented to the adjudicating body, but rather to ensure that the disciplinary procedure has been implemented fairly and consistently with these rules.
3. For UAPA decisions, the appeal procedures are set forth in university policy and the UAPA.
4. UDC decisions.
 - a. Time Limitations. An appeal must be submitted in writing and received by the Dean of Students within forty-eight (48) hours of the date on which notice was sent to the student or student organization as provided in Section II.D. of this policy that the approving authority has affirmed the suspension or expulsion.
 - b. Grounds for Appeal. The appeal must specify grounds which would justify consideration. The written appeal must contain the substantive proof on which the student or student organization is basing the appeal. Appeals that do not include the specific information that substantiates the appeal will be immediately denied. General dissatisfaction with the outcome of the decision shall not be accorded as a basis for consideration of an appeal. An appeal may be filed based on one (1) or both of the following conditions:
 - (1) an error in procedural due process by the adjudicating body which prejudiced the disciplined student or student organization to the extent that a fundamentally fair hearing was denied as a result of the error;
 - (2) the emergence of new evidence which could not have been previously discovered by the exercise of due diligence and which, had it been presented at the initial hearing, would have substantially affected the original decision of the adjudicating body.

- c. The Dean of Students will review the written appeal to determine if the appellant has met the requirements for filing an appeal. Appeals which do not allege sufficient grounds shall be denied consideration and dismissed. Appeals which do allege sufficient grounds will be accepted for consideration and forwarded to the appellate body. The appellate body shall not conduct a re-hearing, but will consider only the record made by the adjudicating body. The appellate body may, at its own discretion, permit written or oral statements from the concerned parties in interest at the time the appeal is considered. The alternatives available to the appellate body are affirmation of the recommended sanction, reversal of the decision, and return to the original adjudicating body for reconsideration of sanctions only.

- J. Effect of Noncooperation. A student who fails to respond to a notice of disciplinary charges and disciplinary conference within the time frame specified will have a hold placed on his/her records. The hold will be removed at such time as the sanction imposed has been completed and the matter closed. In the event a student or student organization fails to cooperate, ignores, or otherwise does not respond after a reasonable amount of time to a notice of a disciplinary conference, he/she/it will be deemed to have waived the opportunity for a hearing. Decisions concerning responsibility and the imposition of sanctions may be made in the student's absence.

- K. Retention of Records. Disciplinary records are maintained by the Office of Student Conduct. A permanent disciplinary file will be maintained if a student is suspended or expelled from the University. Files developed in cases in which a lesser sanction has been imposed will be retained for a period of five (5) years after date of action unless sanctions specify that they should be retained for a longer period. Files developed in cases that are covered under the Clery Act will be retained for a period of seven (7) years after the date of action per federal requirements. Files developed in cases where a student is found not responsible for student conduct rules violations will be maintained for statistical purposes; however, the record will not be reportable as an official disciplinary record in that student's name.

IX. Alternative Resolution of Disciplinary Incidents

- A. Mediation. Students involved in conflict(s) with another individual(s) may elect to have the conflict(s) mediated with the assistance of a third party mediator assigned by the appropriate university official. The Office of Student Conduct must agree that mediation is an appropriate resolution to the presenting disciplinary incident. The following conditions must be accepted by the parties:
 1. All parties involved must willingly 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 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 agreement is not upheld, the parties may be referred back to the Office of Student Conduct for appropriate disciplinary action to be taken;
 5. If no form of resolution can be determined by mutual consent, the matter will be referred to the appropriate student conduct body.
- B. Informal Agreement. There may be times when it is appropriate for a student to come to an informal agreement with the University regarding his/her behavior and attempts to correct the behavior. The Office of Student Conduct will make these determinations on a case by case basis. An informal agreement can only be initiated by the Student Conduct Coordinator, Assistant Dean for Student Conduct, and/or the Dean of Students.

X. Victim's Rights

- A. Generally, a victim's input shall be sought during the disciplinary process; however, the right and responsibility for disposition of any individual complaint is reserved by the University. If a victim withdraws his/her/its complaint or refuses to offer testimony during the course of a disciplinary proceeding, the University reserves the right to proceed without his/her/its input.
- B. Victims of sexual misconduct, sexual harassment, dating violence, domestic violence, and stalking are guaranteed specific rights within [Policy 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression](#). These victims are afforded the following rights:
1. The victim shall be advised in writing of the date, time, and place of the hearing at least five (5) business days in advance of the hearing;
 2. The victim shall be given the opportunity to meet with the appropriate University Official to discuss the disciplinary process;
 3. The victim shall be given an opportunity to submit a written account of the alleged incident;
 4. The victim shall have the right to be accompanied at all stages of the disciplinary process by an advisor whose participation shall be limited to advising the victim. The advisor cannot be a student who has been charged with a violation of the student conduct rules related to the same incident as the victim or a student who has an

- open complaint against the victim. The victim may also be accompanied by legal counsel; however, counsel's participation shall be limited to directly advising the victim, i.e., legal counsel may not conduct direct or cross-examination, make opening or closing statements, or engage in argument. The victim may be accompanied by more than one (1) advisor at the discretion of the adjudicating officer or body. The intent of the victim to be accompanied by an advisor shall be indicated in writing to the student conduct coordinator at least five (5) days prior to the disciplinary hearing;
5. The victim shall be afforded an opportunity to testify as a witness during a disciplinary hearing;
 6. The victim may reserve the right to decline to testify during a disciplinary hearing, with the knowledge that such action could result in dismissal of allegations of University rules violations for lack of evidence;
 7. The victim shall be allowed to submit a written victim impact statement to the adjudicating body for their consideration during the sanction phase of the disciplinary process.

XI. Authority of the President

The President of the University retains final authority on all University matters, including disciplinary decisions. Therefore, any disciplinary action is subject to final review by the President. At his/her discretion, the President may determine 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.

Forms: none.

Revisions: June 5, 2017 (Original); March 27, 2018; _____, 2018.

References: Family Educational Rights and Privacy Act of 1974; Tennessee Open Records Act; T.C.A. § 4-5-301, et. seq.; § 10-7-504(a)(4); § 49-7-123(a)(1); § 49-7-146; Policies 25 Equal Opportunity, Affirmative Action, and Nondiscrimination; 26 Discrimination and Harassment Based on Protected Categories Other Than Sex; 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression; 32 University Committees; 100 Use of Campus Property and Facilities Scheduling; 110 Cases Heard Pursuant to the Uniform Administrative Procedures Act; 312 Academic Misconduct; 541 Residential Life and Housing Rules; 705 Weapons on Campus; 750 Tobacco-Free Campus; 775 Traffic, Parking, and Safety Enforcement; 910 Information Technology Resources.



540 Student Conduct

Approved by Board of Trustees

Effective Date: **March 27, 2018**

Responsible Division: **Student Affairs**

Responsible Office: **Dean of Students' Office**

Responsible Officer: **Dean of Students**

I. Purpose

- A. Middle Tennessee State University (MTSU or University) is committed to fostering a campus environment that is devoted to learning, growth, and service. We accept and practice the core values of honesty and integrity, respect for diversity, positive engagement in the community, and commitment to non-violence. The Office of Student Conduct was created to uphold these values, educate the community about behavioral expectations, and hold members of the student community accountable to these rules and expectations.
- B. Student members of the university community are expected to uphold and abide by standards of conduct that form the basis of our Student Conduct Rules. Each member of the University community bears responsibility for their conduct. When community members fail to exemplify and uphold these standards of conduct, student conduct procedures are used to assert and uphold these standards.
- C. The student conduct process at MTSU exists to protect the interests of the University community and the individual student while striking a balance between these two interests. Students and student organizations that do not act in accordance with MTSU rules and expectations will be challenged and may be sanctioned accordingly. Sanctions are designed to assist students and student organizations in achieving acceptable standards of behavior while providing tools and resources for life-long learning and conflict resolution.
- D. The University is committed to respecting students' constitutional rights. This policy shall be interpreted in a way that does not violate students' constitutional rights including, without limitation, the rights protected by the First Amendment to the United States Constitution.

II. Definitions

- A. Student. For the purposes of this policy, a student shall mean any person who is admitted and/or registered for study at MTSU for any academic period, either full-time or part-time, undergraduate, graduate, or professional studies. 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 University. Finally, a 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 this policy. In summary, the University considers a person a student when an offer of admission has been extended and thereafter as long as the student has a continuing educational interest in the University.
- B. Student organization. For the purposes of this policy, a student organization is a group consisting primarily of currently enrolled students which has become officially recognized by the University following successful completion of the registration process.
- C. University Official(s). For the purposes of this policy, a University Official is an administrator within the Office of Student Conduct, specifically, the Assistant Dean for Student Conduct and/or the Student Conduct Coordinator.
- D. Notice. For the purposes of this policy, a notice is a written communication sent to a student or student organization as directed by this policy. A notice provided to a student will be sent via the student's official MTSU email account as well as a hard copy letter sent via first class USPS mail to the student's local address as indicated in the student information system. A notice sent to a student organization will be sent to the organization's president at that student's MTSU email address and his/her local address. Students have the responsibility to regularly check their University-issued email accounts and to ensure that the local address on file with MTSU is current. The requirement to provide notice will be satisfied when sent as indicated and any period for response will begin on the date the email and/or letter is sent, whichever is sent first.

III. Responsibility and Jurisdiction

- A. The President of MTSU is authorized to take such action as may be necessary to maintain campus conditions and to preserve the integrity of the University and its educational environment. The President has determined that the responsibility for the administration of student conduct at MTSU is a function of the Dean of Students' office and/or the appropriate adjudicating body. The Dean of Students' designees are University Officials as defined above. The University Officials are authorized to make the determination and/or recommendation of the method of hearing for each complaint or allegation and to provide other opportunities for conflict resolution outside of the

conduct process consistent with this policy. The University Officials shall implement policies and procedures for the administration of the student conduct program.

- B. Matters concerning academic misconduct are the responsibility of the Office of the University Provost and/or the University Academic Misconduct Committee. This process is set out in detail in [Policy 312 Academic Misconduct](#).
- C. Students and student organizations are responsible for compliance with University rules and policies at all times. 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.
- D. Disciplinary action may be taken against a student or student organization for violations of this policy which occur on University 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 University activity or the mission, processes, and functions of the University. MTSU may also take disciplinary action for any off-campus behavior that affects a substantial University interest. A substantial University interest is defined to include:
 1. Any situation where a student's conduct may present a danger or threat to the health or safety of others;
 2. Any situation that significantly impinges upon the rights, property, or achievements of others;
 3. Any situation that is detrimental to the educational mission and/or interests of the University.
- E. MTSU may enforce its policy regardless of the status or outcome of any external proceedings instituted in any other forum, including any civil or criminal proceeding. Should a student withdraw from the University with University disciplinary action pending, the student's record may be encumbered by the appropriate University office until the proceedings have been concluded. The University may take action even if a student is absent from the proceeding.
- F. 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 "education records" and are confidential within the meaning of those Acts.

IV. Student Conduct Rules: Values and Behavioral Expectations

MTSU has adopted the following Community Standards of conduct. Each person who joins or affiliates with the University community does so freely and is expected to abide by these Community Standards. Following each Community Standard is a non-exclusive list of prohibited behaviors for which both students and student organizations may be subject to disciplinary action if such prohibited behavior is engaged in. These prohibited behaviors are considered inappropriate and in opposition to the community standards and expectations set forth by MTSU.

- A. Community Standard: MTSU is committed to developing and nurturing a community devoted to learning, growth, and service. Behavior by students or student organizations including, but not limited to, the following, may be considered as being in violation of this Community Standard.

1. Alcoholic Beverages.

- a. The use and/or possession of alcoholic beverages on University owned or controlled property. This offense includes the violation of any local ordinance, state, or federal law concerning alcoholic beverages, on or off University owned or controlled property, where an affiliated group or organization has alcoholic beverages present and available for consumption. [It will not be considered a violation of this policy if a student of legal drinking age possesses or consumes alcohol purchased from a third-party vendor during approved events taking place at a sports authority facility so long as the beverage is consumed within the sports authority facility. It will also not be considered a violation of this policy if a student of legal drinking age possesses or consumes alcohol provided at an event approved by the President to serve alcoholic beverages so long as the beverage is consumed within the confines of the designated area of the event. See Policy 755 Alcoholic Beverages.](#)
- b. A student who is under the influence of alcohol should not be reluctant to seek assistance in the event of a health or safety emergency for fear of being sanctioned. The Office of Student Conduct will generally not pursue disciplinary action against a student (or against a witness) for his/her improper use of alcohol (e.g., underage drinking) under that circumstance. This practice only applies to amnesty from violations of this policy. It does not grant amnesty for criminal, civil, or legal consequences for violations of federal, state, or local law.

2. Drugs.

- a. 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:

- (1) the violation of any local ordinance, state, or federal law concerning the unlawful possession or use of drugs, on or off University owned or controlled property;
 - (2) abusing legally obtained drugs by failing to take the drug as prescribed/directed and/or providing the prescribed drug to another person;
 - (3) using a prescription drug that has not been prescribed to the individual.
- b. Any reasonable suspicion of drug use or possession including, but not limited to, the odor of burnt or raw marijuana, physical characteristics of impairment, and/or possession of any paraphernalia that can be used for drug consumption may lead to an investigation and possible violation of this policy.
 - c. A student who is under the influence of drugs should not be reluctant to seek assistance in the event of a health or safety emergency for fear of being sanctioned. The Office of Student Conduct will generally not pursue disciplinary action against a student (or against a witness) for his/her improper possession or use of drugs under that circumstance. This practice only applies to amnesty from violations of this policy. It does not grant amnesty for criminal, civil, or legal consequences for violations of federal, state, or local law.
3. 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, but is not limited to, the violation of any local ordinance, state, or federal law concerning the unlawful possession of drug paraphernalia, on or off University owned or controlled property.
 4. Public Intoxication.
 - a. Appearing on University owned or controlled property or at a University sponsored event while under the influence of a controlled substance or of any other intoxicating substance to the degree that the individual may be endangered; there is endangerment to other persons or property; or, the individual unreasonably annoys people in the vicinity.
 - b. A student who is under the influence of alcohol or drugs should not be reluctant to seek assistance in the event of a health or safety emergency for fear of being sanctioned. The Office of Student Conduct will generally not pursue disciplinary action against a student (or against a witness) for his/her improper use of alcohol (e.g., underage drinking) under that circumstance. This practice only applies to amnesty from violations of this policy. It does not grant amnesty for criminal, civil, or legal consequences for violations of federal, state, or local law.

5. Explosives, Fireworks, and Flammable Materials. The unauthorized possession, ignition, or detonation of any object or article which ~~c~~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.
6. Violation of General Policies. Any violation of the general policies or procedures of the University as published in an official University publication or posted on an official University web page or social media page. These policies include, but are not limited to, the following:

[Policy 100 Use of Campus Property and Facilities Scheduling](#)

[Policy 312 Academic Misconduct](#)

[Policy 541 Residential Life and Housing Rules](#)

[Policy 750 Tobacco-Free Campus](#)

[Policy 775 Traffic, Parking, and Safety Enforcement](#)

[Policy 910 Information Technology Resources](#)

7. Violation 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.
8. Disorderly Conduct. Any behavior that unreasonably disrupts the academic environment (e.g., including, but not limited to, that which interferes with teaching, classroom operations, research, etc.) or unreasonably interferes with operations, events or programs on University owned or controlled property, or during a University event. This includes but is not limited to, unauthorized use of sirens, loudspeakers, and other sound amplification equipment.
9. 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 or University property, fire alarms, fire equipment, elevators, telephones, University keys, library materials, and/or safety devices.
10. Obstruction of or Interference with University Activities or Facilities. Any intentional interference with or obstruction of any University program, event, or facility including, but not limited to, the following:
 - a. Any unauthorized occupancy of facilities owned or controlled by the University or blockage of access to or from such facilities;
 - b. Interference with the right of any University member or other authorized person to gain access to any activity, program, event, or facilities sponsored or controlled by the University;

- c. Any obstruction or delay of a campus security officer, public safety officer, police officer, firefighter, EMT, or any official of the University, or failure to comply with any emergency directive issued by such person in the performance of his/her duty;
 - d. Participation in, or inciting others to participate in, activities that substantially impede University operations;
 - e. Interference of either: (1) the instructor's ability to conduct class; or (2) the ability of other students to participate in and profit from instructional activity; or,
 - f. Obstruction of the free flow of pedestrian or vehicular traffic on University owned or controlled property, or at a University event.
11. Unacceptable Conduct in Disciplinary Proceedings. Any conduct at any stage of a University disciplinary process or investigation that is contemptuous, disrespectful, threatening, or disorderly. This includes, but is not limited to, false complaints, retaliation, providing false 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.
12. Unauthorized Access to University Facilities and/or Grounds. Any unauthorized access and/or occupancy of University 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, or being present in academic buildings after hours without permission.
13. Pornography or Obscenity. Public display [on property owned, leased, or controlled by the University](#) of literature, films, pictures, or other materials which an average person applying contemporary community standards would find taken as a whole, appeals to the prurient interest; depicts or describes sexual conduct in a patently offensive way; and, taken as a whole, lacks serious literary, artistic, political, or scientific value.
14. Student Identification Cards. Failure to possess at all times a valid student identification card or an alternate ID that will prove student status; or, failure to surrender ID card to a University official upon proper request.
15. Gambling. Unlawful gambling in any form.
16. 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 University.

17. Litter. Dispersing litter in any form onto the grounds or facilities of the [campusUniversity](#).

18. Sirens and Loudspeakers. Unauthorized use of sirens, loudspeakers, and other sound amplification equipment.

19. Graffiti. Damage or defacement of MTSU property by painting, chalking, writing, stenciling, or by any other means of application on such property.

B. Community Standard: Honesty and Integrity. The notions of personal and academic honesty and integrity are central to the existence of the MTSU community. All members of the community will strive to achieve and maintain the highest standards of academic achievement in the classroom, and personal and social responsibility on and off campus. Behavior by students or student organizations including, but not limited to, the following, may be considered as being in violation of this Community Standard.

1. Theft, Misappropriation, or Unauthorized Sale of Property. Any act of theft, misappropriation, or unauthorized possession or sale of University property, or any such act against a member of the University community or a guest of the University, including identity theft.
2. Failure to Cooperate with University Officials. Failure to comply with directions or directives of University officials acting in the performance of their duties.
3. Providing False Information. Giving any false information to, or withholding necessary information from, any University official acting in the performance of his/her duties in connection with a student's admission, enrollment, or status in the University.
4. Misuse of Documents or Identification Cards. Any forgery, alteration of, or unauthorized use of University documents, forms, records, or identification cards including, but not limited to, the giving of any false information, or withholding of necessary information, in connection with a student's admission, enrollment, or status in the University.
5. Financial Irresponsibility. Failure to meet financial responsibilities to the University promptly including, but not limited to, knowingly passing a worthless check or money order in payment to the University.

6. Violation of Imposed Disciplinary Sanctions. Intentional or unintentional violation of a disciplinary sanction officially imposed by a University official or a constituted body of the University.
 7. 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 restrooms, and storing, sharing, and/or distributing of such unauthorized images by any means.
 8. Unauthorized Duplication or Possession of Keys. Making, causing to be made, or the possession of any key for a University facility without proper authorization.
 9. Fire Drills. Failure to evacuate University facilities or willfully disregarding any emergency or fire alarm signal.
- C. Community Standard: Respect for Diversity. The MTSU community is composed of individuals representing different races, ethnicities, sexual orientations, cultures, and ways of thinking. We respect individual differences and perspectives and acknowledge our commonalities. Behavior by students or student organizations including, but not limited to, the following may be considered as being in violation of this Community Standard.
1. Harassment or Retaliation. Any act against another person or group in violation of MTSU policies, as well as federal and/or state laws prohibiting discrimination or retaliation including, but not limited to, [Policies 25 Equal Opportunity, Affirmative Action, and Nondiscrimination](#), [26 Discrimination and Harassment Based on Protected Categories Other Than Sex](#), and [27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression](#).
 2. Retaliation also includes, in this context, an act intended or reasonably likely to dissuade a person from participating in the student disciplinary process or pursuing a complaint about a violation of MTSU policies and state or federal law.
- D. Community Standard: Commitment to Non-violence. MTSU is committed to the principles of nonviolence and peaceful conflict resolution. Community members will freely express their ideas and resolve differences using reason and persuasion. Behavior by students or student organizations including, but not limited to, the following, may be considered as being in violation of this Community Standard.

1. Threatening or Dangerous Conduct. Any conduct, or attempted conduct, which poses a threat to the safety of others or when the behavior is disruptive of the University's learning environment.
2. Hazing. Hazing, as defined in T.C.A. § 49-7-123(a)(1), means any intentional or reckless act, on or off the property, of any higher education institution by an individual acting alone, or with others, which is directed against any other person(s) that endangers the mental or physical health or safety of that person(s), or which induces or coerces a person(s) to endanger such person(s) mental or physical health or safety. Hazing does not include customary athletic events or similar contests or competitions, and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization.
3. Firearms and Other Dangerous Weapons. Except as may otherwise be permitted by law, the possession or use of firearms as set forth in [Policy 705 Weapons on Campus](#), explosives, fireworks, inflammables, dangerous chemical mixtures, and/or dangerous weapons of any kind including, but not limited to, knives, tasers, asp batons, tactical or telescoping batons, brass knuckles, whips, BB guns, pellet guns, propelled missiles, and/or stun guns is prohibited. The possession or use of ammunition, which includes, but is not limited to, bullets, paint balls, pellets, and BBs is prohibited. Any possession or use of replica/toy guns including, but not limited to, BB guns or cap guns, pellet guns, paintball guns, water guns, "Super Soakers," toy knives, slingshots, or other items that simulate firearms or dangerous weapons is prohibited.
4. Sexual Misconduct.
 - a. Sexual misconduct includes dating violence, domestic violence, stalking and sexual assault. See [Policy 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation and Gender Identity/Expression](#) for more detailed definitions of those terms along with the University process for investigating allegations of sexual misconduct. Also note that disciplinary matters involving incidents of sexual misconduct will proceed through the process set out in [Policy 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression](#) rather than the process specified in Section VIII of this policy.
 - b. A student who is a victim of sexual misconduct and who was under the influence of alcohol or drugs during the sexual misconduct incident should not be reluctant to seek assistance for fear of being sanctioned for his/her improper use of alcohol or drugs. The Office of Student Conduct will generally not pursue disciplinary action against the victim (or against a witness) for his/her improper use of alcohol or drugs (e.g., underage drinking) if the victim or witness is making a good faith report of sexual misconduct. Amnesty for improper use of alcohol or

drugs will not be accorded to a student charged with sexual misconduct. This practice only applies to amnesty from violations of this policy. It does not grant amnesty for criminal, civil, or legal consequences for violations of federal, state, or local law.

V. Classroom Misconduct

- A. 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 disorderly conduct as defined in this policy, or conduct that violates the general policies of the University 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 University. If an instructor wishes to remove a student from the classroom for a longer period of time or permanently, he/she must refer the student to the Office of Student Conduct.
- B. The instructor is expected to outline behavioral expectations for each class at the beginning of the [semester/academic term](#) and as needed throughout the semester.

VI. Disciplinary Sanctions

- A. A disciplinary sanction is a consequence for being found in violation of university rules and policies. The following disciplinary sanctions are applicable to both students and student organizations. Upon a determination that a student or student organization has violated these rules or the general policies of the University, disciplinary sanctions may be imposed, either singly or in combination, by the appropriate University official.
- B. Pursuant to T.C.A. § 49-7-146, the University will notify the parent/guardian of students under the age of twenty-one (21) who have been found responsible for alcohol and/or drug-related violations. In addition, the parent/guardian may be contacted in any instance in which the safety of the student has been threatened either through the student's own behavior or the behavior of others.
- C. Definition of Sanctions:
 1. Restitution. Restitution may be required in situations which involve destruction, damage, loss of property, or unreimbursed medical expenses resulting from physical injury. When restitution is required, the student or student organization is obligated 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, labor, or financial loss.

2. Reprimand. A written or verbal reprimand or notice may be given to any student or student organization whose conduct violates any part of this policy and provides notice that any further violation(s) may result in more serious consequences.
3. Service to the University or Local Community. A student or student organization may be required to donate a specified number of service hours to the University or the local community. All community service hours must be approved by the Office of Student Conduct prior to a student or student organization beginning the service.
4. 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.
5. 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 violation.
6. Fines. Penalties in the form of monetary fines may be imposed against a student or student organization whenever the appropriate University 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 being taken.
7. Restriction. A restriction upon a student's or student organization's privileges for a period of time may be imposed. This restriction may include, but not be limited to, denial of the ability to represent the University at any event, ability to participate in University travel, eligibility to hold office in a student organization, use of facilities, parking privileges, participation in extracurricular activities, and/or restriction of organizational privileges.
8. Probation. Official notice that the continued enrollment of a student or recognition of a student organization on probation will be conditioned upon adherence to these policies. Any student or student organization placed on probation will be notified in writing of the terms and conditions of the probation. Any conduct in further violation of these policies while on probationary status or the failure to comply with the terms and conditions of the probation may result in the imposition of more severe disciplinary sanctions, specifically suspension or expulsion.
9. Housing Probation. Continued residence in campus or student housing may be conditioned upon adherence to this policy as well as University housing policies. Any student 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 student, including any other appropriate special condition(s). If a student incurs

- additional violations during the probationary period, the student may become a candidate for housing suspension.
10. Involuntary Housing Reassignment. A student may be involuntarily moved to another housing assignment if necessary.
 11. Housing Suspension and Forfeiture. Removal from University housing for a specified period of time or permanently. A student suspended from housing may not reside, visit, or make any use whatsoever of a University housing facility or participate in any University housing activity during the period for which the sanction is in effect. A suspended student shall be required to forfeit housing fees (including any unused portion thereof and the Housing Pre-Payment). A suspended student must vacate the housing unit as directed by University staff. This sanction may be enforced with a University Police trespass restriction, if necessary.
 12. Suspension. Separation of a student or a student organization from the University for a specified period of time. This includes all instructional delivery methods (including, but not limited to, on ground, on-line, distance education, etc.). Suspension may be accompanied by special conditions for readmission or recognition. Any student or student organization receiving a sanction of suspension shall be restricted from the campus of MTSU during the period of separation unless on official business with the University verified in writing by the Dean of Students' office. A suspended student must submit a written request to be on campus to the Dean of Students a minimum of forty-eight (48) hours in advance of the scheduled time of his/her business on campus. The request must specify the specific reason the student seeks to be on campus and the location that the student wishes to visit. The Dean of Students will issue a written decision regarding the request to be on campus, and the student is expected to carry that written decision with him/her during the time of the visit, if the request is approved. Students who have been suspended are not permitted to live or board in University facilities or housing unless otherwise approved or provided by the University. This sanction will be enforced with a University Police trespass restriction, if necessary.
 13. Expulsion. Permanent separation from the University. The imposition of this sanction is a permanent bar to the student's admission, or a student organization's recognition by the University. A student or student organization that has been permanently expelled may not enter University property or facilities without obtaining prior approval from the Dean of Students. Any student receiving a sanction of expulsion shall be permanently restricted from the campus of MTSU unless on official business with the University verified in writing by the Dean of Students. An expelled student must submit a written request to be on campus to the Dean of Students' office a minimum of forty-eight (48) hours in advance of the scheduled time of his/her business on campus. The request must specify the specific reason the student seeks to be on campus and the location that the student wishes

- to visit. The Dean of Students will issue a written decision regarding the request to be on campus, and the student is expected to carry that written decision with him/her during the time of the visit, if the request is approved. Students who have been expelled are not permitted to live or board in University facilities or housing unless otherwise approved or provided by the University. This sanction will be enforced with a University Police trespass restriction, if necessary.
14. Revocation of Admission, Degree, or Credential. Under circumstances deemed appropriate, an offer of admission, a degree or a credential awarded may be revoked or rescinded.
 15. Other Sanctions. Additional or alternate sanctions may be created and designed as deemed appropriate to the offense and the student's or student organization's need for education, growth, and reform.
 16. Interim Involuntary Withdrawal or Suspension. As a general rule, the status of a student or student organization accused of violation of these policies should not be altered until a final determination has been made in regard to the charges. However, interim involuntary withdrawal or suspension, pending the completion of disciplinary procedures, may be imposed upon a finding by the appropriate University Official that the conduct or attempted conduct of the student or student organization poses a direct threat to the safety of any other member of the University, its guests, or property; or, if the behavior is materially and substantially disruptive of the University's learning environment or other campus activities. [Violation of an interim or final "No Contact Directive" or other restriction issued in conjunction with an investigation conducted pursuant to Policy 27 Misconduct, Discrimination, and Harassment Based on Sex, Including Pregnancy, Sexual Orientation, and Gender Identity/Expression may result in temporary discipline up to and including an interim involuntary withdrawal or suspension being imposed on the violating student.](#) In any case of interim involuntary withdrawal or suspension, the student or student organization, shall be given an opportunity at the time of the decision, or as soon thereafter as reasonably possible, to contest the interim involuntary withdrawal or suspension in an interim involuntary withdrawal/suspension hearing. During an interim involuntary withdrawal or suspension, the student or student organization shall be denied access to residence halls, campus (including all classes), and/or all other University activities or privileges for which the student or student organization might otherwise be eligible, as the Dean of Students or designee may determine to be appropriate. A preliminary hearing will be held by a designee of the Dean of Students in consultation with appropriate University officials and the Vice President for Student Affairs, within four (4) working days of the interim involuntary withdrawal or suspension to determine if the interim involuntary withdrawal or suspension should continue until a formal hearing of the charges by a University adjudicating body can be held. During this preliminary hearing, the student or student organization will be given

notice of the allegations supporting the imposition of interim involuntary withdrawal or suspension against him/her and a summary of the evidence that supports the allegations. The student or student organization will be afforded an opportunity to respond to the allegations. If the interim involuntary withdrawal or suspension is upheld, the formal hearing concerning withdrawal, suspension, or expulsion shall be held as soon as practical. Conditions may be placed on a student or a student organization for his/her/its return to the University. The student or student organization may be required to provide documentation that he/she/it has taken steps to mitigate the previous behavior (e.g., including, but not limited to, having followed a treatment plan, submitted periodic reports, granted permission for the University to talk to the treating professional).

17. **Temporary Student Organization Cease and Desist.** A temporary organizational cease and desist is instituted when the University has received information indicating that the continued activity of the student organization could (1) potentially put students or the community at risk; (2) cause irreparable harm to the University or student organization; (3) influence the integrity of an investigation; and/or (4) increase the student organization's or University's fault or liability. A temporary student organization cease and desist can be issued by the University alone or in conjunction with a national/regional organization cease and desist. The Office of Student Conduct will notify the parent office (i.e. Student Organizations and Service and/or Fraternity and Sorority Life) and the designated student representative that the student organization has been temporarily restricted from conducting business. During the time of the temporary cease and desist, the student organization will be prohibited from conducting organizational business including, but not limited to, organizational meetings, social activities, philanthropic activities, and representation of the University. The cease and desist duration will be determined on a case by case basis.

VII. Student Conduct Hearing Officers and/or Boards

Violations under this policy may be heard by the following [administrative judge](#), hearing officers and/or boards:

- A. The University Official shall conduct all preliminary reviews and disciplinary conferences. These staff members will also conduct investigations as necessary.
- B. The Student Judicial Board shall consist of nine (9) students. The Board may be convened to hear cases involving alleged violations of University rules committed by students and student organizations. If the student or student organization is found responsible, the Board recommends appropriate disciplinary sanctions to the Dean of Students. This Board may also be convened to hear matters relative to the interpretations of the Student Government Association constitution and any other

policies passed by the Senate, as well as cases regarding student parking citations. Information regarding application, selection procedures, qualifications, and vacancies can be found in the Student Government Association constitution (<http://www.mtsu.edu/sga/documents/constitution.pdf>).

- C. The University Discipline Committee. See [Policy 32 University Committees](#).
- D. The Student Appeals Committee. See [Policy 32 University Committees](#).

VIII. Disciplinary Procedures

- A. Responsibility for Administration. The administration of discipline is a function of the Dean of Students Office and/or the appropriate adjudicating body with the exception of matters concerning academic misconduct which is a function of the Office of the University Provost and/or the Academic Misconduct Committee, set out with specificity in [Policy 312 Academic Misconduct](#). Complaints involving sexual discrimination, sexual harassment, dating violence, domestic violence, or stalking will be investigated pursuant to [Policy 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression](#). If a violation is determined to have occurred, the student or student organization will be subject to the disciplinary process provided in this policy.
- B. Standard of Proof. The standard of proof utilized in all student disciplinary matters is the preponderance of the evidence. Students should be aware that the student conduct process is different from criminal and civil court proceedings. The student conduct process is built on fundamental fairness. Due process, as defined in this policy, includes written notice of the student conduct rules that are in question and an opportunity to be heard by an objective decision-maker. Students will only be found in violation of the student conduct rules when it is more likely than not that a violation occurred. This is called a preponderance of the evidence. Sanctions will be fundamentally proportional to the severity of the violation, the student's willingness to comply with student conduct rules in the future, and the cumulative conduct history of the student.
- C. Disciplinary Referral. Reports of behaviors and incidents involving students may be referred for evaluation and possible disciplinary action by the University Police, residence hall staff members, faculty, staff, students, and other members of the University and city community. Referrals should be in writing and should be directed to the Assistant Dean for Student Conduct. A hard copy of a written referral may also be dropped off at the Office of Student Conduct. Contact information and email and office addresses can be located on the Office of Student Conduct website.
- D. Preliminary Review. All disciplinary referrals will undergo a preliminary review. The appropriate University Official will review the referral to determine if the possibility exists that a student conduct rule was violated, if additional information is needed

prompting an investigation, if immediate action is warranted, and if there are other University entities that need to be put on notice that the behavior has occurred. If the University Official determines that there is a possibility that a student conduct rules violation has occurred and additional information is not needed, he/she will issue a disciplinary charge(s) against the student or student organization. If the University Official determines that additional information is needed, he/she will conduct an investigation. If immediate action is needed, the University Official will consult with the appropriate University Officials such as, but not limited to, the Office of the University Counsel, to determine the best course of action. If other entities need to be informed of the matter, the University Official will consult with the appropriate University officials to determine the specific information that will be shared about the behavior or incident.

E. Notice of Disciplinary Charges and Disciplinary Conference.

1. A disciplinary charge means an allegation of a potential violation of the student conduct rules. The purpose of a disciplinary conference is to determine whether there is a preponderance of the evidence to support the charges, and if so, to determine responsibility and appropriate sanctions. When disciplinary charges are issued to a student or student organization, the Student Conduct office will issue a written notice of the alleged violation(s) and the student's rights, and establish a disciplinary conference meeting date and time for the student or student organization and assigned University Official. During this disciplinary conference, the student or student organization will be reminded which University policy/policies have allegedly been violated, and the student or student organization will be given an opportunity to explain his/her/its version of the behavior or incident, or to otherwise refute the allegations. Students and student organizations [must be notified in writing that they](#) are afforded the following rights in the disciplinary conference:
 - a. The right to know what disciplinary violation(s) they have been charged with;
 - b. The right to tell their side of the story, present evidence, and request that fact witnesses be permitted to share information on their behalf;
 - c. The right to be accompanied by an advisor of their choosing whose participation is limited to advising the student or student organization. The advisor cannot speak on behalf of the student or student organization or represent the student or student organization. The advisor cannot be a student who has been charged with a violation of the student conduct rules related to the same incident for which the meeting has been called;
 - d. The right to receive the decision and their imposed sanctions in writing.

2. The University Official will review the incident taking into account all information gathered pertinent to the matter, as well as the information provided by, or on behalf of, the student or student organization. A determination will be made as to whether or not there has been a violation of the student conduct rules and, if so, what the appropriate sanction(s) will be. ~~The University Official will explain the sanctions and options for case resolution.~~ The University Official may also determine that additional information or follow-up is needed prior to being able to make a determination regarding responsibility for a student conduct rules violation and may delay a decision until such a time that the needed information is acquired. The University Official can also refer the matter to the University Discipline Committee, if the case is particularly complex or the student or student organization would be best served by having a committee review the case.
 3. If the student or student organization alleged to have engaged in misconduct does not respond after having been provided notice of the disciplinary conference, the University Official will make a determination as to responsibility for the conduct violation based on the information gathered to that point and will impose a sanction as deemed appropriate.
- F. Hearing Options. The majority of student disciplinary cases are resolved at the Disciplinary Conference level when the student or student organization accepts responsibility for the violation and the recommended sanction(s). However, if this does not occur, the matter may proceed to a hearing. If the recommended sanction is suspension, expulsion, or revocation of recognition of the student organization, the student or student organization has two (2) choices regarding resolution of the disciplinary case. The first choice is to request a hearing before the University Discipline Committee. The second choice is to request a hearing pursuant to the Uniform Administrative Procedures Act (UAPA). The University Official will explain the two (2) choices, and the student or student organization will indicate his/her/its selection in writing. Once the selection is made, the student or student organization cannot elect another option or revert back to the original decision rendered by the University Official. In addition, the Office of Student Conduct can refer a matter to a hearing when the case is unusually complex and/or problematic.
1. Student Judicial Board (SJB) and University Discipline Committee (UDC) hearings.
 - a. The SJB and UDC will hear student disciplinary cases when requested by a student or student organization, or when referred by the Office of Student Conduct. The SJB and UDC makes its recommendation(s) to the Dean of Students or Vice President for Student Affairs, respectively. The Dean of Students and Vice President can uphold the recommendation(s), reverse the recommendation(s), or send the recommendation(s) back to the SJB or UDC for reconsideration of the sanctions only.

- b. The Office of Student Conduct has the responsibility for scheduling SJB and UDC hearings, including the selection of date, time, and location as well as providing information to the student or student organization about the hearing format and process. The student or student organization will be notified of the hearing schedule a minimum of four (4) business days in advance of the actual hearing date. These hearings are closed to the public unless all parties agree, in writing, to an open hearing.
- c. Students and student organizations are afforded the rights guaranteed in the Disciplinary Conference [\(see Section VIII.E.1.\)](#) as well as the following additional rights, [which shall be provided in writing](#):
- ~~(1)~~ [\(4\)](#) The right to receive notice of the date, time, and place of the hearing at least four (4) business days in advance of the hearing;
 - [\(2\)](#) [The right to receive a list of the witnesses the University expects to present at the proceeding and those the University may present if the need arises;](#)
 - [\(3\)](#) [The right to request a copy of the University's investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974, \(20 U.S.C. § 1232\(g\), and the federal regulations implementing that statute, as amended;](#)
 - ~~(4)~~ [\(4\)](#) [The right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence the University has in its possession, custody or control and may use to support claims or defenses, unless the use would be solely for impeachment.;](#)
 - ~~(5)~~ [\(2\)](#) The right to be accompanied by more than one (1) advisor at the discretion of the adjudicating body and the Office of Student Conduct. The advisor(s) cannot be another student who has been charged with a violation of the student conduct rules related to the same incident as the student. The student may choose to be advised by legal counsel; however, legal counsel's participation shall be limited to directly advising the student. Legal counsel cannot engage in direct or cross-examination, make opening or closing statements, or engage in argument;
 - ~~(6)~~ [\(3\)](#) The right to call witnesses on his/her/its behalf. It is the student or student organization's responsibility to contact his/her/its witnesses and inform them of the hearing unless the witness is also a University witness. University witnesses are contacted by the Office of Student Conduct;
 - ~~(7)~~ [\(4\)](#) The right to question witnesses;

~~(85)~~ The right to be informed of an appeal option, if applicable.

2. Uniform Administrative Procedures Act.

- a. All cases which may result in: (a) suspension or expulsion of a student from the University for disciplinary reasons; or, (b) revocation of the registration of a student organization, are subject to the contested case provisions of the Uniform Administrative Procedures Act (UAPA), T.C.A. § 4-5-301, et. seq., and shall be processed in accordance with the Uniform Contested Case procedures unless the student or student organization waives those procedures and chooses to have the case disposed of administratively in a disciplinary conference or by going before the University Discipline Committee. If the student/student organization wishes to pursue the case administratively or through the UDC, he/she/it must waive the right to a UAPA hearing in writing. Prior to making this decision, the University Official assigned to the matter will explain the differences between the hearing options and will provide to the student/student organization a document setting out the student/student organization's rights as are found in §Sections VIII.E.1. a. – d. and VIII.F.1.c.(1)-(8).
- b. In all cases involving a hearing under the UAPA contested case provisions, the President or designee shall determine, based upon the nature of the case, whether the hearing shall be before an administrative judge or a hearing officer alone or a Hearing Committee presided over by an administrative judge or a hearing officer. The President is responsible for appointing an administrative judge, a hearing officer and/or hearing committee at the request of the Office of Student Conduct. The Office of Student Conduct has the responsibility for working with the Office of the University Counsel to schedule UAPA hearings including the selection of date, time, and location as well as assisting in the scheduling of any necessary preliminary meetings.
- c. The case will proceed pursuant to University policy and the UAPA.

G. Separation of Functions

1. A person who has served as an investigator, University Official or advocate in a student disciplinary matter may not serve as an administrative judge or hearing officer, or assist or advise an administrative judge or hearing officer in the same proceeding.
2. A person who is subject to the supervision, direction or discretion of one who has served as investigator, University Official or advocate in a student disciplinary matter may not serve as an administrative judge or hearing officer or assist, or advise an administrative judge or hearing officer in the same proceeding.

3. A person may serve as an administrative judge or hearing officer at successive stages of the same disciplinary matter, unless a party demonstrates grounds for disqualifications in accordance with T.C.A. § 4-5-302.
4. A University Official may serve on the hearing committee, or as an administrative judge or hearing officer in the UAPA hearing where authorized by law and not subject to disqualification or other cause provided in T.C.A. Title 4, Chapter 5.
5. Nothing in this Section G. prohibits an attorney for the University from providing legal advice to multiple University employees who serve in different roles in the process of disciplining a student.

HG. Interim Involuntary Withdrawal or Suspension Hearings.

1. Hearings conducted with regard to interim involuntary withdrawals or suspensions imposed prior to or pending the outcome of a disciplinary investigation or proceeding shall be conducted consistent with the minimum requirements of due process applicable to a UDC hearing, taking into account the need for a timely hearing. The evidence presented at the hearing shall be limited to that which is relevant to the basis asserted for imposition of the interim involuntary withdrawal or suspension. The following special conditions apply to involuntary withdrawal/suspension hearings:
 - a. The University shall conduct an assessment to consider the nature, duration, severity, and probability of the threat posed and/or disruption caused by the student or student organization, relying on the best available objective evidence and, if applicable and obtainable, the most current medical evidence;
 - b. Failure of the student or representative of a student organization to appear for or cooperate with a mandated assessment will result in an involuntary withdrawal without further process;
 - c. The University shall also determine whether reasonable modifications of its policies, practices, or procedures could sufficiently mitigate the identified risk;
 - d. Absent exigent circumstances creating an imminent risk of harm, the University will make the decision to involuntarily withdraw or suspend based on the threat the student or student organization poses to others;
2. If exigent circumstances warrant the immediate removal of a student or student organization from the University, the student or student organization will receive, at a minimum, notice and an initial opportunity to present evidence immediately after being placed on the interim involuntary withdrawal or suspension, and the opportunity to initiate full due process within thirty (30) days of the removal.

I. Appeals

1. Eligibility. A student who has been suspended or expelled from the University, or a student organization whose recognition has been revoked as the result of disciplinary action has the right to file an appeal. Students or student organizations subject to disciplinary action that does not include suspension or expulsion from the University, or revocation of recognition of the student organization do not have an appeals option.
2. It is the responsibility of the adjudicating body to inform the student or student organization of the right to appeal and to whom the appeal should be presented. It is not the function of the appeals process to permit a rehearing of the factual issues presented to the adjudicating body, but rather to ensure that the disciplinary procedure has been implemented fairly and consistently with these rules.
3. For UAPA decisions, the appeal procedures are set forth in university policy and the UAPA.
4. UDC decisions.
 - a. Time Limitations. An appeal must be submitted in writing and received by the Dean of Students within forty-eight (48) hours of the date on which notice was sent to the student or student organization as provided in Section II.D. of this policy that the approving authority has affirmed the suspension or expulsion.
 - b. Grounds for Appeal. The appeal must specify grounds which would justify consideration. The written appeal must contain the substantive proof on which the student or student organization is basing the appeal. Appeals that do not include the specific information that substantiates the appeal will be immediately denied. General dissatisfaction with the outcome of the decision shall not be accorded as a basis for consideration of an appeal. An appeal may be filed based on one (1) or both of the following conditions:
 - (1) an error in procedural due process by the adjudicating body which prejudiced the disciplined student or student organization to the extent that a fundamentally fair hearing was denied as a result of the error;
 - (2) the emergence of new evidence which could not have been previously discovered by the exercise of due diligence and which, had it been presented at the initial hearing, would have substantially affected the original decision of the adjudicating body.

- c. The Dean of Students will review the written appeal to determine if the appellant has met the requirements for filing an appeal. Appeals which do not allege sufficient grounds shall be denied consideration and dismissed. Appeals which do allege sufficient grounds will be accepted for consideration and forwarded to the appellate body. The appellate body shall not conduct a re-hearing, but will consider only the record made by the adjudicating body. The appellate body may, at its own discretion, permit written or oral statements from the concerned parties in interest at the time the appeal is considered. The alternatives available to the appellate body are affirmation of the recommended sanction, reversal of the decision, and return to the original adjudicating body for reconsideration of sanctions only.

- J. Effect of Noncooperation. A student who fails to respond to a notice of disciplinary charges and disciplinary conference within the time frame specified will have a hold placed on his/her records. The hold will be removed at such time as the sanction imposed has been completed and the matter closed. In the event a student or student organization fails to cooperate, ignores, or otherwise does not respond after a reasonable amount of time to a notice of a disciplinary conference, he/she/it will be deemed to have waived the opportunity for a hearing. Decisions concerning responsibility and the imposition of sanctions may be made in the student's absence.

- K. Retention of Records. Disciplinary records are maintained by the Office of Student Conduct. A permanent disciplinary file will be maintained if a student is suspended or expelled from the University. Files developed in cases in which a lesser sanction has been imposed will be retained for a period of five (5) years after date of action unless sanctions specify that they should be retained for a longer period. Files developed in cases that are covered under the Clery Act will be retained for a period of seven (7) years after the date of action per federal requirements. Files developed in cases where a student is found not responsible for student conduct rules violations will be maintained for statistical purposes; however, the record will not be reportable as an official disciplinary record in that student's name.

IX. Alternative Resolution of Disciplinary Incidents

- A. Mediation. Students involved in conflict(s) with another individual(s) may elect to have the conflict(s) mediated with the assistance of a third party mediator assigned by the appropriate university official. The Office of Student Conduct must agree that mediation is an appropriate resolution to the presenting disciplinary incident. The following conditions must be accepted by the parties:
 1. All parties involved must willingly 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 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 agreement is not upheld, the parties may be referred back to the Office of Student Conduct for appropriate disciplinary action to be taken;
 5. If no form of resolution can be determined by mutual consent, the matter will be referred to the appropriate student conduct body.
- B. Informal Agreement. There may be times when it is appropriate for a student to come to an informal agreement with the University regarding his/her behavior and attempts to correct the behavior. The Office of Student Conduct will make these determinations on a case by case basis. An informal agreement can only be initiated by the Student Conduct Coordinator, Assistant Dean for Student Conduct, and/or the Dean of Students.

X. Victim's Rights

- A. Generally, a victim's input shall be sought during the disciplinary process; however, the right and responsibility for disposition of any individual complaint is reserved by the University. If a victim withdraws his/her/its complaint or refuses to offer testimony during the course of a disciplinary proceeding, the University reserves the right to proceed without his/her/its input.
- B. Victims of sexual misconduct, sexual harassment, dating violence, domestic violence, and stalking are guaranteed specific rights within [Policy 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression](#). These victims are afforded the following rights:
1. The victim shall be advised in writing of the date, time, and place of the hearing at least five (5) business days in advance of the hearing;
 2. The victim shall be given the opportunity to meet with the appropriate University Official to discuss the disciplinary process;
 3. The victim shall be given an opportunity to submit a written account of the alleged incident;
 4. The victim shall have the right to be accompanied at all stages of the disciplinary process by an advisor whose participation shall be limited to advising the victim. The advisor cannot be a student who has been charged with a violation of the student conduct rules related to the same incident as the victim or a student who has an

- open complaint against the victim. The victim may also be accompanied by legal counsel; however, counsel's participation shall be limited to directly advising the victim, i.e., legal counsel may not conduct direct or cross-examination, make opening or closing statements, or engage in argument. The victim may be accompanied by more than one (1) advisor at the discretion of the adjudicating officer or body. The intent of the victim to be accompanied by an advisor shall be indicated in writing to the student conduct coordinator at least five (5) days prior to the disciplinary hearing;
5. The victim shall be afforded an opportunity to testify as a witness during a disciplinary hearing;
 6. The victim may reserve the right to decline to testify during a disciplinary hearing, with the knowledge that such action could result in dismissal of allegations of University rules violations for lack of evidence;
 7. The victim shall be allowed to submit a written victim impact statement to the adjudicating body for their consideration during the sanction phase of the disciplinary process.

XI. Authority of the President

The President of the University retains final authority on all University matters, including disciplinary decisions. Therefore, any disciplinary action is subject to final review by the President. At his/her discretion, the President may determine 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.

Forms: none.

Revisions: June 5, 2017 (Original); March 27, 2018; _____, 2018.-

References: Family Educational Rights and Privacy Act of 1974; Tennessee Open Records Act; T.C.A. § 4-5-301, et. seq.; § 10-7-504(a)(4); § 49-7-123(a)(1); § 49-7-146; Policies 25 Equal Opportunity, Affirmative Action, and Nondiscrimination; 26 Discrimination and Harassment Based on Protected Categories Other Than Sex; 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression; 32 University Committees; 100 Use of Campus Property and Facilities Scheduling; 110 Cases Heard Pursuant to the Uniform Administrative Procedures Act; 312 Academic Misconduct; 541 Residential Life and Housing Rules; 705 Weapons on Campus; 750 Tobacco-Free Campus; 775 Traffic, Parking, and Safety Enforcement; 910 Information Technology Resources.



**Middle Tennessee State University
Board of Trustees**

MEETING: September Quarterly Board Meeting
SUBJECT: [Approval of Expedited Tenure](#)
DATE: September 18, 2018

BACKGROUND INFORMATION:

The University will sometimes find it necessary to expedite tenure review in order to recruit high-quality faculty, especially when hiring for administrative positions. In these cases, the University's review will be based on the candidate's curriculum vitae rather than a traditional tenure application file. The request will originate with the Department Chair/Director and be reviewed by the department tenure and promotion review committee, the Dean, the college tenure and promotion review committee, the Provost, and the President. [Policy 204 Tenure, Section V]

The following faculty, currently serving as administrators, have been reviewed for tenure by their department chair, department committee, college committee, and college dean according to MTSU Policy 204 Tenure and their respective college and department policies. The President and University Provost recommend that tenure be granted effective September 18, 2018.

	Name	Department	Rank
1	Anne Anderson	Economics and Finance	Professor
2	Cathy McElderry	Social Work	Professor



**Middle Tennessee State University
Board of Trustees**

Tab 3

Audit and Compliance
Committee Meetings
August 28, 2018
&
September 18, 2018



**Middle Tennessee State University
Board of Trustees**

MEETING: September Quarterly Board Meeting

SUBJECT: [Audit and Compliance Committee](#)

DATE: September 18, 2018

PRESENTER: Trustee Andy Adams

ACTION REQUIRED: Voice Vote

STAFF RECOMMENDATION: Approval

- 2019 Annual Audit Plan
- Risk Assessment Reporting



**Middle Tennessee State University
Board of Trustees**

MEETING: Fall Quarterly Board Meeting
SUBJECT: [Approval of 2019 Annual Audit Plan](#)
DATE: September 18, 2018

BACKGROUND INFORMATION:

The 2019 Annual Audit Plan was presented to the Committee at the August 28, 2018 meeting as part of the Audit and Consulting Services Annual Report.

MTSU Policy 70, Internal Audit, Section VII.C. requires approval of the audit plan by the Audit and Compliance Committee.

The Internal Audit Plan for Fiscal Year 2019 is presented to the Committee for approval.

**Middle Tennessee State University
Internal Audit Plan
Fiscal Year Ended June 30, 2019
as of August 15, 2018**

Type	Area	Audit Project	Current Status	Audit Results
R	FM	Year-End Inventory FY2018	In Progress	
R	FM	Cash Counts FY2018	Memo to Management 8/8/18	No Reportable Issues
R	GV	Audit of President's Office	In Progress	
I	SS	INV1602	Draft Report	
I	AA	INV1604	In Progress	
I	SS	INV1702	In Progress	
I	MC	INV1704	Draft Report	
I	AA	INV1705	In Progress	
I	AA	INV1801	Draft Report	
I	AT	INV1802	In Progress	
I	IT	INV1901	In Progress	
I	FM	INV1902	Administratively Closed 8/7/18	No Reportable Issues
I	IT	INV1903	In Progress	
R	AT	Football Attendance Fall 2018	Scheduled	
F	GV	State Audit Assistance/Follow-Up	Project Throughout Year	n/a
C	GV	General Consultation	Project Throughout Year	n/a
I	GV	Unscheduled Investigations	Project Throughout Year	n/a
R	FM	Cash Counts FY2019	Scheduled	
R	FM	Year-End Inventory FY2019	Scheduled	
P	GV	IIA - Self Assessment & QAR	Scheduled	
S	AA	Use of Aircraft	Scheduled	
A	AA	Research Services Procedural Review	Scheduled	
A	SS	Financial Aid Procedural Review	Scheduled	
A	FM	Property Management Contract Review	Scheduled	

Audit Types:

A - Risk-Based (Assessed)
C - Consulting
F - Follow-up Review
I - Investigation
M - Management's Risk Assessment
P - Project (Ongoing or Recurring)
R - Required
S - Special Request

Area = University Division

AA - Academic Affairs
AD - Advancement
AT - Athletics
FM - Financial Management
GV - Governance/Executive Office
IT - Information Technology
MC - Marketing and Communications
SS - Student Services



**Middle Tennessee State University
Board of Trustees**

MEETING: Fall Quarterly Board Meeting

SUBJECT: Office of Compliance and ERM Update:
Risk Assessment Reporting

DATE: September 18, 2018

BACKGROUND INFORMATION:

Section 9-18-104 of the Financial Integrity Act requires institutions of higher education to prepare and provide a management assessment of risk to the State of Tennessee's Commissioner of Finance and Administration and to the Comptroller of the Treasury by December 31 annually. In addition, MTSU provides risk assessment reporting to the State of Tennessee's Auditor in late September.

For 2018, the Divisions of Business and Finance, and Academic Affairs performed, and provided, risk assessment reporting. In addition, a risk assessment report was completed detailing institution-wide risk and control activities.

Similar to MTSU's risk assessment reporting of 2017, the risk assessment documents are designated as confidential and are to be discussed in the non-public Executive session of the Audit and Compliance Committee. The three sets of risk assessment reports are presented to the Committee for review and approval prior to the reports' submission to the State, as required by law.



**Middle Tennessee State University
Board of Trustees**

Tab 4

Report of the Board Secretary



**Middle Tennessee State University
Board of Trustees**

MEETING: Fall Quarterly Board Meeting

SUBJECT: [Board Secretary Report](#)

DATE: September 18, 2018

PRESENTER: Board Secretary Heidi Zimmerman

ACTION REQUIRED: None

BACKGROUND INFORMATION:

The Board Secretary was delegated limited authority to make technical revisions in policies and rules with the condition that a report be made to the Board of Trustees concerning what revisions have been made.

Following is a list of technical revisions made since the last Board of Trustees meeting.

Policy	Date Edited	Explanation
To be reported at Fall Board Meeting		
203 Faculty Development	6/12/2018	Section II.A.2.: Changed "i.e." to "e.g."
829 Educational Assistance: MTSU Employee Tuition Waiver	6/15/2018	Updated link to new HRS form for Fee Waiver
853 Classified Grievance and Complaint Policy	6/15/2018	Updated link to complaint and grievance forms
120 Public Records - Inspecting and Copying (form)	8/21/2018	Request to Inspect Records form was revised by adding the email address to send requests to, added a link to the Policy 120, added a note about TN residency requirement, and added a place to indicate Index number for payment purposes.