

**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: 09-35-19
Rule ID(s): 9252
File Date: 01/30/19
Effective Date: 12/29/19

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:	University of Tennessee
Division:	
Contact Person:	Matthew Scoggins, General Counsel
Address:	719 Andy Holt Tower, 1331 Circle Park, Knoxville, TN
Zip:	37996-0170
Phone:	865-974-3245
Email:	scoggins@tennessee.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 Please make sure that ALL new rule and repealed rule numbers are listed in the chart below.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
1720-03-03	Student Rights and Responsibilities
Rule Number	Rule Title
1720-03-03-.02	Definitions
1720-03-03-.04	Standards of Conduct
1720-03-03-.05	Penalties
1720-03-03-.08	Hearing Procedures
1720-03-03-.09	Student Identification Cards
1720-03-03-.10	Student Health Insurance

Rules of
The University of Tennessee
(Health Science Center)

Chapter 1720-03-03
Student Rights and Responsibilities

Amendments

The Table of Contents of Rule 1720-03-03 is amended by deleting the word "Penalties" and substituting instead the word "Sanctions," so that as amended the Table of Contents reads:

1720-03-03-.01	Introduction	1720-03-03-.06	No Contact Directives
1720-03-03-.02	Definitions	1720-03-03-.07	Interim Suspension
1720-03-03-.03	Jurisdiction	1720-03-03-.08	Hearing Procedures
1720-03-03-.04	Standards of Conduct	1720-03-03-.09	Student Identification Cards
1720-03-03-.05	Sanctions	1720-03-03-.10	Student Health Insurance

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

Rule 1720-03-03-.02 Definitions is amended by deleting the section in its entirety and substituting instead the following:

1720-03-03-.02 Definitions. The following words, terms, or phrases, when used in this Chapter, shall have the following meanings:

- (1) **Business Day:** Any weekday not designated by the University as a holiday or administrative closure day. When calculating a time period of business days specified in this Chapter, the business day of the event that triggers a time period is excluded.
- (2) **Disciplinary Hold:** The University hold described in Section .05(3).
- (3) **Faculty Member:** A person hired by the University to conduct teaching, research, or supervised clinical placements.
- (4) **Good Faith:** Having a belief in the truth of information that a reasonable person in the same position could have, based on the information known to the person communicating the information at the time the information was communicated by that person. Information is not communicated in good faith if it is communicated with knowing or reckless disregard for information that would negate the former information.
- (5) **Member of the University Community:** A person who is a student, University employee, University volunteer, invited visitor to University-controlled property, or participant in a University-affiliated activity.
- (6) **Notice:** Written notice transmitted by United States mail, courier service, or hand delivery to the address the University's Registrar has on file for the student; and/or by e-mail to a student's University-provided e-mail account. When a notice is transmitted by United States mail or courier service, the notice is effective on the date that it is mailed or delivered to the courier service. When a notice is transmitted by hand delivery, the notice is effective on the date that it is delivered to the person to whom the notice is addressed. When a notice is transmitted by e-mail, the notice is effective on the date that the e-mail is sent. A student's University-issued email address is the official method of communication used by the University.
- (7) **Possession:** Direct control of a substance or property, actual knowledge of a substance or property, and/or being in such close proximity to the substance or property that it is a reasonable presumption that one had knowledge of the substance or property.
- (8) **Protected Activity:** A person's good faith: (1) opposition to conduct prohibited under the Standards of Conduct; (2) report to the University about conduct prohibited under the Standards of Conduct

to the University; (3) participation (or reasonable expectation of participation) in any manner in an investigation, meeting, hearing, or interim measure; or (4) exercise of rights or responsibilities under any provision of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.

- (9) **Staff Member:** A person employed by the University on a part- or full-time basis, primarily involved in planning, organizing, staffing, directing and/or controlling efforts to achieve the goals and objectives of the University.
- (10) **Standards of Conduct:** Chapter 1720-03-03-.04.
- (11) **Student:** For purposes of this Chapter, the term “student” means:
 - (a) A person enrolled or registered for study at the University, either full-time or part-time, pursuing undergraduate, graduate, or professional studies, as well as non-degree and non-credit programs and courses;
 - (b) A student organization;
 - (c) A person who has completed the immediately preceding academic term and is eligible for re-enrollment;
 - (d) A person who is not officially enrolled but who has a continuing relationship with the University (e.g., on educational leave or other approved leave status);
 - (e) A person who attended the University during a previous academic term and who engaged in misconduct during the time of enrollment; and/or
 - (f) A person who has been admitted to the University and later matriculates at the University, with respect to misconduct:
 - 1. That occurs as part of the application process; or
 - 2. That occurs post-admission and pre-matriculation and falls within the jurisdiction of this rule (e.g., occurs on University-controlled property).
- (12) **Student Organization:** An organization that is composed solely of University students that has submitted a pending application or has completed the process for registration according to University rules.
- (13) **UAPA:** The Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-101 et seq.
- (14) **University:** The University of Tennessee Health Science Center, including without limitation its campuses, centers, institutes, and constituent parts.
- (15) **University-Affiliated Activity:** means an activity on or off University-controlled property that is initiated, aided, authorized, sponsored, or supervised by the University.
- (16) **University-Controlled Property:** All land, grounds, structures, or any other property owned, controlled, or operated by the University. For purposes of this rule, University-controlled property includes, without limitation, all streets, alleys, sidewalks, and public ways abutting such property. University-controlled property also includes computers and network systems owned, controlled, or operated by the University or funded by the University.
- (17) **University Official:** An employee of the University, including, without limitation, faculty members and staff members, or, for purposes of this Chapter, a University-recognized volunteer, when acting in the performance of their duties. Student employees may be considered University officials when acting in the performance of their University duties.

- (18) **Weapon:** Any device, instrument, or substance that is designed to, or reasonably could be expected to, inflict a wound, incapacitate, or cause serious bodily injury or death, including, without limitation, firearms (loaded and unloaded, real firearms and devices that would reasonably appear to a law enforcement officer to be real firearms), ammunition, electronic control devices (including but not limited to tasers and stun guns), devices designed to discharge an object (including but not limited to bb guns, air guns, pellet guns, potato guns, and slingshots, but not water guns), explosives, dangerous chemicals (including but not limited to mace, tear gas, and oleoresin capsicum), martial arts weapons, bows and arrows, artificial knuckles, nightsticks, blackjacks, dirks, daggers, swords, and knives with fixed blades longer than four (4) inches. The term "weapon" does not include pocket knives that fold (but not excluding switchblades); chemical repellents available over-the-counter for self-defense; instruments used solely for personal hygiene, preparation of food, maintenance, University-related instruction, or University employment-related duties.
- (19) **Written:** To communicate words either on paper and/or electronically. For example, a notice delivered via e-mail constitutes a written notice under this rule.

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

Rule 1720-03-03-.04 Standards of Conduct is amended by deleting the section in its entirety and substituting instead the following:

1720-03-03-.04 Standards of Conduct. Students are prohibited from engaging in the following types of misconduct:

- (1) **Academic Dishonesty.** Cheating, plagiarism, or any other act of academic dishonesty, including, without limitation, an act in violation of the Honor Code.
- (2) **False Information.** Providing false information to a University official.
- (3) **Misuse of Information in Connection with University Investigation or Hearing.** Falsifying, distorting, misrepresenting, or withholding information in connection with a University investigation or hearing.
- (4) **Misconduct Relating to Records or Identification.** Forging, altering, destroying, falsifying, or misusing records or identification, whether in print or electronic form.
- (5) **Harm to Others.** Causing physical harm to any person; endangering the health, safety, or welfare of any person; engaging in conduct that causes a reasonable person to fear harm to his/her health or safety; or making an oral or written statement that an objectively reasonable person hearing or reading the statement would interpret as a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.
- (6) **Harassment.** Unwelcome conduct that is so severe, pervasive, and objectively offensive, that it substantially interferes with the ability of a person to work, learn, live, or participate in or benefit from the services, activities, or privileges provided by the University. In no event shall this rule be construed to discipline a student for speech protected by the First Amendment to the United States Constitution (e.g., mere insulting or offensive speech).
- (7) **Sexual Misconduct, Relationship Violence, Stalking, and/or Retaliation.** Violating the University's Policy on Sexual Misconduct, Relationship Violence, Stalking, and/or Retaliation.
- (8) **Invasion of Privacy.** Invasion of another person's privacy when that person has a reasonable expectation of privacy, including, without limitation, using electronic or other means to make a video or photographic record of any person in a location in which the person has a reasonable expectation of privacy, without the person's knowledge or consent. This includes, but is not limited to, making a video or photographic record of a person in shower/locker rooms or restrooms. The storing, sharing, and/or distributing of such nonconsensual recordings by any means is also prohibited.

- (9) Private or Public Property. Any of the following conduct with respect to private or public property, including, without limitation, University-controlled property: theft; misappropriation; unauthorized possession, use, sale, duplication, or entry; vandalism; destruction; damage; or conduct that is reasonably likely to cause damage.
- (10) Hazing. Any intentional or reckless act, on or off University-controlled property, by one (1) student, acting alone or with others, which is directed against any other student, which endangers the mental or physical health, safety, or welfare of that student, or which induces or coerces a student to endanger his or her mental or physical health, safety, or welfare. "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.
- (11) Disorderly Conduct. Fighting or other physically violent or physically threatening conduct; creating a hazardous or physically offensive condition by any act that serves no legitimate purpose; making noise that could unreasonably disturb others who are carrying on lawful activities; or conduct that breaches the peace.
- (12) Lewd, Indecent, or Obscene Conduct. Engaging in lewd, indecent, or obscene conduct, including, without limitation, public exposure of one's sexual organs, public urinating, and public sexual acts.
- (13) Imminent Lawless Action. Engaging in speech either orally or in writing that is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.
- (14) Fire Safety. Any act of arson; falsely reporting a fire, the presence of an explosive or incendiary device, or other emergency; setting off a false fire alarm; or tampering with, removing, or damaging fire alarms, fire extinguishers or any other safety or emergency equipment from its proper location except when removed in a situation in which there is a reasonable belief of the need for such equipment.
- (15) University Keys, Access Cards, and Identification. Possessing, using, or duplicating University keys, University access cards, or University identification cards without authorization from the University.
- (16) Information Technology. Theft, misuse, or unauthorized use of information technology facilities, resources, or access codes, including, without limitation: unauthorized entry into or transfer of a file; using another person's identification and/or password without that person's consent; using information technology facilities or resources to interfere with the work of another student, faculty member, staff member, or other member of the University community; using information technology facilities or resources to interfere with normal operation of a University information technology system or network; circumventing University information technology system or network security; using information technology facilities or resources in violation of copyright laws; falsifying an e-mail header; and conduct that violates the University's policy on the acceptable use of information technology resources.
- (17) Weapons. Possessing, carrying, using, storing, or manufacturing any weapon on University-controlled property or in connection with a University-affiliated activity, unless authorized in writing by the Chief of Police or his/her designee or unless federal or state law affirmatively gives a student a right, irrespective of this Chapter, to possess or carry a weapon on University-controlled property or in connection with a University-affiliated activity.
- (18) Alcohol-Related Conduct – University Property or University Activities. Consuming, manufacturing, possessing, distributing, dispensing, selling, or being under the influence of alcoholic beverages on University-controlled property or in connection with a University-affiliated activity unless expressly permitted by University policy.
- (19) Alcohol-Related Conduct Prohibited by Law. Consuming, manufacturing, possessing, distributing, dispensing, selling, or being under the influence of alcoholic beverages, if prohibited by federal, state, or local law.

- (20) Providing Alcohol to Underage Person. Providing an alcoholic beverage to a person younger than twenty-one (21) years of age, unless permitted by law.
- (21) Drugs and Drug Paraphernalia. Using, manufacturing, possessing, distributing, selling, dispensing, or being under the influence of drugs, if prohibited by federal, state, or local law; using, manufacturing, possessing, distributing, or selling drug paraphernalia, if prohibited by federal, state, or local law; using or possessing a prescription drug if the prescription was not issued to the student; or distributing or selling a prescription drug to a person to whom the prescription was not originally issued.
- (22) Failure to Fulfill a University Financial Obligation. Failing to timely fulfill a University bill, account, or other financial obligation owed to the University.
- (23) Failure to Respond, Comply, or Identify. Failing to respond to a request to report to a University administrative office; failing to comply with a lawful directive of a University employee or other public official acting within the scope of his/her duties; or failing to identify oneself to a University employee or other public official acting within the scope of his/her duties when requested to do so.
- (24) Failure to Appear. Failing to appear at a University hearing, including, without limitation, a hearing of a University conduct board, following a request to appear either as a party or as a witness.
- (25) Violation of Interim Administrative Actions, Disciplinary Sanctions, or Conditions of Re-Enrollment. Violating the terms of a no-contact directive, an interim restriction (e.g., interim suspension), a disciplinary sanction, or a condition of re-enrollment imposed by the University.
- (26) Obstruction or Disruption of University Activity. Obstructing or disrupting teaching, learning, studying, research, public service, administration, disciplinary proceedings, emergency services, or any other University-affiliated activity, or the free flow of pedestrian or vehicular traffic on University-controlled property. In no event shall this rule be construed to discipline a student for speech protected by the First Amendment to the United States Constitution.
- (27) Violation of University Policy or Rule. Violating a University policy or rule, including, without limitation, University policies or rules relating to facilities' use, smoking, the acceptable use of information technology resources, research misconduct, finder's fees relating to clinical investigations involving human subjects or access to University data or materials, University libraries, dining services, parking or transportation, University identification card use, sexual harassment, residence halls, and registered student organizations.
- (28) Act Prohibited by Law. Committing an act that is prohibited by local, state, or federal law.
- (29) Attempted Violation; Accessory to Violation. Attempting to commit a violation of a Standard of Conduct or being an accessory to the commission of an act or attempted act in violation of a Standard of Conduct.
- (30) Retaliation. Engaging in retaliation. Retaliation is an act or omission committed by a student because of another person's participation in a protected activity that would discourage a reasonable person from engaging in protected activity. Retaliation violates the Standards of Conduct regardless of whether the underlying allegation of a violation of the Standards of Conduct is ultimately found to have merit. Retaliation can include, without limitation: (1) an act or omission committed against a person's family, friends, advisors, and/or other persons reasonably expected to provide information in connection with a University investigation or hearing; and (2) an act or omission committed by a student through a third party.

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

Rule 1720-03-03-.05 Penalties is amended by deleting the word "penalty" everywhere it appears and replacing it with the word "sanction;" and by deleting the word "penalties" everywhere it appears, including the section title,

and replacing it with the word "sanctions" so that as amended the rule reads:

1720-03-03-.05 Sanctions.

- (1) Disciplinary sanctions are primarily intended to educate students and student organizations about appropriate behavior, encourage students and student organizations to take responsibility for misconduct, promote the personal and professional development of students, discourage other students and student organizations from violating the Standards of Conduct, and protect members of the University community. The sanctions imposed should be appropriate for the particular case based on the gravity of the offense (including without limitation how the violation affected or reasonably could have affected other members of the University community). Efforts are made to keep sanctions consistent with those applied to similar cases. In recognition of the fact that the University is an educational institution with a rehabilitative point of view, sanctions are assessed in accordance with conditions accompanying each offense. Consideration may also be given to the student's or student organization's conduct record; the student's or student organization's responsiveness to the conduct process; whether the student acted in self-defense, and, if so, whether the amount of force used was reasonable under the circumstances; student academic classification; and other aggravating or mitigating factors. Sanctions may be applied retroactively to the date of the offense. Intoxication or impairment because of alcohol, drugs, chemicals, or other substances does not diminish or excuse a student violation of the Standards of Conduct. Additionally, official violation notifications are given by the appropriate office, and official records are maintained in that office.
- (2) The following sanctions may be imposed on any student found to have violated the Standards of Conduct:
 - (a) **Disciplinary Warning.** A disciplinary warning is a notice that the student is violating or has violated the Standards of Conduct. It is used for minor violations and consists of a restatement of the regulation violated with an official warning concerning future action.
 - (b) **Disciplinary Reprimand.** A disciplinary reprimand is used for minor violations of the Standards of Conduct when it is evident the misconduct occurred with knowledge and awareness of applicable Standards of Conduct. A reprimand indicates that further violations will result in more severe disciplinary actions. Reprimands may be given to students in either verbal or written form.
 - (c) **Loss of Privilege.** Loss of privilege is a sanction imposed most commonly cases involving violation of University rules governing hours, social standards, intramural sports, or misuse of University facilities. The loss of privilege is ordinarily established for a specific period of time, and actions are recorded in appropriate records. Privileges that maybe lost include, but are not limited to, scholarships, stipends, participation in extracurricular activities (e.g. intramurals), participation in social activities, and use of certain University-controlled property (e.g., information technology resources).
 - (d) **Education.** Students may be required to attend classes, at their own expense, dealing with issues such as the consequences of alcohol or drug use, civility, ethics, or other topics as deemed appropriate by the Chief Student Affairs Officer or his/her designee.
 - (e) **Restitution.** Restitution may be required in situations that involve destruction, damage, or loss of property, or unreimbursed medical expenses resulting from physical injury. Restitution may take the form of a monetary payment or appropriate service to repair or otherwise compensate for the destruction, damage, or loss.
 - (f) **Disciplinary Probation.** Disciplinary probation means that a student is permitted to remain in the University on a probationary status. Should a violation occur during probation, the student is normally suspended. Disciplinary probation is recorded on the student's personnel file in the Office of Student Affairs. Conditions of probation are specific to the individual case and may include loss of eligibility to serve as a student organization officer or participation in major student activities. Any specific probation conditions are described in a personal letter to the student. Other conditions of probation

are specific to each individual case and may include a requirement of community service or other requirement or restriction.

- (g) **Suspension.** The sanction of suspension is imposed in cases of serious or repeated misconduct or a violation of probation. A student who is suspended shall have his/her registration cancelled and is not eligible to apply for readmission for a designated period of time. Suspensions are always recorded on the student's permanent record. (Persons suspended from the University may not return to the campus for the duration of their suspension, except to conduct official business with an administrative officer or faculty member).
 - (h) **Permanent Dismissal.** Permanent dismissal means that a student is permanently barred from matriculating as a student at the University of Tennessee Health Science Center. This sanction is used when the violation of one (1) or more of the Standards of Conduct is deemed so serious as to warrant total and permanent disassociation from the University community without the possibility of re-enrollment; or when, by his/her repeated violation of the Standards of Conduct, a student exhibits blatant disregard for the health and safety of other members of the University community or the University's right to establish rules of conduct.
 - (i) **Revocation of Degree.** Revocation of a degree means revoking a student's a degree already awarded by the University. Revocation of a degree shall be approved by the University of Tennessee Board of Trustees.
- (3) A disciplinary hold may be placed on a student's account until the completion of the student disciplinary process and/or until the student satisfies the terms and conditions of any penalties imposed. A student who, at the time of commencement, is subject to a continuing disciplinary penalty or an unresolved disciplinary charge shall not be awarded a degree before the conclusion of all penalties and/or resolution of all disciplinary charges.
- (4) The following sanctions may be imposed on a student organization found to have violated the Standards of Conduct:
- (a) **Disciplinary Warning.** A disciplinary warning is used for minor violations of the Standards of Conduct and consists of a restatement of the Standard of Conduct violated with an official warning concerning future action.
 - (b) **Loss of Privilege.** This sanction is intended to serve as a reminder of the Standards of Conduct and is for a specific period of time. Examples of privileges that may be lost include participating in extracurricular activities (e.g., intramurals), housing privileges, participating in social activities, and using certain University-controlled property.
 - (c) **Education.** Student organizations or their representatives may be required to attend classes, at their own expense, dealing with issues such as the consequences of alcohol or drug use, civility, ethics, or other topics as deemed appropriate by the Chief Student Affairs Officer, Student Conduct Officer, and/or his/her designee.
 - (d) **Restitution.** Restitution may be required in situations that involve destruction, damage, or loss of property, or unreimbursed medical expenses resulting from physical injury. Restitution may take the form of a monetary payment or appropriate service to repair or otherwise compensate for the destruction, damage, or loss.
 - (e) **Social Probation.** This sanction prohibits a student organization from sponsoring or participating in specified social activities. While on social probation, a student organization may not host social events or participate in University-affiliated activities. Any exceptions to social probation must be approved, in advance, by the Chief Student Affairs Officer or his/her designee.
 - (f) **Disciplinary Probation.** Disciplinary probation means that a student organization is permitted to retain University registration on a probationary status. Violation of the

Standards of Conduct during the period of disciplinary probation may result in more serious sanctions, including revocation of University registration.

- (g) Revocation of University Registration. In cases of serious misconduct, a student organization's University registration may be revoked.
- (5) More than one (1) of the sanctions listed above may be imposed for any single violation of the Standards of Conduct.
- (6) Except for an interim suspension, disciplinary sanctions shall not become effective until after opportunities for appeal have been exhausted. Sanctions may be applied retroactively to the date of the offense. Coursework performed while disciplinary charges are pending or disciplinary proceedings are underway shall be considered conditional. Coursework may be affected or disregarded based on a final finding of misconduct or the sanctions imposed, which may result in loss of course credit, a loss of tuition and/or fees, a delay in the awarding of a degree, or revocation of a degree that was awarded prior to a final decision in the disciplinary proceeding.

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

Rule 1720-03-03-.08 Hearing Procedures is amended by: deleting the words "UT Health Science Center" wherever they appear and replacing them with "University;" deleting the phrases "and stalking" and "or stalking everywhere they appear and replacing them with the phrase "stalking and/or retaliation;" deleting the words "policies and procedures" in paragraph two (2) and replacing them with "rules;" and by deleting paragraph four (4) and renumbering the subsequent section accordingly, so that as amended the rule reads:

1720-03-03-.08 Hearing Procedures.

- (1) Conflicts of Interest
 - (a) The student conduct process must be carried out in a manner that is free from conflicts of interest consistent with due process of law.
 - (b) In cases involving allegations of sexual assault, dating violence, domestic violence, or stalking, the student conduct process must include protections for the accused student/respondent analogous to, and no less protective than, the conflict of interest provisions of Tennessee Code Annotated § 4-5-303. Notwithstanding the preceding sentence: (1) an attorney for the University is allowed to provide legal advice to multiple University employees who serve in different roles in the process of disciplining a student; and (2) the University is allowed to provide the alleged victim/complainant with equivalent rights as the accused student/respondent during the student conduct process.
- (2) Unless otherwise specified in the published rules of the University, a student charged with misconduct or who is entitled to an opportunity for a hearing will, upon request, be provided a hearing in accordance with the following procedures:
 - (a) Notice - A person charged with misconduct will receive written notification of the following:
 1. The substance of the charge(s) against him/her.
 2. The disciplinary action taken or proposed.
 3. His/her right to a hearing should he/she wish to contest the charge(s) or action.
 4. To whom a request for a hearing should be addressed.
 5. That a request for a hearing must be made within five (5) days of the person's receipt of this notice.

6. His/her right to be accompanied by no more than one (1) advisor during the hearing, including but not limited to a parent, spouse, friend, or attorney. The role of the advisor shall be limited to providing advice or support to the accused student. Even if accompanied by an advisor, the accused student is responsible for presenting his/her own case to the hearing panel. An advisor is not permitted to: introduce evidence; raise objections; present arguments; address directly the members of the hearing panel, the student conduct officer, or any witnesses participating in the hearing; or otherwise participate in the hearing. In consideration of the limited role of the advisor, and of the compelling interest of the University to expeditiously conclude the matter, a hearing shall not be delayed due to the unavailability of an advisor.
 7. His/her rights to a hearing under the Uniform Administrative Procedures Act, T.C.A. § 4-5-101 et seq. ("UAPA"). In the absence of a voluntary written waiver of his/her rights to a hearing under the provisions of the UAPA, a requested hearing will be conducted in accordance with the University's rules for conducting contested case proceedings under the UAPA, Chapter 1720-01-05, and the hearing procedures in this Section .08 shall not apply.
- (b) Notice of Hearing Concerning Allegations of Sexual Assault, Dating Violence, Domestic Violence, or Stalking. At least seventy-two (72) hours prior to a hearing under Section .08(3) concerning allegations of sexual assault, dating violence, domestic violence, or stalking, the University shall provide the accused student/respondent with notice of the following: (1) the time, place, and date of the hearing; (2) the name of each witness the University expects to present at the hearing and those the University may present if the need arises; (3) notice of 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; and (4) notice of the right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that 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.
 - (c) Hearing Panel or Hearing Examiner - A requested hearing will be provided by a panel of individuals or a hearing examiner, selected in accordance with policies of the University or, in the absence of applicable policies or procedures, by the Chancellor of the University or his/her designee. The hearing will be conducted by a panel chairman similarly selected. Panel members shall be impartial and anyone lacking such impartiality shall recuse himself or be removed by the Chancellor of the University or his/her designee upon the request of any party to a hearing. Neither the Student Conduct Officer nor a person who investigated the allegations of misconduct against the accused student shall be a member of the hearing panel or advise the hearing panel.
 - (d) Hearing Process - The chairman of a hearing panel or hearing examiner will conduct the hearing, without regard to technical rules of procedure, in such manner as will best serve the cause of justice within the following general guidelines:
 1. Each party to a hearing will be afforded a full and fair opportunity to present all evidence including witnesses, reasonably relating to the charge or action at issue; evidence which is irrelevant, immaterial, repetitious or voluminous may be limited.
 2. The hearing panel or examiner will consider all evidence presented, giving due consideration to the credibility or weight of each item presented; technical rules of evidence will not apply.
 3. Each party will have the right to question opposing witnesses.
 4. A record will be made of the hearing procedures. However, defects in the record

will not invalidate the proceedings.

5. The University will have the burden of providing, by a preponderance of the evidence, the truth of the charge(s) at issue. Where the charge(s) is found to be true, the person charged will have the burden of proving that the disciplinary action taken or proposed is arbitrary, capricious, or unreasonable.
 6. Following the conclusion of the hearing, the hearing panel or examiner will consider the evidence and present written findings within a reasonable time.
 7. In cases involving an allegation of sexual assault or misconduct, the hearing procedures shall be modified to afford the alleged victim all of the rights described in Chapter 1720-03-03-.08(2)(f).
- (e) In accordance with Title IX of the Education Amendments of 1972, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, and other applicable law, the University will investigate and resolve reports of sexual misconduct, relationship violence, stalking, and/or retaliation in accordance with the University's Policy on Sexual Misconduct, Relationship Violence, Stalking, and/or Retaliation. In a case involving an allegation of sexual misconduct, relationship violence, stalking, and/or retaliation the accused student/respondent and the alleged victim/complainant shall have the rights outlined in the University's Policy on Sexual Misconduct, Relationship Violence, Stalking, and/or Retaliation. Additionally, in a case involving sexual assault, dating violence, domestic violence, stalking and/or retaliation, the University shall provide the accused/student/respondent with notice of the role of advisors (e.g., attorneys) in the student conduct process, including the extent to which they are allowed to advise or represent the student in an investigation or hearing.
- (3) The decision of any board or administrative officer of The University of Tennessee is subject to review by the Chancellor.
 - (4) When, in the judgment of the Chancellor of the University of Tennessee, Health Science Center, conditions are such that an emergency exists which makes it impossible for the system of judicial boards to function, he/she may suspend the procedural regulations described in this Chapter. If the procedures are suspended, he may substitute for them arrangements for handling disciplinary matters that will ensure the orderly functioning of the University and at the same time safeguard the basic rights of the students.

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

Rule 1720-03-03-.09 Student Identification Cards is amended by deleting the words "UT Health Science Center" and replacing them with "University," so that as amended the rule reads:

1720-03-03-.09 Student Identification Cards.

- (1) All currently registered students are required to have a University Identification Card. Lost and found I.D. cards should be reported to the Office of Campus Safety and Security. Replacement for lost cards may be obtained from the Office of Campus Safety and Security. A replacement charge will be assessed.
- (2) In order to determine the identity of students, all students are required to present their University identification cards promptly on request of a University police officer or member of the administration or faculty of the University. Identification cards will not ordinarily be retained; however, a card may be retained if an emergency situation exists or if the card may be needed as evidence. The retained card, if valid, will be returned to the student as soon as possible.

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

Rule 1720-03-03-.10 Student Health Insurance is amended by deleting the words "UT Health Science Center" and replacing them with "University," so that as amended the rule reads:

1720-03-03-.10 Student Health Insurance. All students are required to obtain basic health care and medical care insurance to protect themselves, their families, their professional health care associates and providers. The student may elect to enroll in the University's student health insurance plan or obtain equivalent health insurance with a private carrier. Students who fail to furnish proof of insurance coverage will be prevented from completing their registration for that academic term.

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

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
John Compton	x				
Commissioner Charles Hatcher				x	
Decosta Jenkins	x				
Kara Lawson	x				
Amy E. Miles	x				
Kenneth Packer (non-voting trustee)					
William C. Rhodes III	x				
Donnie Smith	x				
Kim H. White	x				
Alan D. Wilson	x				
Jamie Woodson	x				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the University of Tennessee Board of Trustees on 03/01/2019, 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: 7/25/19

Signature: 

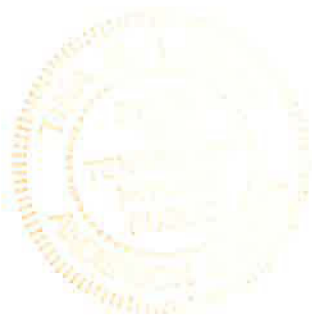
Name of Officer: Matthew Scoggins

Title of Officer: General Counsel

Subscribed and sworn to before me on: July 25, 2019

Notary Public Signature: Lina M. Loflin

My commission expires on: 8-1-2022



Agency/Board/Commission: University of Tennessee (Health Science Center)

Rule Chapter Number(s): 1720-03-03 Student Rights and Responsibilities

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

9/23/2019
Date

Department of State Use Only

Filed with the Department of State on: 9/30/19

Effective on: 12/29/19


Tre Hargett
Secretary of State

PROCESSED
2019 SEP 30 PM 12:28
SECRETARY OF STATE
PUBLICATIONS

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, 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 Regula(<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The 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;

On March 29, 2017, the UT Board of Trustees (Board) approved substantial revisions to the student code of conduct for The University of Tennessee, Knoxville (UTK) following a comprehensive review by UTK of its student conduct policies and procedures. Prompted by the revision of the UTK student code of conduct, the Board requested that the other UT campuses conduct similar reviews of their respective student codes of conduct. As a result of those reviews, The University of Tennessee Health Science Center (UTHSC) proposes revisions to its standards of conduct for students to be consistent with the standards of conduct for students approved by the Board for UTK. UTHSC also proposes corresponding revisions to the definitions of terms used in their student codes of conduct. Finally, UTHSC proposes non-material changes in wording in several sections.

- (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;

None

- (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;

The University of Tennessee Board of Trustees urges adoption. The students of UTHSC are most directly affected by this rule. The non-voting student trustee did not speak against adoption of the rule. The University of Tennessee Board of Trustees did not receive any requests from the public to address the Board about this rule.

- (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 known

- (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;

Matthew Scoggins, General Counsel

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

Matthew Scoggins, General Counsel

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

Matthew Scoggins
General Counsel
The University of Tennessee
719 Andy Holt Tower

Knoxville, TN 37996-0170
scoggins@tennessee.edu
865-974-3245

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

**RULES
OF
THE UNIVERSITY OF TENNESSEE
(HEALTH SCIENCE CENTER)**

**CHAPTER 1720-03-03
STUDENT RIGHTS AND RESPONSIBILITIES**

1720-03-03-.01	Introduction	1720-03-03-.06	No Contact Directives
1720-03-03-.02	Definitions	1720-03-03-.07	Interim Suspension
1720-03-03-.03	Jurisdiction	1720-03-03-.08	Hearing Procedures
1720-03-03-.04	Standards of Conduct	1720-03-03-.09	Student Identification Cards
1720-03-03-.05	<u>PenaltiesSanctions</u>	1720-03-03-.10	Student Health Insurance

1720-03-03-.01 Introduction.

- (1) Students at the University of Tennessee Health Science Center are members of both the University community and the larger community of which the University is a part. Accordingly, students are responsible for conducting themselves in a lawful manner and in compliance with University rules and policies. The University has established the following rules in order to advance the mission of the University by maintaining a safe and secure learning environment, protecting the rights and privileges of all members of the University community, providing a basis for orderly conduct of the affairs of the University, promoting a positive relationship between the University and its surrounding community, preserving institutional integrity and property, encouraging students to engage in conduct that brings credit to themselves and the University, and ensuring that each student who matriculates at the University graduates ready to contribute to society as an ethical and law-abiding citizen.
- (2) The University of Tennessee is committed to respecting students' constitutional rights. Nothing in this chapter is intended or shall be interpreted to restrict students' constitutional rights, including, but not limited to, rights of freedom of speech and assembly.
- (3) Students are responsible for being fully acquainted and for complying with the University catalog, student handbook, and other rules and policies relating to students. Failure or refusal to comply with the rules and policies established by the University may subject a student to disciplinary action up to and including permanent dismissal from the University.

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

1720-03-03-.02 Definitions. The following words, terms, or phrases, when used in this Chapter, shall have the following meanings:

- (1) Business Day: Any weekday not designated by the University as a holiday or administrative closure day. When calculating a time period of business days specified in this Chapter, the business day of the event that triggers a time period is excluded.
- (2) Disciplinary Hold: The University hold described in Section .05(3).
- (3) Faculty Member: A person hired by the University to conduct teaching, research, or supervised clinical placements.
- (4) Good Faith: Having a belief in the truth of information that a reasonable person in the same position could have, based on the information known to the person communicating the information at the time the information was communicated by that person. Information is

not communicated in good faith if it is communicated with knowing or reckless disregard for information that would negate the former information.

- (5) Member of the University Community: A person who is a student, University employee, University volunteer, invited visitor to University-controlled property, or participant in a University-affiliated activity.
- (6) Notice: Written notice transmitted by United States mail, courier service, or hand delivery to the address the University's Registrar has on file for the student; and/or by e-mail to a student's University-provided e-mail account. When a notice is transmitted by United States mail or courier service, the notice is effective on the date that it is mailed or delivered to the courier service. When a notice is transmitted by hand delivery, the notice is effective on the date that it is delivered to the person to whom the notice is addressed. When a notice is transmitted by e-mail, the notice is effective on the date that the e-mail is sent. A student's University-issued email address is the official method of communication used by the University.
- (7) Possession: Direct control of a substance or property, actual knowledge of a substance or property, and/or being in such close proximity to the substance or property that it is a reasonable presumption that one had knowledge of the substance or property.
- (8) Protected Activity: A person's good faith: (1) opposition to conduct prohibited under the Standards of Conduct; (2) report to the University about conduct prohibited under the Standards of Conduct to the University; (3) participation (or reasonable expectation of participation) in any manner in an investigation, meeting, hearing, or interim measure; or (4) exercise of rights or responsibilities under any provision of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.
- (9) Staff Member: A person employed by the University on a part- or full-time basis, primarily involved in planning, organizing, staffing, directing and controlling efforts to achieve the goals and objectives of the University.
- (10) Standards of Conduct: Chapter 1720-03-03-.04.
- (11) Student: For purposes of this Chapter, the term "student" means:
 - (a) A person enrolled or registered for study at the University, either full-time or part-time, pursuing undergraduate, graduate, or professional studies, as well as non-degree and non-credit programs and courses;
 - (b) A student organization;
 - (c) A person who has completed the immediately preceding academic term and is eligible for re-enrollment;
 - (d) A person who is not officially enrolled but who has a continuing relationship with the University (e.g., on educational leave or other approved leave status);
 - (e) A person who attended the University during a previous academic term and who engaged in misconduct during the time of enrollment; and/or
 - (f) A person who has been admitted to the University and later matriculates at the University, with respect to misconduct:
 - 1. That occurs as part of the application process; or

2. That occurs post-admission and pre-matriculation and falls within the jurisdiction of the Code (e.g., occurs on University-controlled property).
- (12) Student Organization: An organization that is composed solely of University students that has submitted a pending application or has completed the process for registration according to University rules.
- (13) UAPA: The Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-101 et seq.
- (14) University: The University of Tennessee Health Science Center, including without limitation its campuses, centers, institutes, and constituent parts.
- (15) University-Affiliated Activity: means an activity on or off University-controlled property that is initiated, aided, authorized, sponsored, or supervised by the University.
- (16) University-Controlled Property: All land, grounds, structures, or any other property owned, controlled, or operated by the University. For purposes of this rule, University-controlled property includes, without limitation, all streets, alleys, sidewalks, and public ways abutting such property. University-controlled property also includes computers and network systems owned, controlled, or operated by the University or funded by the University.
- (17) University Official: An employee of the University, including, without limitation, faculty members and staff members, or, for purposes of this Chapter, a University-recognized volunteer, when acting in the performance of their duties. Student employees may be considered University officials when acting in the performance of their duties.
- (18) Weapon: Any device, instrument, or substance that is designed to, or reasonably could be expected to, inflict a wound, incapacitate, or cause serious bodily injury or death, including, without limitation, firearms (loaded and unloaded, real firearms and devices that would reasonably appear to a law enforcement officer to be real firearms), ammunition, electronic control devices (such as tasers and stun guns), devices designed to discharge an object (such as bb guns, air guns, pellet guns, potato guns, and slingshots, but not water guns), explosives, dangerous chemicals (such as mace, tear gas, and oleoresin capsicum), martial arts weapons, bows and arrows, artificial knuckles, nightsticks, blackjacks, dirks, daggers, swords, and knives with fixed blades longer than four (4) inches. The term "weapon" does not include pocket knives that fold (but not excluding switchblades); chemical repellents available over-the-counter for self-defense; instruments used solely for personal hygiene, preparation of food, maintenance, University-related instruction, or University employment-related duties.
- (19) Written: To communicate words either on paper and/or electronically. For example, a notice delivered via e-mail constitutes a written notice under the Code.

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

1720-03-03-.02 DEFINITIONS.

- (1) — The term "University" means the University of Tennessee Health Science Center.
- (2) — The term "student" means a person admitted, enrolled or registered for study at the University of Tennessee, either full-time or part-time, pursuing undergraduate, graduate, or professional studies, as well as non-degree students. Persons not officially registered or enrolled for a particular term but who have a continuing relationship with the University also are considered students for purposes of these rules.

- (3) — The term "student organization" means an organization that is composed solely of University students that has submitted a pending application or has completed the process for registration according to University rules.
- (4) — The term "University-controlled property" means all land, buildings, facilities, grounds, structures, or any other property owned, leased, used, maintained, or operated by the University. For purposes of this rule, University-controlled property includes all streets, alleys, sidewalks, and public ways abutting such property. University-controlled property also includes computers and network systems owned, maintained, or controlled by the University or funded by the University.
- (5) — The term "University-affiliated activity" means any activity on or off University-controlled property that is initiated, aided, authorized, sponsored, or supervised by the University.
- (6) — The term "University official" means an employee of the University, including faculty members and staff, or for purposes of this rule a University-recognized volunteer. Student employees may be considered University officials when acting in the performance of their duties (e.g., event staff, resident assistants, and teaching assistants).
- (7) — The term "member of the University community" means any person who is a student, University official, campus visitor, or participant in a University-sponsored or University-affiliated activity.
- (8) — The term "possession" means actual knowledge of a substance or property and/or being in such close proximity to the substance or property that it is a reasonable presumption that one had knowledge of the substance or property.
- (9) — The term "weapon" means any device, instrument, or substance that is designed to, or reasonably could be expected to, inflict a wound, incapacitate, or cause serious bodily injury or death, including, but not limited to, firearms (loaded and unloaded, real firearms and devices that appear to a law enforcement officer to be real firearms), ammunition, electronic control devices (such as tasers and stun guns), devices designed to discharge an object (such as bb guns, air guns, pellet guns, potato guns, and slingshots, but not water guns), explosives, dangerous chemicals (such as mace, tear gas, and oleoresin capsicum), martial arts weapons, bows and arrows, artificial knuckles, nightsticks, blackjacks, dirks, daggers, swords, and knives with fixed blades longer than four (4) inches. The term "weapon" does not include pocket knives that fold (but not excluding switchblades); chemical repellents available over-the-counter for self-defense; instruments used solely for personal hygiene, preparation of food, maintenance, University-related instruction, or University employment-related duties.
- (10) — The term "notice" means notice given in writing and transmitted by United States mail, courier service, and/or hand delivery to the address the University's Registrar has on file for the student; and/or by e-mail to the student's University-provided e-mail account. When a notice is transmitted by United States mail or courier service, the notice is effective on the date that it is mailed or delivered to the courier service. When a notice is transmitted by hand delivery, the notice is effective on the date that it is delivered to the person to whom the notice is addressed. When a notice is transmitted by e-mail, the notice is effective on the date that the e-mail is sent. A student's University-issued e-mail address is an official method of communication used by the University about student conduct matters.
- (11) — The term "coercion" means words and/or conduct that, viewed from the perspective of a reasonable person, substantially impair(s) a person's ability to voluntarily choose whether to engage in a particular sexual act (e.g., sexual contact or sexual intercourse). Coercion

is something more than mere seduction or persuasion. Coercion includes, without limitation: physical force; and words and/or conduct that would cause a reasonable person to fear imminent harm to the person's health, safety, or property or that of a third person; threat of the loss or impairment of a job benefit; threat of the loss or impairment of an academic benefit; kidnapping of the person or a third person; or disclosure of sensitive personal information (e.g., disclosure of a person's sexual orientation, gender identity, or gender expression).

(12) — The term "consent" means an affirmative and voluntary agreement by a person to engage in a specific sexual act. Consent must be obtained, and the responsibility for obtaining consent rests with the individual who voluntarily and physically initiates a specific sexual act, even if the other person initiated the sexual encounter.

(a) — One's own use of alcohol, drugs, or other substances does not diminish one's responsibility to obtain Consent from the other person. Moreover, another person's use of alcohol, drugs, or other substances does not diminish one's responsibility to obtain consent from that person.

(b) — The term "affirmative," as used in the definition of consent, means that consent is communicated only through words and/or non-verbal actions that convey a clear agreement to engage in a specific sexual act. Whether person has communicated an agreement to engage in a specific sexual act generally is evaluated from the perspective of what a reasonable person who perceived the individual's words and/or non-verbal actions would have understood; however, in the context of a long-term relationship between persons that has involved sexual activity and a pattern of communicating consent, whether consent has been communicated may be evaluated based on a subjective standard (i.e., what did the specific person who initiated the specific sexual act conclude?). A verbal "no" (or words equivalent to "no") or the nonverbal communication of "no," even if it sounds or appears insincere or indecisive, always means that consent has not been communicated, or if previously communicated has been withdrawn. The absence of a verbal "no" or the absence of a nonverbal communication of "no" does not necessarily mean that consent has been communicated. Because interpreting non-verbal actions may lead to misunderstanding and a violation of this policy, students are strongly encouraged to err on the side of caution and not rely solely on the non-verbal actions of another person in concluding that the other person has communicated consent. The University urges students to communicate with one another before engaging in a sexual act to ensure that they both wish to engage in the same sexual act.

(c) — Consent cannot be obtained by or inferred from:

1. — silence that is not accompanied by non-verbal actions conveying a clear agreement to engage in a particular sexual act;
2. — consent communicated by the other person on a previous occasion;
3. — consent communicated to another person;
4. — the other person's failure to resist physical force (however, for purposes of this policy, the other person's resistance to physical force will be viewed as a clear demonstration that the person has not communicated consent);
5. — the sexual arousal of the other person;

6. — a current or previous dating, romantic, intimate, or sexual relationship with the other person;
7. — currently or previously cohabitating with the other person;
8. — the other person's attire;
9. — the other person's reputation;
10. — the other person's giving or acceptance of gifts; or
11. — the other person's extension or acceptance of an invitation to go to a private residence, room, or location.

(d) — Consent is not voluntary if it is obtained by coercion. Nor is consent voluntary if it is obtained from a person who is incapacitated if one knows (or a reasonable person would know) that the other person is incapacitated. Because the incapacitation of another person may be difficult for one to discern, students are strongly encouraged to err on the side of caution (i.e., when in doubt, assume that the other person is incapacitated and therefore unable to give consent.)

(e) — Consent must be continual, which means that consent must exist from the beginning to the end of each sexual encounter and for each specific sexual act that occurs during a sexual encounter. A person has a right to change his/her mind; thus, consent to engage in a specific sexual act may be withdrawn by a person at any time. A withdrawal of consent is communicated through clear words and/or clear non-verbal actions that indicate that a person no longer agrees to engage in a specific sexual act. Once a person's withdrawal of consent has been communicated, the other person must cease the specific sexual act and must obtain consent before reinitiating the specific sexual act or any other sexual act. Consent is automatically withdrawn when a person becomes incapacitated. Consent to one type of sexual contact or sexual intercourse (e.g., oral intercourse) does not constitute or imply consent for another type of sexual contact or sexual intercourse (e.g., vaginal intercourse), whether during a sexual encounter or during a previous sexual encounter. The University urges students to communicate with one another throughout a sexual encounter to ensure that any progression of sexual activity is done with consent.

(13) — The term "course of conduct" means two (2) or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person's property.

(14) — The term "dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim of the violence. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the following factors: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship. Dating violence includes, without limitation, sexual or physical abuse or the threat of such abuse.

(15) — The term "domestic violence" means a felony or misdemeanor crime of violence committed:

- (a) — by a current or former spouse or intimate partner of the victim;
- (b) — by a person with whom the victim shares a child in common;

- (c) — by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
 - (d) — by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
 - (e) — by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- (16) — The term "good faith" means having a belief in the truth of information that a reasonable person in the same situation could have, based on the information known to the person communicating the information at the time the information was communicated by that person. Information is not communicated in good faith if it is communicated with knowing or reckless disregard for information that would negate the former information.
- (17) — The term "incapacitated" or "incapacitation" means a temporary or permanent physical or mental state in which a person cannot make informed, rational judgments (e.g., judgments concerning sexual contact, sexual intercourse, or sexual exploitation) because the person lacks the physical or mental capacity to understand the nature or consequences of their words and/or conduct; and/or the person is unable to physically or verbally communicate consent. Incapacitation can be voluntary or involuntary. Incapacitation is determined based on the totality of the circumstances. Incapacitation may result from: sleep; unconsciousness; intermittent consciousness; temporary or permanent physical or mental disability; involuntary physical restraint; or the influence of alcohol, drugs, or other substances, including, without limitation, substances used to facilitate sexual assault (e.g., Rohypnol, Ketamine, GHB, and Burundanga). Alcohol and drugs are common causes of incapacitation. When alcohol or drugs are involved, Incapacitation is a state beyond mere drunkenness or intoxication. The impact of alcohol and drugs varies from person to person; however, warning signs of incapacitation may include, without limitation: lack of control over physical movements (e.g., inability to dress/undress without assistance; inability to walk without assistance); lack of awareness of circumstances or surroundings; vomiting; unresponsiveness; and inability to communicate coherently. A person who is under the age of eighteen (18) (i.e., a minor) is incapable of giving consent; however, a person who is at least the age of thirteen (13) and less than the age of eighteen (18) is capable of giving consent to sexual acts with another person who is less than four (4) years older than them.
- (18) — The term "reasonable person" means a sober, objectively reasonable person in the same situation, and with the same sex, gender identity, and sexual orientation as the person whose words and/or conduct are being evaluated.
- (19) — The term "relationship violence" means dating violence and/or domestic violence.
- (20) — The term "retaliation" means an act (i) taken by a student (including an act taken through a third party) because of another person's participation in a protected activity (ii) that would discourage a reasonable person from engaging in protected activity. Protected activity includes a person's good faith: (i) opposition to conduct prohibited under the Standards of Conduct; (ii) report to the University about conduct prohibited under the Standards of Conduct to the University; (iii) participation (or reasonable expectation of participation) in any manner in an investigation, meeting, hearing, or interim measure; or (iv) exercise of rights or responsibilities under any provision of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. Retaliation violates the Standards of Conduct regardless of whether the underlying allegation of a violation of the Standards of Conduct is ultimately found to have merit. Retaliation can include an act taken against a person's family, friends, advisors, and/or other persons reasonably expected to provide

information in connection with a University investigation or hearing.

- (21) — ~~The term "sexual assault" means engaging in sexual contact or sexual intercourse with another person without the consent of that person.~~
- (22) — ~~The term "sexual contact" means the intentional touching of another person (including another person's clothing) in a sexual manner with any part of one's body or with any object. Sexual contact also means intentionally causing another person to touch themselves (including their clothing) in a sexual manner. Whether a touching was done in a sexual manner is determined from the perspective of a sober, objectively reasonable person in the same situation and with the same sex, gender identity, and sexual orientation as the person who was touched.~~
- (23) — ~~The term "sexual exploitation" means an act or attempted act by a person for the purpose of sexual arousal or gratification, financial gain, or other personal benefit through the abuse or exploitation of another person's sexuality. Examples of sexual exploitation include, without limitation: observation of a person who is undressed or engaging in sexual contact or sexual intercourse, without the consent of all persons being observed (in a place where a person has a reasonable expectation of privacy); creation or distribution of images, photography, an audiotape, or a videotape of sexual contact, sexual intercourse, or a person's intimate parts (i.e., genitalia, groin, breasts, buttocks) without the consent of all persons being recorded or photographed; prostituting another person; allowing others to observe, either in person or electronically, sexual contact or sexual intercourse without the consent of all persons involved in the sexual contact or sexual intercourse (in a place where a person has a reasonable expectation of privacy); and knowingly exposing another person to a sexually transmitted infection without informing the other person that one has a sexually transmitted infection.~~
- (24) — ~~The term "sexual harassment" means with respect to the conduct of a student, unwelcome conduct of a sexual nature that is so severe or pervasive, and objectively offensive, that it substantially interferes with the ability of a person to work, learn, live, or participate in or benefit from the services, activities, or privileges provided by the University. In no event shall the term "sexual harassment" be construed to prohibit speech protected by the First Amendment to the United States Constitution (e.g., mere insulting or offensive speech). Sexual harassment may include, for example, unwelcome sexual advances, requests for sexual favors, and acts of sexual assault. The term "sexual harassment" also means, with respect to the conduct of a student-employee (when acting as a student-employee): unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: submission to such conduct is made either explicitly or implicitly a term or condition of an individual's participation in an educational program; submission to or rejection of such conduct by an individual is used as the basis for evaluation or advancement in an educational program; or such conduct has the purpose or effect of unreasonably interfering with an individual's educational performance or creates an intimidating, hostile or offensive educational environment. Sexual harassment is a form of sex discrimination. To determine whether conduct constitutes sexual harassment, consideration shall be given to the totality of the circumstances, including without limitation: the context in which the conduct and/or words occurred; and the frequency, nature, and severity of the conduct and/or words.~~
- (25) — ~~The term "sexual intercourse" means the penetration, no matter how slight, of the vagina or anus with any body part or object; or oral penetration by a sex organ of another person.~~
- (26) — ~~The term "sexual misconduct" means sexual harassment, sexual assault, and/or sexual exploitation.~~
- (27) — ~~The term "stalking" means engaging in a course of conduct directed at a specific person~~

~~that would cause a reasonable person to: (1) fear for the person's safety or the safety of others; or (2) suffer substantial emotional distress. For the purposes of this definition, the term "reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim.~~

~~(28) The term "substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.~~

1720-03-03-.03 Jurisdiction.

- (1) The Standards of Conduct, Chapter 1720-03-03-.04, apply to conduct that occurs on University-controlled property.
- (2) The University also has the discretion to discipline a student for an act in violation of the Standards of Conduct that occurs off University-controlled property if the conduct adversely affects the interests of the University, including, but not limited to, conduct which:
 - (a) Occurs in connection with a University-affiliated activity, including, but not limited to, an overseas study program or a clinical, field, internship, or in-service experience;
 - (b) Involves another member of the University community; or
 - (c) Threatens, or indicates that the student may pose a threat to, the health or safety of him/herself or others or the security of any person's property, including, but not limited to, alcohol-related offenses, drug-related offenses, arson, battery, fraud, hazing, participation in group violence, rape, sexual assault or misconduct, stalking, and theft.
- (3) The Standards of Conduct have been adopted in furtherance of the University's interests and serve to supplement, rather than substitute for, the enforcement of the civil and criminal law. Accordingly, University disciplinary action may be instituted against a student charged with conduct that potentially violates both the criminal law and the Standards of Conduct without regard to the pendency of criminal charges or civil litigation. At the discretion of the Chief Student Affairs Officer, or his/her designee, disciplinary action relating to a violation of the Standards of Conduct may be carried out prior to, simultaneously with, or following criminal proceedings. Students accused of violating the Standards of Conduct may not challenge the University disciplinary proceedings on the grounds that criminal charges, civil litigation, or other University proceedings regarding the same incident are pending or have been terminated, dismissed, reduced, or not yet adjudicated.
- (4) Each student shall be responsible for his/her conduct from the time of application for admission through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment (and even if conduct is not discovered by the University until after a degree is awarded). Should a student withdraw from the University with disciplinary charges pending, the student's academic record and/or ability to register for classes may be encumbered by the appropriate University office.
- (5) Graduate or professional programs within the University may initiate charges against students for alleged violations of professional standards or ethics as a separate issue or as an extension of alleged acts of academic dishonesty or other violations of the Standards of Conduct.

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

1720-03-03-.04 Standards of Conduct. Students are prohibited from engaging in the following types of misconduct:

- (1) Academic Dishonesty. Cheating, plagiarism, or any other act of academic dishonesty, including, without limitation, an act in violation of the Honor Code.
- (2) False Information. Providing false information to a University official.
- (3) Misuse of Information in Connection with University Investigation or Hearing. Falsifying, distorting, misrepresenting, or withholding information in connection with a University investigation or hearing.
- (4) Misconduct Relating to Records or Identification. Forging, altering, destroying, falsifying, or misusing records or identification, whether in print or electronic form.
- (5) Harm to Others. Causing physical harm to any person; endangering the health, safety, or welfare of any person; engaging in conduct that causes a reasonable person to fear harm to his/her health or safety; or making an oral or written statement that an objectively reasonable person hearing or reading the statement would interpret as a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.
- (6) Harassment. Unwelcome conduct that is so severe, pervasive, and objectively offensive, that it substantially interferes with the ability of a person to work, learn, live, or participate in or benefit from the services, activities, or privileges provided by the University. In no event shall this rule be construed to discipline a student for speech protected by the First Amendment to the United States Constitution (e.g., mere insulting or offensive speech).
- (7) Sexual Misconduct, Relationship Violence, Stalking, and/or Retaliation. Violating the University's Policy on Sexual Misconduct, Relationship Violence, Stalking, and/or Retaliation.
- (8) Invasion of Privacy. Invasion of another person's privacy when that person has a reasonable expectation of privacy, including, without limitation, using electronic or other means to make a video or photographic record of any person in a location in which the person has a reasonable expectation of privacy, without the person's knowledge or consent. This includes, but is not limited to, making a video or photographic record of a person in shower/locker rooms or restrooms. The storing, sharing, and/or distributing of such nonconsensual recordings by any means is also prohibited.
- (9) Private or Public Property. Any of the following conduct with respect to private or public property, including, without limitation, University-controlled property: theft; misappropriation; unauthorized possession, use, sale, duplication, or entry; vandalism; destruction; damage; or conduct that is reasonably likely to cause damage.
- (10) Hazing. Any intentional or reckless act, on or off University-controlled property, by one (1) student, acting alone or with others, which is directed against any other student, which endangers the mental or physical health, safety, or welfare of that student, or which induces or coerces a student to endanger his or her mental or physical health, safety, or welfare. "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.

- (11) Disorderly Conduct. Fighting or other physically violent or physically threatening conduct; creating a hazardous or physically offensive condition by any act that serves no legitimate purpose; making noise that could unreasonably disturb others who are carrying on lawful activities; or conduct that breaches the peace.
- (12) Lewd, Indecent, or Obscene Conduct. Engaging in lewd, indecent, or obscene conduct, including, without limitation, public exposure of one's sexual organs, public urinating, and public sexual acts.
- (13) Imminent Lawless Action. Engaging in speech either orally or in writing that is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.
- (14) Fire Safety. Any act of arson; falsely reporting a fire, the presence of an explosive or incendiary device, or other emergency; setting off a false fire alarm; or tampering with, removing, or damaging fire alarms, fire extinguishers or any other safety or emergency equipment from its proper location except when removed in a situation in which there is a reasonable belief of the need for such equipment.
- (15) University Keys, Access Cards, and Identification. Possessing, using, or duplicating University keys, University access cards, or University identification cards without authorization from the University.
- (16) Information Technology. Theft, misuse, or unauthorized use of information technology facilities, resources, or access codes, including, without limitation: unauthorized entry into or transfer of a file; using another person's identification and/or password without that person's consent; using information technology facilities or resources to interfere with the work of another student, faculty member, staff member, or other member of the University community; using information technology facilities or resources to interfere with normal operation of a University information technology system or network; circumventing University information technology system or network security; using information technology facilities or resources in violation of copyright laws; falsifying an e-mail header; and conduct that violates the University's policy on the acceptable use of information technology resources.
- (17) Weapons. Possessing, carrying, using, storing, or manufacturing any weapon on University-controlled property or in connection with a University-affiliated activity, unless authorized in writing by the Chief of Police or his/her designee or unless federal or state law affirmatively gives a student a right, irrespective of this Chapter, to possess or carry a weapon on University-controlled property or in connection with a University-affiliated activity.
- (18) Alcohol-Related Conduct – University Property or University Activities. Consuming, manufacturing, possessing, distributing, dispensing, selling, or being under the influence of alcoholic beverages on University-controlled property or in connection with a University-affiliated activity unless expressly permitted by University policy.
- (19) Alcohol-Related Conduct Prohibited by Law. Consuming, manufacturing, possessing, distributing, dispensing, selling, or being under the influence of alcoholic beverages, if prohibited by federal, state, or local law.
- (20) Providing Alcohol to Underage Person. Providing an alcoholic beverage to a person younger than twenty-one (21) years of age, unless permitted by law.
- (21) Drugs and Drug Paraphernalia. Using, manufacturing, possessing, distributing, selling, dispensing, or being under the influence of drugs, if prohibited by federal, state, or local law; using, manufacturing, possessing, distributing, or selling drug paraphernalia, if

prohibited by federal, state, or local law; using or possessing a prescription drug if the prescription was not issued to the student; or distributing or selling a prescription drug to a person to whom the prescription was not originally issued.

- (22) Failure to Fulfill a University Financial Obligation. Failing to timely fulfill a University bill, account, or other financial obligation owed to the University.
- (23) Failure to Respond, Comply, or Identify. Failing to respond to a request to report to a University administrative office; failing to comply with a lawful directive of a University employee or other public official acting within the scope of his/her duties; or failing to identify oneself to a University employee or other public official acting within the scope of his/her duties when requested to do so.
- (24) Failure to Appear. Failing to appear at a University hearing, including, without limitation, a hearing of a University conduct board, following a request to appear either as a party or as a witness.
- (25) Violation of Interim Administrative Actions, Disciplinary Sanctions, or Conditions of Re-Enrollment. Violating the terms of a no-contact directive, an interim restriction (e.g., interim suspension), a disciplinary sanction, or a condition of re-enrollment imposed by the University.
- (26) Obstruction or Disruption of University Activity. Obstructing or disrupting teaching, learning, studying, research, public service, administration, disciplinary proceedings, emergency services, or any other University-affiliated activity, or the free flow of pedestrian or vehicular traffic on University-controlled property. In no event shall this rule be construed to discipline a student for speech protected by the First Amendment to the United States Constitution.
- (27) Violation of University Policy or Rule. Violating a University policy or rule, including, without limitation, University policies or rules relating to facilities' use, smoking, the acceptable use of information technology resources, research misconduct, finder's fees relating to clinical investigations involving human subjects or access to University data or materials, University libraries, dining services, parking or transportation, University identification card use, sexual harassment, residence halls, and registered student organizations.
- (28) Act Prohibited by Law. Committing an act that is prohibited by local, state, or federal law.
- (29) Attempted Violation; Accessory to Violation. Attempting to commit a violation of a Standard of Conduct or being an accessory to the commission of an act or attempted act in violation of a Standard of Conduct.
- (30) Retaliation. Engaging in retaliation. Retaliation is an act or omission committed by a student because of another person's participation in a protected activity that would discourage a reasonable person from engaging in protected activity. Retaliation violates the Standards of Conduct regardless of whether the underlying allegation of a violation of the Standards of Conduct is ultimately found to have merit. Retaliation can include, without limitation: (1) an act or omission committed against a person's family, friends, advisors, and/or other persons reasonably expected to provide information in connection with a University investigation or hearing; and (2) an act or omission committed by a student through a third party.

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

1720-03-03-.04 STANDARDS OF CONDUCT. A student or student organization may be disciplined for the following types of misconduct:

- (1) — ~~Cheating, plagiarism, or any other act of academic dishonesty, including but not limited to an act in violation of the Honor Code.~~
- (2) — ~~Providing false information to a University official.~~
- (3) — ~~Falsifying, distorting, misrepresenting, or withholding information in connection with a University investigation or hearing.~~
- (4) — ~~Forging, altering, destroying, falsifying, or misusing records, identification, or documents, whether in print or electronic form.~~
- (5) — ~~Causing physical harm to any person (including oneself); endangering the health or safety of any person (including oneself); engaging in conduct that causes a reasonable person to fear harm to his/her health or safety; or making an oral or written statement that an objectively reasonable person hearing or reading the statement would interpret as a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.~~
- (6) — ~~Harassment, which is defined as unwelcome conduct that is so severe or pervasive, and objectively offensive, that it substantially interferes with the ability of a person to work, learn, live, or participate in or benefit from the services, activities, or privileges provided by the University. In no event shall this rule be construed to discipline a student for speech protected by the First Amendment to the United States Constitution (e.g., mere insulting or offensive speech).~~
- (7) — ~~Engaging in sexual misconduct, relationship violence, or stalking.~~
- (8) — ~~Invasion of another person's privacy when that person has a reasonable expectation of privacy, including, but not limited to, using electronic or other means to make a video or photographic record of any person in a location in which the person has a reasonable expectation of privacy, without the person's knowledge or consent. This includes, but is not limited to, making a video or photographic record of a person in shower/locker rooms or restrooms. The storing, sharing, and/or distributing of such unauthorized recordings by any means is also prohibited.~~
- (9) — ~~Theft, misappropriation, unauthorized possession, or unauthorized sale of private or public property, including but not limited to University-controlled property.~~
- (10) — ~~Vandalizing, destroying, damaging, engaging in conduct that reasonably could cause damage to, or misusing private or public property, including but not limited to University-controlled property.~~
- (11) — ~~Participating in hazing. "Hazing" is defined as any intentional or reckless act, on or off University-controlled property, by one (1) student, acting alone or with others, which is directed against any other student, which endangers the mental or physical health or safety of that student, or which induces or coerces a student to endanger his or her mental or physical health or safety. "Hazing" does not include customary athletic events or similar contests or competitions and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization.~~
- (12) — ~~Engaging in disorderly conduct, which means: fighting or other physically violent or physically threatening conduct; creating a hazardous or physically offensive condition by any act that serves no legitimate purpose; making noise that could unreasonably disturb others who are carrying on lawful activities; or conduct that breaches the peace.~~

- (13) — Engaging in lewd, indecent, or obscene conduct. "Lewd, indecent, or obscene" conduct includes, but is not limited to, public exposure of one's sexual organs, public urinating, and public sexual acts.
- (14) — Engaging in speech, either orally or in writing, that is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.
- (15) — Any act of arson; falsely reporting a fire, the presence of an explosive or incendiary device, or other emergency; setting off a false fire alarm; or tampering with, removing, or damaging fire alarms, fire extinguishers or any other safety or emergency equipment from its proper location except when removed in a situation in which there is a reasonable belief of the need for such equipment.
- (16) — Possessing, using, or duplicating University keys, access cards, or identification cards without authorization; possessing, using, or entering University-controlled property without authorization.
- (17) — Theft, misuse, or unauthorized use of information technology facilities, resources, or access codes, including, but not limited to: unauthorized entry into or transfer of a file; using another person's identification and/or password without that person's consent; using information technology facilities or resources to interfere with the work of another student, faculty member, staff member, or other member of the University community; using information technology facilities or resources to interfere with normal operation of a University information technology system or network; circumventing University information technology system or network security; using information technology facilities or resources in violation of copyright laws; falsifying an e-mail header; and conduct that violates the University's policy on the Acceptable Use of Information Technology Resources.
- (18) — Possessing, using, storing, or manufacturing any weapon or any facsimile of a weapon on University-controlled property or in connection with a University-affiliated activity, unless authorized in writing by the Chief of Police or his/her designee.
- (19) — Consuming, manufacturing, possessing, distributing, dispensing, selling, or being under the influence of alcoholic beverages on University-controlled property or in connection with a University-affiliated activity.
- (20) — Consuming, manufacturing, possessing, distributing, dispensing, selling, or being under the influence of alcoholic beverages, if prohibited by federal, state, or local law.
- (21) — Providing an alcoholic beverage to a person younger than twenty-one (21) years of age, unless permitted by law.
- (22) — Using, manufacturing, possessing, distributing, selling, dispensing, or being under the influence of drugs or drug paraphernalia, if prohibited by federal, state, or local law; using or possessing a prescription drug if the prescription was not issued to the student; or distributing or selling a prescription drug to a person to whom the prescription was not originally issued.
- (23) — Failing to pay a University bill, account, or other University financial obligation.
- (24) — Failing to respond to a request to report to a University administrative office; failing to comply with a lawful directive of a University employee or other public official acting within the scope of his/her duties; or failing to identify oneself to a University employee or other public official acting within the scope of his/her duties when requested to do so.
- (25) — Failing to appear at a University hearing, including, but not limited to, a hearing of a

~~University judicial board, following a request to appear either as a party or as a witness.~~

- ~~(26) — Violating the terms of an interim suspension, a no-contact directive, or a disciplinary penalty imposed by the University.~~
- ~~(27) — Obstructing or disrupting teaching, learning, studying, research, public service, administration, disciplinary proceedings, emergency services, or any other University-affiliated activity, or the free flow of pedestrian or vehicular traffic on University-controlled property. In no event shall this rule be construed to discipline a student for speech protected by the First Amendment to the United States Constitution.~~
- ~~(28) — Violating a University policy or rule, including but not limited to University policies or rules relating to facilities use, smoking, the acceptable use of information technology resources, research or service misconduct, finder's fees relating to clinical investigations involving human subjects or access to University data or materials, University libraries, dining services, parking or transportation, University identification card use, sexual harassment, residence halls, and registered student organizations.~~
- ~~(29) — Committing an act that is prohibited by local, state, or federal law.~~
- ~~(30) — Attempting to commit a violation of a Standard of Conduct or being an accessory to the commission of an act or attempted act in violation of a Standard of Conduct.~~
- ~~(31) — Engaging in retaliation.~~

1720-03-03-.05 PENALTIESanctions.

- (1) Disciplinary penalties sanctions are primarily intended to educate students and student organizations about appropriate behavior, encourage students and student organizations to take responsibility for misconduct, promote the personal and professional development of students, discourage other students and student organizations from violating the Standards of Conduct, and protect members of the University community. The penaltiesanctions imposed should be appropriate for the particular case based on the gravity of the offense (including without limitation how the violation affected or reasonably could have affected other members of the University community). Efforts are made to keep penaltiesanctions consistent with those applied to similar cases. In recognition of the fact that the University is an educational institution with a rehabilitative point of view, penaltiesanctions are assessed in accordance with conditions accompanying each offense. Consideration may also be given to the student's or student organization's conduct record; the student's or student organization's responsiveness to the conduct process; whether the student acted in self-defense, and, if so, whether the amount of force used was reasonable under the circumstances; student academic classification; and other aggravating or mitigating factors. PenaltiesSanctions may be applied retroactively to the date of the offense. Intoxication or impairment because of alcohol, drugs, chemicals, or other substances does not diminish or excuse a student violation of the Standards of Conduct. Additionally, official violation notifications are given by the appropriate office, and official records are maintained in that office.
- (2) The following penaltiesanctions may be imposed on any student found to have violated the Standards of Conduct:
 - (a) Disciplinary Warning. A disciplinary warning is a notice that the student is violating or has violated the Standards of Conduct. It is used for minor violations and consists of a restatement of the regulation violated with an official warning concerning future action.

- (b) **Disciplinary Reprimand.** A disciplinary reprimand is used for minor violations of the Standards of Conduct when it is evident the misconduct occurred with knowledge and awareness of applicable Standards of Conduct. A reprimand indicates that further violations will result in more severe disciplinary actions. Reprimands may be given to students in either verbal or written form.
- (c) **Loss of Privilege.** Loss of privilege is a penalty/sanction imposed most commonly cases involving violation of University rules governing hours, social standards, intramural sports, or misuse of University facilities. The loss of privilege is ordinarily established for a specific period of time, and actions are recorded in appropriate records. Privileges that maybe lost include, but are not limited to, scholarships, stipends, participation in extracurricular activities (e.g. intramurals), participation in social activities, and use of certain University-controlled property (e.g., information technology resources).
- (d) **Education.** Students may be required to attend classes, at their own expense, dealing with issues such as the consequences of alcohol or drug use, civility, ethics, or other topics as deemed appropriate by the Chief Student Affairs Officer or his/her designee.
- (e) **Restitution.** Restitution may be required in situations that involve destruction, damage, or loss of property, or unreimbursed medical expenses resulting from physical injury. Restitution may take the form of a monetary payment or appropriate service to repair or otherwise compensate for the destruction, damage, or loss.
- (f) **Disciplinary Probation.** Disciplinary probation means that a student is permitted to remain in the University on a probationary status. Should a violation occur during probation, the student is normally suspended. Disciplinary probation is recorded on the student's personnel file in the Office of Student Affairs. Conditions of probation are specific to the individual case and may include loss of eligibility to serve as a student organization officer or participation in major student activities. Any specific probation conditions are described in a personal letter to the student. Other conditions of probation are specific to each individual case and may include a requirement of community service or other requirement or restriction.
- (g) **Suspension.** The penalty/sanction of suspension is imposed in cases of serious or repeated misconduct or a violation of probation. A student who is suspended shall have his/her registration cancelled and is not eligible to apply for readmission for a designated period of time. Suspensions are always recorded on the student's permanent record. (Persons suspended from the University may not return to the campus for the duration of their suspension, except to conduct official business with an administrative officer or faculty member).
- (h) **Permanent Dismissal.** Permanent dismissal means that a student is permanently barred from matriculating as a student at the University of Tennessee Health Science Center. This penalty/sanction is used when the violation of one (1) or more of the Standards of Conduct is deemed so serious as to warrant total and permanent disassociation from the University community without the possibility of re-enrollment; or when, by his/her repeated violation of the Standards of Conduct, a student exhibits blatant disregard for the health and safety of other members of the University community or the University's right to establish rules of conduct.
- (i) **Revocation of Degree.** Revocation of a degree means revoking a student's a degree already awarded by the University. Revocation of a degree shall be approved by the University of Tennessee Board of Trustees.

- (3) A disciplinary hold may be placed on a student's account until the completion of the student disciplinary process and/or until the student satisfies the terms and conditions of any penalties imposed. A student who, at the time of commencement, is subject to a continuing disciplinary penalty or an unresolved disciplinary charge shall not be awarded a degree before the conclusion of all penalties and/or resolution of all disciplinary charges.
- (4) The following **penalties/sanctions** may be imposed on a student organization found to have violated the Standards of Conduct:
 - (a) **Disciplinary Warning.** A disciplinary warning is used for minor violations of the Standards of Conduct and consists of a restatement of the Standard of Conduct violated with an official warning concerning future action.
 - (b) **Loss of Privilege.** This **penalty/sanction** is intended to serve as a reminder of the Standards of Conduct and is for a specific period of time. Examples of privileges that may be lost include participating in extracurricular activities (e.g., intramurals), housing privileges, participating in social activities, and using certain University-controlled property.
 - (c) **Education.** Student organizations or their representatives may be required to attend classes, at their own expense, dealing with issues such as the consequences of alcohol or drug use, civility, ethics, or other topics as deemed appropriate by the Chief Student Affairs Officer, Student Conduct Officer, and/or his/her designee.
 - (d) **Restitution.** Restitution may be required in situations that involve destruction, damage, or loss of property, or unreimbursed medical expenses resulting from physical injury. Restitution may take the form of a monetary payment or appropriate service to repair or otherwise compensate for the destruction, damage, or loss.
 - (e) **Social Probation.** This **penalty/sanction** prohibits a student organization from sponsoring or participating in specified social activities. While on social probation, a student organization may not host social events or participate in University-affiliated activities. Any exceptions to social probation must be approved, in advance, by the Chief Student Affairs Officer or his/her designee.
 - (f) **Disciplinary Probation.** Disciplinary probation means that a student organization is permitted to retain University registration on a probationary status. Violation of the Standards of Conduct during the period of disciplinary probation may result in more serious **penalties/sanctions**, including revocation of University registration.
 - (g) **Revocation of University Registration.** In cases of serious misconduct, a student organization's University registration may be revoked.
- (5) More than one (1) of the **penalties/sanctions** listed above may be imposed for any single violation of the Standards of Conduct.
- (6) Except for an interim suspension, disciplinary **penalties/sanctions** shall not become effective until after opportunities for appeal have been exhausted. **Penalties/Sanctions** may be applied retroactively to the date of the offense. Coursework performed while disciplinary charges are pending or disciplinary proceedings are underway shall be considered conditional. Coursework may be affected or disregarded based on a final finding of misconduct or the **penalties/sanctions** imposed, which may result in loss of course credit, a loss of tuition and/or fees, a delay in the awarding of a degree, or revocation of a degree.

that was awarded prior to a final decision in the disciplinary proceeding.

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

1720-03-03-.06 No Contact Directive. In cases involving allegations of assault, injury, sexual abuse, harassment, or in cases where there is reason to believe continued contact between a student/student organization and specific persons, including complainants and witnesses, may interfere with those persons' security, safety or ability to participate effectively in work or studies, the Chief Student Affairs Officer, or his/her designee, may require that the student/student organization not have verbal, physical, or written contact with specific persons for a definite or indefinite period of time. The student/student organization will receive notice of the no contact directive. Any student, faculty or staff member or other person with a reasonable justification may request that a no contact directive be issued to a student/student organization. In addition to an internal University no contact directive, complainants are advised that other similar options exist and can be obtained from law enforcement and civil and criminal courts.

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

1720-03-03-.07 Interim Suspension.

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

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

1720-03-03-.08 Hearing Procedures.

- (1) Conflicts of Interest
 - (a) The student conduct process must be carried out in a manner that is free from conflicts of interest consistent with due process of law.
 - (b) In cases involving allegations of sexual assault, dating violence, domestic violence, or stalking, the student conduct process must include protections for the accused student/respondent analogous to, and no less protective than, the conflict of interest provisions of Tennessee Code Annotated § 4-5-303. Notwithstanding the preceding sentence: (1) an attorney for the University is allowed to provide legal advice to multiple University employees who serve in different roles in the process of disciplining a student; and (2) the University is allowed to provide the alleged victim/complainant with equivalent rights as the accused student/respondent during the student conduct process.
- (2) Unless otherwise specified in the published ~~policies and procedures~~rules of the ~~UT Health Science Center~~University, a student charged with misconduct or who is entitled to an opportunity for a hearing will, upon request, be provided a hearing in accordance with the following procedures:
 - (a) Notice - A person charged with misconduct will receive written notification of the following:
 1. The substance of the charge(s) against him/her.
 2. The disciplinary action taken or proposed.
 3. His/her right to a hearing should he/she wish to contest the charge(s) or action.
 4. To whom a request for a hearing should be addressed.
 5. That a request for a hearing must be made within five (5) days of the person's receipt of this notice.
 6. His/her right to be accompanied by no more than one (1) advisor during the hearing, including but not limited to a parent, spouse, friend, or attorney. The role of the advisor shall be limited to providing advice or support to the accused student. Even if accompanied by an advisor, the accused student is responsible for presenting his/her own case to the hearing panel. An advisor is not permitted to: introduce evidence; raise objections; present arguments; address directly the members of the hearing panel, the student conduct officer, or any witnesses participating in the hearing; or otherwise participate in the hearing. In consideration of the limited role of the advisor, and of the compelling interest of the University to expeditiously conclude the matter, a hearing shall not be delayed due to the unavailability of an advisor.
 7. His/her rights to a hearing under the Uniform Administrative Procedures Act, T.C.A. § 4-5-101 et seq. ("UAPA"). In the absence of a voluntary written waiver of his/her rights to a hearing under the provisions of the UAPA, a requested hearing will be conducted in accordance with the University's rules for conducting contested case proceedings under the UAPA, Chapter 1720-01-05, and the hearing procedures in this Section

.08 shall not apply.

- (b) Notice of Hearing Concerning Allegations of Sexual Assault, Dating Violence, Domestic Violence, or Stalking. At least seventy-two (72) hours prior to a hearing under Section .08(3) concerning allegations of sexual assault, dating violence, domestic violence, or stalking, the University shall provide the accused student/respondent with notice of the following: (1) the time, place, and date of the hearing; (2) the name of each witness the University expects to present at the hearing and those the University may present if the need arises; (3) notice of 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; and (4) notice of the right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that 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.
- (c) Hearing Panel or Hearing Examiner - A requested hearing will be provided by a panel of individuals or a hearing examiner, selected in accordance with policies of ~~UT Health Science Center~~ the University or, in the absence of applicable policies or procedures, by the Chancellor of the ~~UT Health Science Center~~ University or his/her designee. The hearing will be conducted by a panel chairman similarly selectd. Panel members shall be impartial and anyone lacking such impartiality shall recuse himself or be removed by the Chancellor of the ~~UT Health Science Center~~ University or his/her designee upon the request of any party to a hearing. Neither the Student Conduct Officer nor a person who investigated the allegations of misconduct against the accused student shall be a member of the hearing panel or advise the hearing panel.
- (d) Hearing Process - The chairman of a hearing panel or hearing examiner will conduct the hearing, without regard to technical rules of procedure, in such manner as will best serve the cause of justice within the following general guidelines:
1. Each party to a hearing will be afforded a full and fair opportunity to present all evidence including witnesses, reasonably relating to the charge or action at issue; evidence which is irrelevant, immaterial, repetitious or voluminous may be limited.
 2. The hearing panel or examiner will consider all evidence presented, giving due consideration to the credibility or weight of each item presented; technical rules of evidence will not apply.
 3. Each party will have the right to question opposing witnesses.
 4. A record will be made of the hearing procedures. However, defects in the record will not invalidate the proceedings.
 5. The University will have the burden of providing, by a preponderance of the evidence, the truth of the charge(s) at issue. Where the charge(s) is found to be true, the person charged will have the burden of proving that the disciplinary action taken or proposed is arbitrary, capricious, or unreasonable.
 6. Following the conclusion of the hearing, the hearing panel or examiner will consider the evidence and present written findings within a reasonable time.

7. In cases involving an allegation of sexual assault or misconduct, the hearing procedures shall be modified to afford the alleged victim all of the rights described in Chapter 1720-03-03-.08(2)(f).

(e) In accordance with Title IX of the Education Amendments of 1972, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, and other applicable law, the University will investigate and resolve reports of sexual misconduct, relationship violence, ~~and stalking, and/or retaliation~~ in accordance with the University's Policy on Sexual Misconduct, Relationship Violence, ~~and Stalking, and/or Retaliation~~. In a case involving an allegation of sexual misconduct, relationship violence, ~~or—stalking, and/or retaliation~~ the accused student/respondent and the alleged victim/complainant shall have the rights outlined in the University's Policy on Sexual Misconduct, Relationship Violence, ~~and Stalking, and/or Retaliation~~. Additionally, in a case involving sexual assault, dating violence, domestic violence, ~~or—stalking and/or retaliation~~, the University shall provide the accused/student/respondent with notice of the role of advisors (e.g., attorneys) in the student conduct process, including the extent to which they are allowed to advise or represent the student in an investigation or hearing.

(3) The decision of any board or administrative officer of The University of Tennessee is subject to review by the Chancellor.

~~(4) — For purposes of this rule, the term "student" shall mean a student or a student organization.~~

~~(5)~~(4) When, in the judgment of the Chancellor of the University of Tennessee, Health Science Center, conditions are such that an emergency exists which makes it impossible for the system of judicial boards to function, he/she may suspend the procedural regulations described in this Chapter. If the procedures are suspended, he may substitute for them arrangements for handling disciplinary matters that will ensure the orderly functioning of the University and at the same time safeguard the basic rights of the students.

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

1720-03-03-.09 Student Identification Cards.

(1) All currently registered students are required to have a ~~UT Health Science Center~~ StudentUniversity Identification Card. Lost and found I.D. cards should be reported to the Office of Campus Safety and Security. Replacement for lost cards may be obtained from the Office of Campus Safety and Security. A replacement charge will be assessed.

(2) In order to determine the identity of students, all students are required to present their University identification cards promptly on request of a University police officer or member of the administration or faculty of the University. Identification cards will not ordinarily be retained; however, a card may be retained if an emergency situation exists or if the card may be needed as evidence. The retained card, if valid, will be returned to the student as soon as possible.

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

1720-03-03-.10 Student Health Insurance. All students are required to obtain basic health care and medical care insurance to protect themselves, their families, their professional health care associates and providers. The student may elect to enroll in the ~~UT Health Science Center~~ University's student health insurance plan or obtain equivalent health insurance with a private carrier. Students who fail to furnish proof

of insurance coverage will be prevented from completing their registration for that academic term.

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