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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Tennessee Technological University
Division:	
Contact Person:	Dr. Katherine W. Williams, Dean of Students
Address:	1000 N. Dixie Ave., RUC Room 214, Cookeville, TN 38505
Phone:	931-372-6758
Email:	kwilliams@tntech.edu

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Dr. Katherine W. Williams, Dean of Students
Address:	1000 N. Dixie Ave., RUC Room 214, Cookeville, TN 38505
Phone:	931-372-6758
Email:	deanofstudents@tntech.edu

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Roaden University Center		
Address 2:	1000 N. Dixie Avenue, Room 282		
City:	Cookeville, TN		
Zip:	38505		
Hearing Date:	09/29/2020		
Hearing Time:	1:30 PM	XCST/CDT ___EST/EDT	

Additional Hearing Information:

The rulemaking hearing may be conducted via electronic means due to the COVID-19 pandemic. Please check the following site for updates on the means by which the rulemaking hearing will be conducted and instructions on participating electronically if it is conducted via electronic means: https://www.tntech.edu/board/.

Written comments may be submitted via email to or mailed to Dr. Katherine W. Williams, Dean of Students, at Tennessee Tech University, Box 5156, Cookeville, TN 38505 or deanofstudents@tntech.edu Written comments should be received by 4:30 PM CT on September 25, 2020, in order to ensure consideration.

Revision Type (check all that apply):
X Amendment
X New
___ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0240-09-01	Student Conduct
Rule Number	**Rule Title**
0240-09-01-.01	Scope
0240-09-01-.04	Prohibited Conduct
0240-09-01-.05	Disciplinary Sanctions
0240-09-01-.06	Disciplinary Holds on Records
0240-09-01-.07	Disciplinary Procedures
0240-09-01-.08	Appeals
0240-09-01-.09	Conflicts of Interest
0240-09-01-.10	Application of Rule to Prospective Students

Rules of
Tennessee Technological University

Chapter 0240-09-01
Student Conduct

Amendments

Rule 0240-09-01-.01 Scope is amended by adding “(1)” to subparagraph (2)(e), changing “policy” to “rule” in paragraph (3), and adding paragraph (4), so that as amended, 0240-09-01-.01 shall read as follows:

0240-09-01-.01 Scope

(1) This rule and related policies apply both to Student or Registered Student Organization prohibited conduct on and off Tennessee Tech Property. In the case of prohibited conduct that occurs off Tennessee Tech Property, Tennessee Tech will take into account whether the prohibited conduct adversely affects the interests of Tennessee Tech, including, but not limited to, prohibited conduct that:

(a) Occurs in connection with a Tennessee Tech Activity, including, but not limited to, a study abroad program, clinical, internship, service learning placement, or similar program; or

(b) Involves another member of the Tennessee Tech community; or

(c) Poses a credible, serious threat to the health and safety of the Tennessee Tech community or Tennessee Tech Property.

(2) Tennessee Tech will take into consideration the following standards when deciding whether misconduct is associated with a Registered Student Organization:

(a) The prohibited conduct is endorsed by the organization or any of its officers. “Endorsed by” includes, but is not limited to, the following: active or passive consent or support, having prior knowledge that the conduct was likely to occur, or helping to plan, advertise, or promote the conduct;

(b) The prohibited conduct took place during the course of an activity paid for by the organization or paid by members of the organization to support the activity or conduct in question;

(c) The prohibited conduct occurred on property owned, controlled, rented, leased, or used by the organization or any of its members for an organizational event;

(d) The prohibited conduct was related to initiation, admission into, affiliation with, or as a condition for continued membership in the organization;

(e) One (1) or more officers of the organization had prior knowledge or reasonably should have known the prohibited conduct would likely take place.

(3) This rule does not apply to academic misconduct.

(4) This rule does not apply to matters that fall within the scope of Title IX of the Education Amendments of 1972.

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

Rules of
Tennessee Technological University

Chapter 0240-09-01
Student Conduct

Amendments

Rule 0240-09-01-.04 Prohibited Conduct is amended by deleting subparagraph (1)(a) in its entirety and substituting a new definition entitled (a) Harm to Others and adding a new subparagraph (b). Subparagraph (1)(d) Sexual Misconduct is deleted in its entirety. 0240-09-01-.04 is also amended by changing the "17" to "7" and adding an "an" in subparagraph (1)(e), removing the word "its" in subparagraphs (1)(i), (1)(j), (1)(u), (1)(z)1., adding the word "Standards" in subparagraph (1)(t), deleting "a" in subparagraph (1)(u), changing "retaliating" to "retaliation" in subparagraph (1)(z)5., correcting capitalizations in subparagraph (1)(aa), and by changing "Violations" to "Violation" in subparagraph (1)(dd). The definitions of prohibited conduct were re-lettered accordingly, and edited, so that as amended, 0240-09-01-.04 shall read as follows:

0240-09-01-.04 Prohibited Conduct

(1) Prohibited conduct includes, but is not limited to the following:

(a) 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, safety, or welfare; 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;

(b) Engaging in oral or written speech that is obscene; is defamatory; consists of fighting words; or is directed to inciting or producing imminent lawless action and is likely to incite or produce such action;

(c) Any conduct that falls within the terms of T.C.A. § 39-17-308 (Harassment) or T.C.A. § 39-17-315 (Stalking) or "student-on-student harassment," which means unwelcome conduct directed toward a person that is discriminatory on a basis prohibited by federal, state, or local law, and that is so severe, pervasive, and objectively offensive that it effectively bars the victim's access to educational opportunity or benefit;

(d) Discrimination: Any conduct that falls within the terms of any federal or state law, rule, or regulation ~~Tennessee Tech policy~~ related to discrimination and harassment;

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(e) Hazing: Any conduct that falls within T.C.A. § 49-7-123 (a)(1), including, but not limited to, an intentional or reckless act on or off Tennessee Tech Property by one (1) Student acting alone or with others that is directed against any other Student, that endangers the mental or physical health or safety of that Student or that induces or coerces a Student to endanger the Student's mental or physical health or safety;

(f) Retaliation: Interfering with any aspect of a disciplinary matter or disciplinary hearing, including, but not limited to threatening or intimidating a complainant or witnesses or attempting to do the same;

(g) Disruptive Behavior: Any individual or group behavior that unreasonably disrupts the academic environment (e.g. interferes with teaching, classroom operations, research, etc.) or unreasonably interferes with operations, events, or programs on Tennessee Tech Property or during a Tennessee Tech Activity;

(h) Obstruction of or Interference with Activities on Tennessee Tech Property or Facilities: Any substantial interference with or substantial obstruction of any Tennessee Tech program, event, or facility including the following:

1. Any unauthorized occupancy of facilities owned or controlled by Tennessee Tech or blockage of access to or from such facilities;

2. Interference with the right of any Tennessee Tech member or other authorized person to gain

access to any activity, program, event, or facilities sponsored or controlled by Tennessee Tech;

3. Any obstruction or delay of a public safety officer, security officer, firefighter, EMT, or any University Official;

4. Participation in a demonstration that substantially impedes Tennessee Tech operations; or

5. Obstruction of the free flow of pedestrian or vehicular traffic on Tennessee Tech Property or at a Tennessee Tech Activity;

(i) Failure to Comply: Refusing or ignoring directions of a University Official acting in the performance of his/her duties;

(j) Falsification: Providing information that is materially false to, or withholding necessary information from, any University Official acting in the performance of his/her duties;

(k) Fraud: Deception, forgery, or alteration, including, but not limited to, the unauthorized use of Tennessee Tech documents, records, identification, computers, parking permits, identity theft, or any other similar actions prohibited by law;

(l) Theft: Unauthorized possession of Tennessee Tech Property or personal property of a member of the Tennessee Tech community;

(m) Misuse or Damage of Property: Any act of misuse, vandalism, malicious or unwarranted damage or destruction, defacing, disfiguring or unauthorized use of property belonging to Tennessee Tech or a member of the Tennessee Tech community including, but not limited to, any personal property, fire alarms, fire equipment, elevators, telephones, Tennessee Tech keys, library materials and/or safety devices;

(n) Trespassing or Unauthorized Entry: Unauthorized access or attempting to gain access to any Tennessee Tech Property;

(o) Weapons: Possession or carrying, whether openly or concealed, with the intent to go armed, any firearm, explosive, explosive weapon, bowie knife, hawk bill knife, ice pick, dagger, slingshot, leaded cane, switchblade knife, blackjack, knuckles, or any other weapon of like kind, not used solely for instructional or school-sanctioned ceremonial purposes, in any Tennessee Tech building or bus, campus, grounds, recreation area, athletic field, or any other property owned, operated, or while in use by Tennessee Tech as prohibited by state law. No Student shall use a weapon or instrument to simulate a weapon in acts that endanger or threaten any person;

(p) Hazardous Materials: Possession, ignition, or detonation of explosives, fireworks, flammable materials, ammunition, gasoline or other hazardous liquids, chemicals or hazardous materials, and any other material or item of like kind representing a potential danger to the Tennessee Tech community;

(q) Substance Abuse: The unlawful manufacture, distribution, possession, use or abuse of any controlled substance, illegal drug or alcohol on Tennessee Tech Property or as part of any activity sponsored by Tennessee Tech in violation of state or federal law or related Tennessee Tech policies;

(r) Paraphernalia: The use or possession of equipment, products, or materials that are used or intended for use in the unlawful manufacture, growth, use, or distribution of any drug or controlled substance. This offense includes the violation of any local ordinance, state, or federal law concerning the unlawful possession of drug paraphernalia;

(s) Parking or Traffic Violations: In addition to the penalties described in Tennessee Tech rules or policies related to traffic, parking, and safety and elsewhere in this rule, the possession or use of a motor vehicle on Tennessee Tech Property may be limited or revoked for any of the following:

1. Possession or use of alcoholic beverages or drugs while operating a vehicle;

2. Irresponsible operation of a vehicle;

3. Leaving the scene of an accident;

4. Failure to report an accident involving personal injury or property damage;

5. Excessive violations of rules or policies to include excessive parking citations;

6. Falsifying vehicle registration or gaining such registration under false pretense; or

7. Possession, use, or sale of fraudulent parking permits;

(t) Violation of Information Technology Acceptable Use Standards: Violation of any provision related to Tennessee Tech information technology facilities and resources as defined in related state or federal laws or Tennessee Tech policies;

(u) Unauthorized Use of Personal Recording Devices: Use of electronic or other devices to make a photographic, audio, or video record of any person without his/her prior knowledge or consent in violation of federal or state law or related Tennessee Tech policies;

(v) Invasion of Privacy: Making, or causing to be made, unauthorized video/audio recordings or photographic images of a person in a location in which that person has a reasonable expectation of privacy, without the prior effective consent of the individual, or in the case of a minor, without the prior effective consent of the minor's parent or guardian. This includes, but is not limited to, taking video or photographic images in shower/locker rooms, residence hall rooms, and restrooms, as well as any storing, sharing, and/or distributing of such unauthorized recordings/images by any means;

(w) Violation of Student Housing Policy: Violation of any provision outlined in Tennessee Tech rules, related policies, and procedures related to housing;

(x) Gambling: Unlawful gambling in any form;

(y) Financial Irresponsibility: Failure to meet financial responsibilities to Tennessee Tech including, but not limited to, knowingly passing a worthless check or money order in payment to Tennessee Tech;

(z) Unacceptable Conduct in Disciplinary Proceedings: Conduct at any stage of a disciplinary proceeding or investigation that is contemptuous, threatening, or disorderly, including, but not limited to:

1. Failure to obey the directives of a disciplinary body or University Official in the performance of his/her/its duties;

2. Falsification, distortion, or misrepresentation of information during a disciplinary proceeding;

3. Disruption or interference with the orderly conduct of a disciplinary proceeding;

4. Attempting to influence the impartiality of a member of a disciplinary body prior to, or during the course of, a disciplinary proceeding; or

5. Harassment, intimidation, or retaliation against any participant in the Tennessee Tech disciplinary process;

(aa) Attempting to violate the student conduct rule or related policies;

(bb) Aiding/Abetting a Violation: Any attempt to commit any of the offenses identified as prohibited conduct, or the aiding/abetting of the commission of any of the offenses listed as such. An attempt to commit an offense is defined as the intention to commit the offense coupled with the taking of some action toward its commission. Being present during the planning or commission of any offense listed under this section will be considered as aiding and abetting. Students who anticipate or observe an offense must remove themselves from the situation and are required to report the offense to Tennessee Tech;

(cc) Violation of Policies: Any violation of the general policies of Tennessee Tech as published in

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Tennessee Tech publications including, but not limited to, policies or procedures published on Tennessee Tech's web site;

(dd) Violation of State or Federal Laws: Any violation of state or federal laws, rules, regulations, etc. proscribing conduct or establishing offenses;

(ee) Violation of Imposed Disciplinary Sanctions: Violation of a disciplinary sanction officially imposed during a Tennessee Tech hearing proceeding.

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

Rules of
Tennessee Technological University

Chapter 0240-09-01
Student Conduct

Amendments

Rule 0240-09-01-.05 Disciplinary Sanctions is amended by deleting the words “clear and convincing” replacing with the words “preponderance of the,” in paragraph (1), by deleting “its” in subparagraph (1)(k)4., and by changing “Section 7” to “Section 8” in subparagraph (1)(k)5., so that as amended, 0240-09-01-.05 shall read as follows:

0240-09-01-.05 Disciplinary Sanctions

(1) Upon a determination by a preponderance of the evidence (unless otherwise required by federal or state law, rule, or regulation) that a Student or RSO has engaged in prohibited conduct, the following disciplinary sanctions may be imposed, either singly or in combination, by the Dean of Students and/or a Tennessee Tech Judicial council:

(a) Informal Warning: An oral or written warning to the Student or RSO found responsible for a violation when the circumstances and severity of actions do not warrant the development of an official record;

(b) Official Warning: A written notice to the Student or RSO found responsible for a violation. The warning will serve as official notification that continuation or repetition of specified conduct will be cause for further disciplinary action;

(c) No Contact Order: An order of no contact with any individuals who are complainants, victims, or witnesses in the student conduct process. This includes, but is not limited to, verbal, written, electronic, cellular, physical, or social contact, or allowing others to make any similar contacts on a Student’s behalf. An order of no contact can also be issued as an interim measure prior to the completion of the disciplinary process;

(d) Restitution: A measure intended to compensate for the loss, damage, or injury caused by the Student or an RSO. This action may take the form of appropriate service, monetary compensation, or material replacement;

(e) Restriction of Privileges: A restriction upon a Student or RSO’s privileges for a period of time. These restrictions may include, but are not limited to denial of the following:

1. The ability to represent Tennessee Tech at any event;

2. Use of Tennessee Tech facilities;

3. Parking privileges;

4. Participation in, election to, or appointment as a member or officer of Student Government or any RSO; or

5. Application for use of Tennessee Tech funds;

(f) Educational Action: A measure intended to educate the Student or members of the RSO on the responsibilities to refrain from prohibited conduct and learn from the violation. Educational actions include, but are not limited to:

1. Attendance at educational activities or substance education workshops;

2. Completion of a prescribed number of community service hours;

3. Participation in a counseling assessment; or

4. Attendance at community education classes;

(g) Parental or Legal Guardian Notification: Pursuant to T.C.A. § 49-7-146, Tennessee Tech is required to notify a parent or legal guardian of a Student under age twenty-one (21) if the Student "has committed a disciplinary violation with respect to the use or possession of alcohol, or a controlled substance, or a controlled substance analogue that is a violation of any federal, state, or local law, or any rule or policy of [Tennessee Tech], except as prohibited by the Federal Education Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g)." Tennessee Tech will provide such notice if:

1. The student admits responsibility for engaging in the prohibited conduct; or

2. There is a final finding of responsibility pursuant to Tennessee Tech disciplinary procedures;

(h) Disciplinary Probation: Continued enrollment of a Student or recognition of an RSO on probation may be conditioned upon adherence to Tennessee Tech rules and policies related to student conduct. Probation may include restrictions of privileges or any other appropriate conditions. Any conduct in further violation of Tennessee Tech rules and policies related to student conduct while on probationary status or the failure to comply with the terms of the probationary period may result in the imposition of further disciplinary action up to and including expulsion or withdrawal of recognition;

(i) Housing Probation: Continued residence in Tennessee Tech student housing may be conditioned upon adherence to Tennessee Tech rules and policies related to student conduct as well as Tennessee Tech housing rules and related policies and requirements. Probation may include restrictions upon the activities of the resident, including any other appropriate conditions;

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(j) Interim Measures: The Dean of Students or designee may impose temporary measures prior to the beginning of a formal student conduct process. If Tennessee Tech imposes an interim measure, the Student or RSO may contest the measure following the procedures in 0240-09-01-.07 Disciplinary Procedures, Section 8. (Procedures Related to Interim Action). Interim measures may become permanent depending on the outcome of the formal disciplinary hearing. Interim measures may include, but are not limited to:

1. No contact orders;

2. Removal from or reassignment of housing;

3. Removal from or reassignment of on campus work study or work assignments;

4. Removal from or reassignment of a specific class or academic activity;

5. Restriction of access to specified buildings or Tennessee Tech Property;

6. Restriction of privileges; or

7. Other types of temporary measures;

(k) Interim Suspension:

1. Interim suspension is the immediate removal of a Student from Tennessee Tech Property, including but not limited to, facilities, programs, privileges, classes, and premises pending a formal disciplinary hearing.

2. The Dean of Students or designee may impose an interim suspension if, after an individualized assessment, the Dean of Students or designee determines that the Student's behavior poses a significant risk to the health or safety of others that cannot be eliminated by other interim measures.

3. The Dean of Students or designee may also impose an interim suspension when a Student is determined to constitute an immediate threat to Tennessee Tech Property or a substantial

disruption to classroom and/or Tennessee Tech operations.

4. A Student placed on interim suspension status must obtain advance permission from the Dean of Students or designee to be present on Tennessee Tech Property. The Dean of Students or designee will grant such permission only in cases where the Student has identified a legitimately necessary reason for his/her presence on campus.

5. If Tennessee Tech imposes an interim suspension, the Student may contest the matter following the procedures in 0240-09-01-.07 Disciplinary Procedures, Section 8. (Procedures Related to Interim Action);

(l) Revocation of Registered Student Organization Status: A designated period of time in which an RSO is not recognized by Tennessee Tech and does not receive designated privileges as defined by Tennessee Tech policies related to student organizations;

(m) Suspension of Housing Contract: The separation of a Student or members of an RSO from facilities maintained by Residential Life for a temporary or definite period of time, after which the Student or RSO is eligible to return or may be conditionally allowed to return. Subsequent rule or policy violations may result in cancellation of the housing contract(s);

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(n) Cancellation of Housing Contract: A permanent separation of the Student or RSO from facilities maintained by Residential Life. A Student or RSO dismissed from these facilities is not eligible for readmission into any Residential Life facilities maintained by Tennessee Tech;

(o) Suspension: The separation of a Student or RSO from Tennessee Tech for a specified period of time. Suspension may be accompanied by special conditions for readmission. All Students suspended from Tennessee Tech will be issued a no trespass directive barring them from Tennessee Tech Property and all Tennessee Tech Activities. A suspended Student must submit a written request to the Dean of Students or designee at least three (3) business days, absent good cause, in advance to request permission to be present on Tennessee Tech Property or at a Tennessee Tech Activity. This request must specifically identify the nature of the official business that the suspended Student wishes to conduct as well as the locations that the Student wishes to visit;

(p) Expulsion: A permanent separation from Tennessee Tech. The imposition of this sanction is a permanent bar to the Student's admission to, or an RSO's recognition at, Tennessee Tech. Any Student that receives this sanction will be issued a no trespass directive barring him/her from Tennessee Tech Property and all Tennessee Tech Activities;

(q) Withholding Degree: The awarding of a degree may be withheld until all disciplinary processes are complete and all sanctions, if any, are satisfactorily completed;

(r) Revocation of Degree: Revocation of a degree in cases when a Student has engaged in serious misconduct while enrolled, but not discovered until after graduation;

(s) Revocation of Admission: Revocation of admission when a person previously admitted to Tennessee Tech has engaged in serious misconduct prior to the first day of classes, or on the first day residence halls are open, or the first day of the student orientation, advising, and registration program, whichever is earlier.

(t) Any alternate sanction deemed necessary and appropriate to address the prohibited conduct.

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

Rules of
Tennessee Technological University

Chapter 0240-09-01
Student Conduct

Amendments

Rule 0240-09-01-.06 Disciplinary Holds on Records is amended by deleting the word "registration" in paragraph (1), adding new language in paragraph (2), and renumbering accordingly, so that as amended, 0240-09-01-.06 shall read as follows:

0240-09-01-.06 Disciplinary Holds on Records

(1) Tennessee Tech may place a hold on a Student record when the Student has:

(a) Withdrawn from Tennessee Tech and a disciplinary meeting and/or proceeding is pending,

(b) Not responded to the Dean of Students Office's request for a meeting or a hearing, or

(c) Been suspended or expelled.

(2) A disciplinary hold may remain on a student's record until final resolution of a disciplinary meeting and/or disciplinary proceeding.

(3) Tennessee Tech will not confer a degree when a Student has a pending disciplinary meeting and/or disciplinary proceeding.

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

Rules of
Tennessee Technological University

Chapter 0240-09-01
Student Conduct

Amendments

Rule 0240-09-01-.07 Disciplinary Procedures is amended by adding "rules and" in subparagraph (1)(a), editing the language in subparagraph (1)(b), correcting a typo in (1)(c), substituting language in paragraph (2), editing language in paragraph (4), adding paragraph (5), renumbering the remaining paragraphs, adding and deleting language in new paragraphs (6) and (7), adding language in new paragraph (8), and edited, so that as amended, 0240-09-01-.07 shall read as follows:

0240-09-01-.07 Disciplinary Procedures

(1) Responsibility for Administration

(a) The Dean of Students' Office is responsible for matters that are within the scope of this rule and related policies. The Provost's Office is responsible for matters that fall within Tennessee Tech rules and policies related to student academic misconduct. In situations where the conduct could fall within both areas of responsibility, the two (2) Offices will confer, decide which rule or policies will apply to the matter, and advise the Student in writing of their decision.

(b) Complaints related to discrimination and harassment will be investigated in accordance with applicable Tennessee Tech rules and related policies. If Tennessee Tech determines that a Student has engaged in impermissible discrimination or harassment, the Student will be subject to the disciplinary procedures outlined in this rule unless superseded by another rule.

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(c) Other than the matters listed in 0240-09-01-.07 Section (1)(b), reports of acts and incidents involving Students or RSOs should be referred to the Dean of Students' Office for investigation.

(2) Notice and Due Process Rights Related to Preliminary Meetings

(a) A Student or RSO accused of any violation of this rule or related policies will receive written notice of the alleged violation. Tennessee Tech will deliver this notice by sending an email to the Student's or RSO's official Tennessee Tech email account. The notice will be effective on the date Tennessee Tech sends the email notification to the Student's or RSO's official Tennessee Tech email account.

(b) Tennessee Tech will send the preliminary meeting notification letter at least forty-eight (48) hours prior to the preliminary meeting, absent good cause.

(c) The preliminary meeting notification letter will include, at a minimum:

1. The time, place, and date of the preliminary meeting;

2. A written statement of the alleged violation and description of the alleged behavior including time, date, and place of occurrence if such information is available;

3. Notice of the right to be accompanied by an advisor of choice, including an attorney, provided the Student or RSO consents to sign a release of necessary education records to the advisor;

4. Notice that the advisor may not speak on behalf of the Student or RSO in the disciplinary meeting; and

5. Notice of the right to address any information that Tennessee Tech is relying on as a basis for the preliminary meeting.

(d) Upon receipt of the preliminary meeting notification letter, the Student or RSO must contact the Dean of Students' Office within forty-eight (48) hours to schedule a preliminary meeting. Failure to do so will result in a disciplinary hold placed on the Student's account or in the case of an RSO,

suspension of privileges.

(3) Preliminary Meeting

(a) During the preliminary meeting with the Dean of Students, the Student or RSO will have the opportunity to contest the alleged violation and present information.

(b) The Student or RSO has the right to be accompanied by an advisor of choice, provided the Student or RSO consents to the release of necessary education records to the advisor. The advisor, however, may not speak on behalf of the Student or RSO in the preliminary meeting.

(c) The Dean of Students may interview potential witnesses or victims necessary to conduct a thorough investigation of the alleged violation.

(d) Following the preliminary meeting and investigation of the complaint, the Dean of Students will determine if sufficient information exists for the disciplinary process to continue.

1. If the Dean of Students concludes a violation did not occur, the conduct matter will be closed.

2. If the Dean of Students determines there is sufficient information to proceed with the disciplinary process, the Student or RSO will have a hearing regarding the alleged violation.

3. If the Dean of Students determines the alleged misconduct does not warrant consideration of suspension, expulsion, or revocation of degree or credential of a Student or revocation of registration of an RSO, the Student or RSO will have a hearing with the Dean of Students following the procedures in Section 6 (Hearings Before the Dean of Students).

(4) Hearing Options in Cases of Possible Suspension, Expulsion, or Revocation of Degree or RSO Registration

(a) If the Dean of Students determines the alleged misconduct could result in suspension, expulsion, or revocation of degree or credential of a Student or revocation of registration of an RSO, the Student or RSO will have the opportunity to:

1. Contest the alleged violation(s) under the Uniform Administrative Procedures Act (UAPA) in accordance with provisions outlined in the Uniform Administrative Procedures Act, T.C.A. § 4-5-301 et seq. and related rules; or,

2. Waive a hearing pursuant to the UAPA and choose a hearing before the Dean of Students; or,

3. Waive a UAPA hearing and choose a hearing before the Judicial Council.

(5) Notice and Due Process Rights Related to Disciplinary Proceedings

(a) Unless a Student or RSO waives in writing his/her/its right to a disciplinary proceeding, a Student or RSO accused of any violation of this rule or related policies will be given written notice of the alleged violation. Tennessee Tech will deliver this notice by sending an email to the Student's or RSO's official Tennessee Tech email account. The notice will be effective on the date Tennessee Tech sends the email notification to the Student's or RSO's official Tennessee Tech email account.

(b) For proceedings that could result in suspension, expulsion, or revocation of degree or credential of a Student or revocation of registration of an RSO, or that involve allegations of sexual misconduct as defined by the Student Due Process Protection Act and subject to this rule, Tennessee Tech will send a notification letter at least seventy-two (72) hours prior to the disciplinary proceeding.

(c) The notification letter will include, at a minimum:

1. The time, place, and date of the disciplinary proceeding;

2. The names of witnesses Tennessee Tech expects to present at the disciplinary proceeding and the names of witnesses Tennessee Tech may present if the need arises;

3. An explanation of the Student's or RSO's right to request a copy of the investigative file, which will be redacted as required by federal and state law;

4. An explanation of the Student's or RSO's right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that Tennessee Tech has in its possession, custody, or control and may use to support claims or defenses, unless use would be solely for impeachment. All such documents will be redacted as required by federal and state law.

5. A written statement of the alleged violation and description of the alleged behavior including time, date, and place of occurrence if such information is available;

6. Notice of the right to present his/her/its case to the appropriate disciplinary authority;

7. Notice of the right to be accompanied by an advisor of choice, including an attorney, provided the Student or RSO consents to sign a release of necessary education records to the advisor;

8. Notice that the advisor may not speak on behalf of the Student or RSO in the disciplinary meeting;

9. Notice of the right to call witnesses who can speak on his/her/its behalf; and

10. Notice of the right to address any information that is used by Tennessee Tech in a disciplinary proceeding.

(6) Hearings before the Dean of Students

(a) The Dean of Students will follow the procedures described in this section.

1. The hearing shall be conducted consistent with the following Student or RSO rights:

(i) The right to receive the notices described in 0240-09-01-.07 Section 2 (Notice and Due Process Rights Related to Preliminary Meetings) and 0240-09-01-.07 Section 5 (Notice and Due Process Rights Related to Disciplinary Proceedings) prior to the hearing;

(ii) The right to have the case heard based only on the alleged violation of the prohibited conduct specified in the written notice;

(iii) The right to be accompanied by an advisor of choice, provided the Student or RSO consents to the release of necessary education records to the advisor. The advisor, however, may not speak on behalf of the Student in the hearing. An advisor may:

(I) Address questions of procedure to the Dean of Students to the extent that the questions do not interfere with the orderly proceeding of the hearing; and

(II) Request a recess to confer in private with the Student or RSO.

(iv) The right to speak on his/her/its behalf, to call witnesses, to question all witnesses, to present evidence, to challenge the admissibility of evidence; and

(v) The right to remain silent in a hearing.

2. Formal rules of evidence shall not be applicable. The Dean of Students may exclude evidence which, in his/her sole judgment, is immaterial, irrelevant, unduly repetitious, unduly prejudicial, etc.

3. The Dean of Students shall determine responsibility using the preponderance of the evidence standard of proof unless otherwise required by federal or state law, rule, or regulation~~, or Tennessee Tech policies~~.

Commented [A8]: Subsequent minor revision

4. The Dean of Students shall issue a written decision that includes his/her findings and conclusions within three (3) business days after the conclusion of the hearing and all evidence is submitted.

5. The Student or RSO will be advised in writing of the decision and all sanctions imposed as a result of the disciplinary hearing via Tennessee Tech email account.

6. Any sanction imposed as a result of a hearing before the Dean of Students will be effective immediately upon notification to the Student or RSO.

(7) Hearings before the Judicial Council

(a) The Judicial Council is comprised of six (6) faculty members, two (2) administrators, and six (6) Students. The Dean of Students serves as an ex-officio member. Faculty members of the Judicial Council are appointed for a two (2) year term by the Tennessee Tech president. Student members of the Judicial Council are appointed for a one (1) year term by the president of the Student Government Association.

(b) The Chairperson shall be elected by the Judicial Council membership on an annual basis.

(c) A minimum of seven (7) members of the Judicial Council are required to hear a disciplinary case, composed of at least three (3) Students and four (4) faculty members, unless otherwise agreed by the parties.

(d) The Dean of Students will train and advise all members of the Judicial Council regarding Tennessee Tech hearing procedures on an annual basis or as necessary.

(e) The hearing shall be conducted consistent with the following Student or RSO rights:

1. The right to receive the notices described in 0240-09-01-.07 Section 2 (Notice and Due Process Rights Related to Preliminary Meetings) and 0240-09-01-.07 Section 5 (Notice and Due Process Rights Related to Disciplinary Proceedings) prior to the hearing.

2. The right to have the case heard based only on the alleged violation of the prohibited conduct specified in the written notice.

3. The right to be accompanied by an advisor of choice, provided the Student or RSO consents to the release of necessary education records to the advisor. The advisor, however, may not speak on behalf of the Student in the hearing. An advisor may:

(i) Address questions of procedure to the Dean of Students to the extent that the questions do not interfere with the orderly proceeding of the hearing; and

(ii) Request a recess to confer in private with the Student or RSO.

4. The right to speak on his/her/its behalf, to call witnesses, to question all witnesses, to present evidence, to challenge the admissibility of evidence; and

5. The right to remain silent in a hearing; and

6. The right to challenge the seating of any Judicial Council member for bias, prejudice, interest, or any other good cause. The dismissal of a challenged hearing board member will be determined at the discretion of the Judicial Council chairperson. If the chairperson is challenged, s/he may be excused by a majority vote of the Judicial Council.

(f) All hearings shall be closed unless the respondent and the complainant both elect in writing to have an open hearing.

(g) Formal rules of evidence shall not be applicable. The Judicial Council may exclude evidence which, in its judgment, is immaterial, irrelevant, unduly repetitious, or unduly prejudicial, etc.

(h) The Judicial Council shall determine responsibility using the preponderance of the evidence standard

of proof unless otherwise required by federal or state law, rule, or regulation~~, or Tennessee Tech policies~~.

Commented [A9]: Subsequent minor revision

(i) The Judicial Council shall issue a written decision that includes its findings and conclusions within three (3) business days after the conclusion of the hearing and all evidence is submitted.

(j) The Student or RSO will be advised in writing of the decision and all sanctions imposed as a result of the disciplinary hearing via Tennessee Tech email account.

(k) Any sanction imposed as a result of a Tennessee Tech hearing will be effective immediately upon notification to the Student or RSO.

(8) Procedures Related to Interim Measures or Interim Suspensions

(a) When the Dean of Students determines that interim measures or an interim suspension are required for the health and safety of the Tennessee Tech community and/or property, the Student or RSO will be given an opportunity for an informal hearing with the Dean of Students to contest the interim measure;

(b) The informal hearing will be held within five (5) calendar days, absent good cause;

(c) The information presented at the hearing will be limited to that which is relevant to the basis asserted for imposition of the interim measures; and

(d) The Student or RSO will be entitled to formal hearing in accordance with the procedures described in 0240-09-01-.07 Section 2 (Notice and Due Process Rights Related to Preliminary Meetings) and 0240-09-01-.07 Section 5 (Notice and Due Process Rights Related to Disciplinary Proceedings) before a permanent measure is imposed.

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

Rules of
Tennessee Technological University

Chapter 0240-09-01
Student Conduct

Amendments

Rule 0240-09-01-.08 Appeals is amended by correcting capitalization in subparagraph (2)(a) and deleting the words “the clear and convincing” and replacing with “preponderance of the” in paragraph (8), so that as amended, 0240-09-01-.08 shall read as follows:

0240-09-01-.08 Appeals

(1) A Student or RSO may appeal a sanction imposed by the Dean of Students or Judicial Council following the procedures in this section.

(2) The Student Conduct Appeal Committee will hear all appeals.

(a) The Student Conduct Appeal Committee is comprised of one (1) faculty member, one (1) administrator, and one (1) Student.

(b) A pool of eligible committee members will be identified by the Dean of Students annually to ensure a quorum can be achieved throughout the year.

(3) A Student or RSO must file a written appeal with the Dean of Students within ten (10) calendar days from the date of the decision letter, absent good cause.

(4) The bases for an appeal are as follows:

(a) New information, not available at the time of the original hearing, has become available and would substantially alter the outcome of the hearing;

(b) Tennessee Tech failed to conduct the disciplinary process in accordance with its procedures in such a way as to disadvantage the Student or RSO; or

(c) The sanction is disproportionate to the violation.

(5) The Student Conduct Appeal Committee will consider the appeal based on the record and statements submitted by the Student or RSO and the Dean of Students. The Student Conduct Appeal Committee may request the Student or RSO and the Dean of Students to appear before the Student Conduct Appeal Committee to clarify any questions regarding the appeal record or statements.

(6) The Student Conduct Appeal Committee will make its decision within ten (10) business days of receipt of all relevant information. This period may be extended in circumstances where it is not possible to establish a quorum (e.g. holidays, breaks, etc.).

(7) The Student Conduct Appeal Committee may take the following action(s) upon consideration of the merit of the appeal:

(a) Affirm the original decision;

(b) Reverse the original decision;

(c) Reduce the sanction prescribed in the original decision; and/or

(d) Remand the matter to the original hearing body for reconsideration.

(8) The standard of proof required to overturn a finding of a violation shall be preponderance of the evidence and the Student or RSO bears the burden of proof.

(9) A Student or RSO may file a written appeal of the Student Conduct Appeal Committee's decision with the Vice President for Student Affairs. The Student or RSO must file a written appeal with the Vice President for Student Affairs' office within ten (10) business days of the date of the decision letter. The appeal must state the reasons why the Student or RSO believes the decision should be overturned. After consideration of the appeal, the record, and any other relevant information, the Vice President for Student Affairs will issue a written decision within five (5) business days of receipt of the appeal and all relevant material.

(10) The Vice President for Student Affairs' decision is final, except in cases where a Student has been expelled or the Student's degree has been revoked. In those cases, the Student may appeal the Vice President for Student Affairs' decision to the President. The Student must file a written appeal with the President's office within ten (10) business days of the date of the decision letter. The appeal must state the reasons why the Student believes the decision should be overturned. After consideration of the appeal, the record, and any other relevant information, the President will issue a written decision as soon as reasonably possible.

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

Rules of
Tennessee Technological University

Chapter 0240-09-01
Student Conduct

New Rule

Rule 0240-09-01-.09 Conflicts of Interest is added to Chapter 0240-09-01 so that it shall read as follows:

0240-09-01-.09 Conflicts of Interest

(1) Consistent with Section 11 of the Student Due Process Protection Act, T.C.A. § 49-7-1704, student disciplinary proceedings must include protection for respondents and complainants analogous to, and no less protective than the conflict of interest provisions of T.C.A. § 4-5-303.

Authority: T.C.A. § 49-8-203 (a)(1)(D); T.C.A. § 49-7-1704.

Rules of
Tennessee Technological University

Chapter 0240-09-01
Student Conduct

New Rule

Rule 0240-09-01-.10 Application of Rule to Prospective Students is added to Chapter 0240-09-01 so that it shall read as follows:

0240-09-01-.10 Application of Rule to Prospective Students

(1) A prospective student's admission to Tennessee Tech may be rescinded for pre-attendance conduct that is prohibited by this rule.

(2) Tennessee Tech will publish a process for appeal of such a rescission on Tennessee Tech's web site.

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

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: _____

Signature: _____

Name of Officer: _____

Title of Officer: _____

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Filed with the Department of State on: _____

_____
Tre Hargett
Secretary of State