



Quarterly Board Meeting
September 29, 2020
Roaden University Center, Room 282
1:30 p.m.

This meeting will be conducted permitting Trustees' participation by electronic or other means of communication. If, due to the COVID-19 pandemic, an in-person meeting is not advisable, the meeting will be conducted via electronic means only and will be streamed live via link found on the Board of Trustees' web page at <https://www.tntech.edu/board/>. Please check <https://www.tntech.edu/board/> for updates.

AGENDA

- I. Call to Order and Roll Call
- II. Special Recognitions
- III. Spotlight on Student and Faculty Excellence
- IV. Approval of Minutes
- V. Board Appointment of Audit Committee member
- VI. Rulemaking Hearing
 - A. Tennessee Technological University Rule 0240-09-01 Student Conduct
 - B. Tennessee Technological University Rule 0240-09-08 Title IX Compliance
- VII. President's Report
- VIII. Certification of President's Responsibilities Related to Athletics

- IX.** Consent Agenda
 - A.** TTU Policy 511.1 (Fees, Charges, Refunds, and Adjustments)
 - B.** TTU Policy 511.2 (Student Fee Adjustments, Refunds and Appeals)
 - C.** TTU Policy 144 (Title IX Policy and Grievance Procedures)
 - D.** Tenure Recommendation
- X.** Executive Committee Report
 - A.** Approval of Temporary Part-time Continuation of Employment of University Counsel
 - B.** Status of President's Evaluation
 - C.** Consideration of Need for Comprehensive Review
 - D.** Board Self-Assessment
- XI.** Academic & Student Affairs Committee Report
Review and Update Regarding Campus COVID-19 Response
- XII.** Audit & Business Committee Report
 - A.** Financial Update
 - B.** Employee Performance Evaluation Analysis
 - C.** Engineering Building Design Presentation
- XIII.** Announcement of 2021 Board Regular Meeting Dates
- XIV.** Other Business
- XV.** Adjournment



Agenda Item Summary

Date: September 29, 2020

Agenda Item: Spotlight on Student and Faculty Excellence

Review

Action

No action required

PRESENTER: Chair Harper

PURPOSE & KEY POINTS:

Tech's 2020 Eagle Works first and second place winners Brantley Marie Medical Devices, Inc. (formerly Intubation Nation) and Working Women Design Co. both advanced to the LaunchTN 38|86 statewide student competition as two of only eight finalists. They competed virtually in August for \$35,000 in awards. The event connects innovators, pioneers, investors and visionaries to shape the business community of the future. BrantleyMarie Medical Devices took second place and a \$10,000 prize Working Women Design Co., also represented Tech very well.



Board of Trustees Meeting

June 23, 2020

Meeting via teleconference and streamed live via link found on this web page:

<https://www.tntech.edu/board/meetings/2020-06-23-board-meeting.php>

MINUTES

AGENDA ITEM 1—CALL TO ORDER AND ROLL CALL

The Tennessee Tech Board of Trustees met on June 23, 2020, via teleconference. Chair Harper called the meeting to order at 1:30 p.m.

Chair Harper asked Kae Carpenter, Secretary, to call the roll. The following members were present:

- Mason Hilliard
- Tom Jones
- Fred Lowery
- Sally Pardue
- Rhedona Rose
- Purna Saggurti
- Johnny Stites
- Teresa Vanhooser
- Barry Wilmore
- Trudy Harper

A quorum was in attendance but not physically present.

All participating Trustees confirmed that they could simultaneously hear and speak to the Board members, that they received the Board materials in advance of the meeting, and all except Mr. Stites confirmed that they were the only person present in the location from which they were calling. Mr. Stites stated that Dr. Claire Stinson and Becky Smith were in the conference room with him.

AGENDA ITEM 2—DETERMINATION OF NECESSITY

Chair Harper stated that a determination of necessity was required because a quorum was not physically present. She stated that the Board of Trustees meeting was required to consider several important and time-sensitive matters, including but not limited to, emergency rules, tenure recommendations, and the budget. She stated that the Board was meeting via teleconference in recognition of the need to limit personal contact during the COVID-19 Pandemic and in keeping with Executive Order 38 related to the pandemic. She stated these facts and circumstances necessitated that a meeting be held without a quorum being physically present.

Ms. Vanhooser moved that a determination of necessity existed to allow Board members to participate by electronic means. Mr. Hilliard seconded the motion. With an opportunity for further discussion and there being none, Ms. Carpenter called a roll call vote. The motion carried unanimously.

AGENDA ITEM 3: SPOTLIGHT ON STUDENT AND FACULTY EXCELLENCE

Chair Harper stated that Dr. Ismail Fidan, Professor in the Department of Manufacturing and Engineering Technology, recruited a workforce of graduate and undergraduate students to create several hundred face masks and shields for healthcare workers and first responders for use during the COVID-19 pandemic. Leading the students in use of the latest 3D printing technology gained him international recognition, as well as being selected as recipient of the 2020 Caplenor Research Award, Tennessee Tech's highest faculty research honor.

Dr. Fidan stated that the team's initial task was to print headbands but plastic shields were also needed. He stated that they donated over 900 fully assembled face shields to Cookeville Regional Medical Center, Cookeville Fire Department, City of Cookeville, Putnam County Emergency Medical Services, Cookeville Regional Medical Cancer Center, and Tennessee Tech Health Services. He stated that currently there were an additional 450 face shields ready for delivery.

Dr. Fidan stated that Tennessee Tech also established an additive manufacturing hub called Additive Manufacturing Workforce Advancement Training Coalition and Hub. He stated they were able to train almost 50 STEM educators on the latest trends and technologies of additive manufacturing and a 3D printer was given to each participant in the two-day workshop. Tennessee Tech labs were used and students volunteered their time to help without financial compensation. These students included Kyle Wendt, Ankit Gupta, and Seymour Hasanov.

Chair Harper welcomed Kinsey Potter and Kester Nucum who represented Tech's Generation R, students who were passionate about Rural Reimagined. She stated that Kinsey and Kester were the energy behind the Gen R Club and Gen R Ambassadors and they provided inspiration, information, and leadership to the Grand Challenge Committee. She stated that committee was hard at work integrating rural assistance in the academic and service components of Tennessee Tech.

Chair Harper stated she wanted to congratulate Dr. Holly Stretz, of the Chemical Engineering Department, as the incoming Faculty Senate President. She stated she also wanted to thank Dr. Sandi Smith-Andrews for her leadership with the Trustees and with the Faculty Senate.

AGENDA ITEM 4: APPROVAL OF MINUTES

Mr. Saggurti moved to approve the May 21, 2020, meeting minutes. Mr. Lowery seconded the motion. With an opportunity for further discussion and there being none, Ms. Carpenter called a roll call vote. The motion carried unanimously.

AGENDA ITEM 5: ELECTION OF THE STUDENT TRUSTEE

Chair Harper stated that the 2016 Focus Act required the Board to select a student as a non-voting member and the Tennessee Tech Student Government Association developed a process for selecting candidates to present to the Board for consideration. She stated that the candidates selected by the SGA and listed in alphabetical order were Daniel Hinds, Jackson Lelle, and Tristan Pope.

Mr. Hines stated that he was a rising senior studying Cellular and Molecular Biology. He stated that he wanted to serve as the student representative on the Board because he believed he brought a diverse and well-rounded perspective that could represent the student population as a whole. He stated that it would be an honor to serve Tennessee Tech in this way because Tennessee Tech has given him a quality education, teamwork skills, reliability and dependability traits, and the capacity for improvement.

Mr. Lilly stated that he was a rising senior studying Criminal Justice with a minor in Psychology and Science. He stated that he believed that Tennessee Tech was a family and he would continue to harbor this aspect so every student that comes to Tennessee Tech would know they belonged here and were welcome. He stated that he believed he had the communication skills and ability to work together with others so he could accomplish what needed to be done by Tennessee Tech's Board of Trustees.

Mr. Pope stated that he was from rural Smith County and was a first-generation college student. He stated that he was majoring in Agriculture Education and that Tennessee Tech had been a life-changing experience for him. He stated that being a student at Tennessee Tech

prepared him not only academically, but also allowed him to gain both leadership and social skills. He stated that he believed he would be able to apply these skills to the student trustee position to better serve and represent not only the students, but also Tennessee Tech as a whole.

Mr. Jones nominated Daniel Hines for the student representative on the Board of Trustees. Mr. Lowery seconded the motion. With an opportunity for further discussion and there being none, Ms. Carpenter called a roll call vote. The motion carried unanimously.

AGENDA ITEM 6: PRESIDENT'S REPORT

President Oldham stated that there continued to be an emphasis on diversity on campus, particularly with recent events. He stated that Tennessee Tech has been responding through personal statements, an official statement made on behalf of the University, and meeting with various groups of black students to encourage dialogue and educate the faculty and staff. He stated that he also met with a group of black faculty and staff that allowed the group to share what their experiences were like at Tennessee Tech. He stated that Tennessee Tech must do more, and that was what he intended to do. He stated that he instructed the cabinet to hold similar meetings with their faculty and staff in their divisions to expand this conversation across campus. He stated that he would continue to explore ways to expand the conversation so that Tennessee Tech could learn from each other and all could benefit from shared and different experiences.

President Oldham stated that there was continued progress despite the challenges of the shutdown, online learning, and budgetary restrictions. He stated that there was uncertainty regarding future financial support as well as uncertainty in fall enrollment. He stated that Tennessee Tech remained committed to having students back on campus in a safe and healthy manner in August, and Tennessee Tech was making modifications and preparations to ensure this was done successfully.

President Oldham stated that currently Tennessee Tech has seen a decrease in the amount of state support expected for this year and necessary adjustments were being made. He stated that some maintenance money was lost. He stated that the goals remained the same, and progress must maintain momentum.

President Oldham stated that Tennessee Tech remained completely committed on its expectation to keep education affordable and accessible. He stated that there was no tuition or fee increase proposed for returning students.

President Oldham stated that he asked the entire cabinet and everyone academically qualified among the senior staff, to teach a class this next year, including himself. He stated this was a way to keep the campus connected and to ensure everyone understood their purpose for being here.

President Oldham stated that capital projects would continue. He stated that the new student recreation center would open in the next couple of weeks, the new science building would be partially open this fall and would completely open later in the fall. He stated that the new engineering building remained under design, and the design process was moving along at a good pace. He stated that the plaza on the west end of the Roaden University Center was currently under construction for a new outdoor space that included a fire pit and outdoor seating for students to enjoy. He stated that the cupola on top of Derryberry Hall was being replaced. He stated that the roads around campus were being repaired. He stated that coaches have been working in less than adequate conditions underneath the stadium, and Tennessee Tech was in the process of utilizing some portable trailer facilities to temporarily replace the current offices.

President Oldham stated that enrollment was continuing to be a focus. He stated that summer school enrollment has increased five percent over last year's summer enrollment. He stated that much of the enrollment for the fall semester was still being determined.

President Oldham stated that career placement has been a major emphasis. He stated that adjustments to the current situation were being made and the prospects for the future were excellent.

President Oldham stated research was a continuing focus and he anticipated Dr. Taylor would join Tennessee Tech later in the summer as the Vice President for Research. He stated that this was a really good year for research funding and progress on campus despite the shutdown and the pandemic. He stated that Tennessee Tech had already submitted a record number of proposals to funding agencies. The approximate number submitted was 190 proposals, which was close to a 15-percent increase from last year. He stated that last year Tennessee Tech reached a record number of dollars awarded in research grants, just over \$20 million, and Tennessee Tech had already received \$20 million in research awards with one week left in the fiscal year.

President Oldham stated that online education has been a major component of this year. He stated that he expected this fall to have an increase of nine to ten percent of courses being offered online. He stated that a lot of additional work was being put into scheduling hybrid courses, which were courses partially online and partially in person. He stated that the number of hybrid courses in the fall was estimated to be about 19 percent.

President Oldham stated that he was less satisfied in the project being proposed with the public-private partnership around a residence hall project. He stated that Tennessee Tech had talked to a number of private developers but had not yet found the right partner.

AGENDA ITEM 7.A: CONSENT AGENDA—TENURE RECOMMENDATIONS, 7.B: PRESIDENTS EMERITI CONTRACTS, AND 7.C: TTU POLICY 1204 (INSTITUTIONAL SCHOLARSHIPS)

Mr. Saggurti moved to approve all items on the consent agenda. Ms. Rose seconded the motion. With an opportunity for discussion and there being none, Ms. Carpenter called a roll call vote. The motion carried unanimously.

AGENDA ITEM 8.A.1—ACADEMIC & STUDENT AFFAIRS COMMITTEE REPORT AND RECOMMENDATIONS—REPORT—ACADEMIC PROGRAM UPDATES

Ms. Rose stated that during the morning Academic & Student Affairs Committee meeting, Provost Bruce shared updates regarding new academic minors, concentrations, and certificates. She stated that Provost Bruce highlighted the Department of Decision Sciences and Management and converted a concentration to a major in Business Information Technology. She stated that the Department of Curriculum and Instruction created a new graduate level certificate and licensure endorsement for Computer Science, which is the first licensure of its kind in Tennessee.

AGENDA ITEM 8.A.2—ACADEMIC & STUDENT AFFAIRS COMMITTEE REPORT AND RECOMMENDATIONS—REPORT—REVIEW AND UPDATE REGARDING CAMPUS COVID-19 RESPONSE

Ms. Rose stated that President Oldham, Provost Bruce, and Dr. Rob Owens provided updates regarding Tennessee Tech's response to COVID-19. She stated that they shared details regarding the plans to safely reintroduce faculty, staff, and students back to campus as well as measures being taken to ensure there was the best possible learning environment for students. She stated that the report focused on three specific areas of student affairs in enrollment and academic affairs. She stated that there were reports on fall housing, the counseling center, health services and the COVID-19 testing capabilities, and the new student recreation center. She stated that domestic enrollment would be similar to what it was last fall, but there was expected to be a decline in international student enrollment. She stated that task forces had been established to create plans and procedures to ensure academic success and personal well-being. She stated that those areas were specific to hybrid courses, social distancing, pedestrian flow, policy procedures, and student success.

AGENDA ITEM 8.B.1—ACADEMIC & STUDENT AFFAIRS COMMITTEE REPORT AND RECOMMENDATIONS—RECOMMENDATIONS—NEW ACADEMIC PROGRAM PROPOSAL, M.S. IN COMMUNITY HEALTH AND NUTRITION

Chair Harper stated that the purpose of this degree program was to provide advanced content, knowledge, and rural community health for credentialed nutrition and dietetics professionals

who seek a graduate degree as well as undergraduate dietetics students who seek to achieve registered dietician nutritionist certification combined with a graduate degree. Ms. Rose moved to approve the new academic program, M.S. in Community Health and Nutrition. Mr. Lowery seconded the motion. With an opportunity for further discussion and there being none, Ms. Carpenter called a roll call vote. The motion carried unanimously.

AGENDA ITEM 8.B.2—ACADEMIC & STUDENT AFFAIRS COMMITTEE REPORT AND RECOMMENDATIONS—RECOMMENDATIONS—TTU EMERGENCY RULE 0240-09-01 STUDENT CONDUCT AND TTU POLICY 302 (STUDENT CONDUCT)

Ms. Rose stated that on May 6th, 2020, the U.S. Department of Education published its final regulations related to Title IX Sex Discrimination and Sexual Harassment Procedures. She stated that these new regulations, which go into effect August 2020, would make substantial changes to the procedures and processes used by institutions to address sexual harassment. She stated that this new federal regulation necessitated further revisions to the previously approved Student Conduct Rule. She stated that the Student Conduct Rule was revised to remove references to sexual harassment or sexual misconduct that fall within the scope of Title IX of the Education Amendments of 1972 and TTU Policy 302 (Student Conduct) was revised to reflect those changes in the rule. She stated that Title IX matters would be addressed in a separate rule. She stated that Tennessee Tech must file emergency rules in order to comply with the Title IX final regulations before the implementation deadline of August 14th, 2020.

She stated that upon the recommendation of the committee, she moved to approve Tennessee Tech University Emergency Student Conduct Rule 0240-09-01 (Student Conduct) and TTU Policy 302 (Student Conduct) as presented. With an opportunity for further discussion and there being none, Ms. Carpenter called a roll call vote. The motion carried unanimously.

AGENDA ITEM 9.A.1—AUDIT & BUSINESS COMMITTEE REPORT AND RECOMMENDATIONS—REPORT—FEDERAL CARES ACT AND AUXILIARY INCOME

Mr. Stites stated that the Audit & Business Committee discussed the CARES funding received by Tennessee Tech. He stated that Tennessee Tech received funding from both 18004(a)(1) and 18004(a)(2). He stated that 50 percent of 18004(a)(1) was designated for emergency financial aid grants for students. He stated that 6,991 students have already seen a total of \$3,730,664 of these funds. He stated that the rest of the funds were designated to assist Tennessee Tech with costs associated with changes in instructional delivery due to COVID-19. He stated that Tennessee Tech used \$3,260,798 to provide refunds of housing and meal plans to students.

**AGENDA ITEM 9.A.2—AUDIT & BUSINESS COMMITTEE REPORT AND RECOMMENDATIONS—
REPORT—ENDOWMENTS AND BOND FINANCING**

Mr. Stites stated that Tennessee Tech was closely watching the performance of endowments as the market was quite volatile. He stated that endowments were assets of the Tennessee Tech Foundation that provided scholarships to students and support for the academic programs at Tennessee Tech. He stated that Tennessee Tech also borrowed funds to construct buildings and other assets for auxiliary enterprises such as housing, the recreation center, parking, and transportation. He stated that most of Tennessee Tech's debt was bonded Fall of 2019 at very good rates. He stated that Tennessee Tech had only one small project still under short-term capital funding. He stated those rates were under 2 percent.

**AGENDA ITEM 9.A.3—AUDIT & BUSINESS COMMITTEE REPORT AND RECOMMENDATIONS—
REPORT—STATE BUDGET**

Mr. Stites stated that Tennessee Tech's new state appropriation for fiscal year 2021 had been reduced to zero. He stated that the capital outlay for the new engineering building had been removed from the state budget and funds for capital maintenance projects had been significantly reduced. He stated that there were good reports that Tennessee Tech was making progress on the budget.

**AGENDA ITEM 9.A.4—AUDIT & BUSINESS COMMITTEE REPORT AND RECOMMENDATIONS—
REPORT—FACULTY PROMOTIONS**

Mr. Stites stated that Provost Bruce shared decisions and supporting documentation regarding promotions for eligible faculty members with the Board. He stated that 15 faculty members were awarded promotions beginning August 2020. He stated the percentage of total faculty being awarded promotions was three percent. He stated that this was presented separate from the tenure recommendations, which were addressed on the consent agenda.

**AGENDA ITEM 9.B.1—AUDIT & BUSINESS COMMITTEE REPORT AND RECOMMENDATIONS—
RECOMMENDATIONS—FY2019-20 ESTIMATED AND FY2020-21 PROPOSED BUDGETS**

Mr. Stites, upon the committee's recommendation, moved to approve the 2019-2020 estimated budget and the fiscal year 2020-2021 proposed budget. With an opportunity for further discussion and there being none, Ms. Carpenter called a roll call vote. The motion carried unanimously.

AGENDA ITEM 9.B.2.a—AUDIT & BUSINESS COMMITTEE REPORT AND RECOMMENDATIONS—RECOMMENDATIONS—CAMPUS SIGNAGE AND WAYFINDING

Mr. Stites stated that ceremonial gates at the main entrance close to campus and entry markers as secondary entry points including buildings, streets, and wayfinding signs would be installed.

Mr. Jones asked if it was necessary to begin this project during this time since salary increases had to be suspended and a reduction in force implemented. He asked if this was a project that could wait another year.

Dr. Stinson stated that the project would take place over the course of more than one year and would cost a total of \$490,000, but the first phase that would begin this year would cost a total of \$190,000.

President Oldham stated that the whole project would take multiple years and that, of all the surveys that were done regarding why students select certain universities, campus environment was almost always the number one indicator among students in choosing their university. He stated this was more than an aesthetic concern; it was a strategic issue. He stated that Tennessee Tech could survive another year without it, but it was important to move on with these projects when there was opportunity.

Mr. Stites moved to approve the disclosed projects for campus signage and wayfinding. With an opportunity for further discussion and there being none, Ms. Carpenter called a roll call vote. The motion carried 8 to 1 with Mr. Jones voting nay.

AGENDA ITEM 9.B.2.b—AUDIT & BUSINESS COMMITTEE REPORT AND RECOMMENDATIONS—RECOMMENDATIONS—DATA CENTER FIRE SUPPRESSION

He stated Tennessee Tech would install a fire suppression system for the data center in Clement Hall.

Mr. Stites moved to approve the fire suppression system in Clement Hall. With an opportunity for further discussion and there being none, Ms. Carpenter called a roll call vote. The motion carried unanimously.

AGENDA ITEM 9.B.2.c—AUDIT & BUSINESS COMMITTEE REPORT AND RECOMMENDATIONS—RECOMMENDATIONS—FOOTBALL OFFICES

Mr. Stites stated that Tennessee Tech would purchase and install a prefabricated portable office building for the football program.

Mr. Stites moved to approve the disclosed project for fiscal year 2020-2021 for the prefabricated portable football offices.

Mr. Stites stated that this project was not consistent with the architecture of Tennessee Tech's campus, and it would be in a very visible part of campus and would send the wrong message.

Captain Wilmore asked what other options were considered and why this was decided as the best option.

President Oldham stated that this had been an issue that Tennessee Tech struggled with for a long time. He stated that multiple options had been looked at as far as finding existing space on campus already present that could be utilized, but there was nothing available. He stated that the cost of building new space for the football program was beyond reach at this time. He stated that this was not a final solution, but there were coaches sitting in offices where water would come into the building when it rains and something had to be done even if this was not the ideal solution. He stated this was the most cost-effective way of dealing with the problem immediately.

Mark Wilson stated that Tucker Stadium as a whole was the one building that did not fit with the architecture of the rest of campus. He stated that the fundraising plan was addressing this to improve the stadium's total aesthetic. He stated that this temporary solution would put football coaches in a much better environment

Mr. Jones asked how long the portable offices would be used.

Mr. Wilson stated that he could not define short-term, but he did not consider the portable offices a permanent solution.

Mr. Lowery asked if there was an estimate as to what the improvements would cost and what the football operation improvements would include.

President Oldham stated that team operations would be around \$10 million to \$15 million.

Mr. Jones asked what the long-term goal was.

Mr. Wilson stated that it was recommended that there be a complete tear-down of the whole structure due to the water damage that had been going on for years. He stated that there was a plan to tear down one side, which was what funding was being secured for.

Mr. Jones asked how much this would cost.

Mr. Wilson stated that tearing down the one side would cost \$45 million, but this would include all team facilities underneath it.

With an opportunity for further discussion and there being none, Ms. Carpenter called a roll call vote. The motion carried 8 to 1 with Mr. Stites voting nay.

AGENDA ITEM 9.B.3—AUDIT & BUSINESS COMMITTEE REPORT AND RECOMMENDATIONS—RECOMMENDATIONS—CAPITAL BUDGET FY2021

Mr. Stites, upon the committee's recommendation, moved the Board approve the 2021-2022 capital budget request. With an opportunity for further discussion and there being none, Ms. Carpenter called a roll call vote. The motion carried unanimously.

AGENDA ITEM 9.B.4—AUDIT & BUSINESS COMMITTEE REPORT AND RECOMMENDATIONS—RECOMMENDATIONS—TTU EMERGENCY RULE 0240-09-08 TITLE IX COMPLIANCE AND TTU POLICY 144 (TITLE IX POLICY AND GRIEVANCE PROCEDURES)

Mr. Stites stated that the Board held an informational meeting regarding the TTU Emergency Rule 0240-09-08 Title IX Compliance and TTU Policy 144 (Title IX Policy and Grievance Procedures) on June 2nd, 2020. He stated that on May 6th, 2020, the U.S. Department of Education published its final regulations related to Title IX Sex Discrimination and Sexual Harassment Procedures. He stated that these new regulations, which would go into effect August 2020, made substantial changes to the procedures and processes used by institutions to address sexual harassment. He stated that an emergency rule was necessary to ensure the rule was in effect by August 14th. He stated that TTU Policy 144 (Title IX Policy and Grievance Procedures) reflected the TTU Title IX rule replacements and provided additional details as required by the federal regulation.

Mr. Stites, upon the committee's recommendation, moved the Board approve the TTU Emergency Rule 0240-09-08 Title IX Compliance and TTU Policy 144 (Title IX Policy and Grievance Procedures) as presented. With an opportunity for further discussion and there being none, Ms. Carpenter called a roll call vote. The motion carried unanimously.

AGENDA ITEM 9.B.5—AUDIT & BUSINESS COMMITTEE REPORT AND RECOMMENDATIONS—RECOMMENDATIONS—NAMING OF STUDENT RECREATION CENTER

Mr. Stites, upon the committee's recommendation, moved the Board approve the naming of the new student recreation center to the Marc L. Burnett Student Recreation and Fitness Center.

President Oldham stated that Mr. Burnett had been a staple to Tennessee Tech for over 35 years. He stated that Mr. Burnett embodied the spirit of Tennessee Tech. He stated that Mr. Burnett was very beneficial to and was a leader in securing the building funding by working with the Student Government Association to pass a referendum to institute a student fee to pay for

the building. He stated it was through Mr. Burnett's encouragement that this building was completed. He stated that Mr. Burnett had served Tennessee Tech in various capacities, such as Vice President for Student Affairs, the first and only permanent black Vice President, the first Chief Diversity Officer, and he has awarded \$1.2 million in diversity scholarships to improve campus diversity. He stated that Mr. Burnett was a five-time captain of the Tennessee Tech basketball team. He stated that Mr. Burnett was an outstanding individual and was a great credit to the campus and the community.

Dr. Robert Owens stated that these were challenging times regarding racial injustice. He stated that without Mr. Burnett, he would not be here. He stated that he owed Mr. Burnett much of his career for opening doors for him. He stated that it wasn't just about him, but he had spent much of his time in the Black Cultural Center and, without Mr. Burnett, he would not have that space. He stated that the legacy of black individuals at Tennessee Tech owed itself to Mr. Burnett.

With an opportunity for further discussion and there being none, Ms. Carpenter called a roll call vote. The motion carried unanimously.

Mr. Burnett stated that this honor was difficult to absorb. He stated that his dreams always related to helping students and serving students in the best way possible. He stated that he never looked at a white student and a black student and decided which student to help, he just wanted to help someone. He stated that if he could change what was happening in the world in exchange for the naming of the building, he would. He stated that growing up his grandfather taught him to never treat anyone without respect, always treat everyone with respect and dignity. He stated that his grandfather taught him that we could educate people, but ultimately their hearts must change. He stated that he wanted to thank God, his family, and the Board. He thanked Dr. Oldham, the university committees, David Mullinax, and the Tennessee Tech students. He stated that Tennessee Tech had done so much for him and he always wanted to give back to Tennessee Tech.

AGENDA ITEM 10—OTHER BUSINESS

Chair Harper stated that she wanted to address the former student trustee, Mason Hilliard. She stated that Mr. Hilliard was a remarkable young man who was able to stand out at a university full of extraordinary people. She stated that Mr. Hilliard represented the interests of his fellow students with honesty and clarity and had done so with the professionalism of a seasoned executive. She congratulated Mr. Hilliard on his new position at Tennessee Tech as an Admissions Counselor.

President Oldham stated that he and Mrs. Oldham enjoyed getting to know Mr. Hilliard and he had made a legacy at Tennessee Tech. President Oldham presented Mr. Hilliard with a plaque for his service as student trustee.

Mr. Hilliard stated that it was an honor to serve as student trustee. He stated that Tennessee Tech welcomed him with open arms, and he was excited that his work at Tennessee Tech was not yet finished. He stated that he wanted to wish Daniel Hinds, the new student trustee, the best of luck. He thanked President Oldham and the Board members for working with him and giving him this opportunity.

Chair Harper stated that Kae Carpenter would be retiring very soon. She congratulated Ms. Carpenter on an exceptional career. She stated that Ms. Carpenter's work had influenced and enhanced each of the multiple organizations with which she had been involved. She stated that Ms. Carpenter had a genuine gift of quickly getting to the heart of many different issues that she was required to address. She stated that Ms. Carpenter's title of University Counsel was appropriate because she was a wonderful counselor, but the title of Board Secretary was inadequate at describing the responsibilities and burdens in shepherding the Board. She stated that Ms. Carpenter had been a teacher, a disciplinarian, a cheerleader, and a visionary thinker. She stated that Ms. Carpenter's impact at Tennessee Tech would be a legacy of servant leadership. She thanked Ms. Carpenter for her leadership and friendship.

President Oldham thanked Ms. Carpenter for all the work she had done. He stated that Ms. Carpenter took charge in getting Tennessee Tech up to speed in all matters of policy and legal status. He stated that she always provided wise counsel. He stated that Ms. Carpenter took on the additional responsibilities of helping establish the Board with grace and professional capability. He stated that Ms. Carpenter was an excellent Board Secretary. President Oldham presented Ms. Carpenter with a plaque for her time, service, and dedication to Tennessee Tech. He also presented a crystal glass with an etched Tennessee Tech seal to Ms. Carpenter as a gift from the Board of Trustees.

Ms. Carpenter thanked President Oldham and the Board for their kind words. She stated that it had been an honor to serve Tennessee Tech. She thanked the "hive", which included the administrative support staff, the Office of Communications and Marketing, Information Technology Services, and all the individuals who worked so hard to make everything seamless so the Board could address the important issues. She stated that she had never met a more generous group of individuals than the members of the Board, who were both capacious in spirit and generosity to Tennessee Tech.

Mr. Jones stated that he loved Tennessee Tech's campus and investing in it was important, but he stated that he wanted to define the environment as more than brick and mortar, and to also include student culture. He stated that he urged President Oldham, the staff, and the faculty that they invest in the culture of Tennessee Tech, including investing in the faculty and the students. He stated that the Board has done well in highlighting students, but he was concerned there were no raises this year because of budget.

President Oldham stated that he agreed and regretted that this was the first year in eight years that Tennessee Tech could not give salary raises, but it was still considered a top priority.

AGENDA ITEM 11: ADJOURNMENT

With there being no further business, the meeting adjourned at 4:10 p.m.

Approved,

Lee Wray, Board Secretary

DRAFT



Agenda Item Summary

Date: September 29, 2020

Agenda Item: Board Appointment of Audit Committee member

Review

Action

No action required

PRESENTER: Chair Harper

PURPOSE & KEY POINTS: Pursuant to TTU Policy 005 (Board Committees), Section V.B.1, the Board must appoint the members and the chair of the Audit Committee.



Agenda Item Summary

Date: September 29, 2020

Agenda Item: TTU Rule 0240-09-01 Student Conduct

Review

Action

No action required

PRESENTER: Dr. Katherine Williams, Dean of Students

PURPOSE & KEY POINTS:

On May 6, 2020, the US Department of Education published its final regulations related to Title IX sex discrimination and sexual harassment procedures. These new regulations, which went into effect on August 14, 2020, make substantial changes to the procedures and processes used by institutions to address sexual harassment.

This new federal regulation necessitated further revisions to the Student Conduct Rule. The Student Conduct Rule is revised to remove references to sexual harassment or sexual misconduct that fall within the scope of Title IX. Title IX matters are addressed by a separate rule.

The Board approved an emergency Student Conduct rule at its June 23, 2020, meeting in order to meet the August 14, 2020, federal implementation deadline. This rule is the same as that emergency rule except for a few subsequent minor revisions, which address concerns that were raised about another university’s rule with similar language. These changes are highlighted in a separate document in the Diligent book under the tab name “Subsequent Minor Revisions.”

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 Notice ID(s): 3136
 File Date: 7/31/2020

Notice of Rulemaking Hearing

6.1

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	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> 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):

- Amendment
- 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.)

SS-7037 (March 2020)

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RD A 1693

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

6.1

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:

6.1

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 Tennessee Tech policy related to discrimination and harassment;
 - (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 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 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, 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

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).

6.1

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:

6.1

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 policies and requirements. Probation may include restrictions upon the activities of the resident, including any other appropriate conditions;
- (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 policy violations may result in cancellation of the housing contract(s);
 - (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).

6.1

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:

6.1

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:

6.1

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 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.
- (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, regulation, or Tennessee Tech policies.

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, regulation, or Tennessee Tech policies.

- (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.

6.1

**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)

6.1

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: 7/31/2020
Signature: *K.W. Williams*
Name of Officer: Katherine W. Williams
Title of Officer: Dean of Students

6.1

Department of State Use Only

Filed with the Department of State on: 7/31/2020

Tre Hargett
Tre Hargett
Secretary of State

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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	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> 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):

- Amendment
- 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.)

SS-7037 (March 2020)

1

RDA 1693

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;
 - (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

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- 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).

6.1

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 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;
- (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

Commented [A5]: Subsequent minor revision

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);
- (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.

Commented [A6]: Subsequent minor revision

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.
- (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.

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(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 of Tennessee Tech policies.](#)

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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.~~

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- (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.

6.1

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: _____

Department of State Use Only

Filed with the Department of State on: _____

Tre Hargett
Secretary of State



Agenda Item Summary

Date: September 29, 2020

Agenda Item: TTU Rule 0240-09-08 Title IX Compliance

Review

Action

No action required

PRESENTER: Greg Holt, Compliance Officer & Clery Coordinator

PURPOSE & KEY POINTS:

On May 6, 2020, the US Department of Education published its final regulations related to Title IX sex discrimination and sexual harassment procedures. These new regulations make substantial changes to the procedures and processes used by institutions to address sexual harassment. Tech's Title IX Compliance rule tracks the federal regulations requirements closely.

The Board approved an emergency Title IX Compliance rule at its June 23, 2020, meeting in order to meet the August 14, 2020, federal implementation deadline. This rule is the same as that emergency rule and will become the permanent rule.

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Division of Publications
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 Nashville, TN 37243
 Phone: 615-741-2650
 Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 07-34-20
 Notice ID(s): 3137
 File Date: 7/31/2020

Notice of Rulemaking Hearing

6.2

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. Claire Stinson, Vice President for Planning and Finance
Address:	1 William L. Jones Drive, Derryberry Hall Room 209 Cookeville, TN 38505
Phone:	931-372-3657
Email:	cstinson@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:	Greg Holt, Compliance Officer
Address:	1 William L. Jones Drive, Derryberry Hall Room 258 Cookeville, TN 38505
Phone:	931-372-6062
Email:	gholt@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 p.m.	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> 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 Greg Holt, Compliance Officer, gholt@tntech.edu at Tennessee Tech University, Box 5037 Cookeville, TN 38505. 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):

- Amendment
- 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.)

SS-7037 (March 2020)

1

RDA 1693

Chapter Number	Chapter Title
0240-09-08	Title IX Compliance
Rule Number	Rule Title
0240-09-08-.01	Definitions
0240-09-08-.02	Statement of Nondiscrimination on the Basis of Sex
0240-09-08-.03	Notification and Publication Requirements
0240-09-08-.04	General Provisions Related to Reporting Title IX Complaints
0240-09-08-.05	Tennessee Tech's Response to Complaints of Sex Discrimination
0240-09-08-.06	Tennessee Tech's Response to Complaints of Sexual Harassment
0240-09-08-.07	Confidentiality
0240-09-08-.08	Written Notice to the Parties Upon Tennessee Tech's Receipt of a Formal Complaint
0240-09-08-.09	Investigations of Formal Complaints
0240-09-08-.10	Grievance Process for Formal Complaints—General Provisions
0240-09-08-.11	Specific Provisions Related to Conducting a Hearing of Formal Complaints
0240-09-08-.12	Determination Regarding Responsibility
0240-09-08-.13	Appeal of Determination of Responsibility or Dismissal of Formal Complaint
0240-09-08-.14	Informal Resolution Process
0240-09-08-.15	Retaliation
0240-09-08-.16	Training Related to Sexual Harassment Issues
0240-09-08-.17	Effect of Other Requirements
0240-09-08-.18	Record Retention and Disposition
0240-09-08-.19	Severability

Rules of
Tennessee Technological University

Chapter 0240-09-08
Title IX Compliance

New Chapter

Table of Contents is added to Chapter 0240-09-08 Title IX Compliance and shall read as follows:

- 0240-09-08.01 Definitions
- 0240-09-08.02 Statement of Nondiscrimination on the Basis of Sex
- 0240-09-08.03 Notification and Publication Requirements General Provisions
- 0240-09-08.04 General Provisions Related to Reporting Title IX Complaints
- 0240-09-08.05 Tennessee Tech's Response to Complaints of Sex Discrimination
- 0240-09-08.06 Tennessee Tech's Response to Complaints of Sexual Harassment
- 0240-09-08.07 Confidentiality
- 0240-09-08.08 Written Notice to the Parties Upon Tennessee Tech's Receipt of a Formal Complaint
- 0240-09-08.09 Investigations of Formal Complaints
- 0240-09-08.10 Grievance Process for Formal Complaints—General Provisions
- 0240-09-08.11 Specific Provisions Related to Conducting a Hearing of Formal Complaints
- 0240-09-08.12 Determination Regarding Responsibility
- 0240-09-08.13 Appeal of Determination of Responsibility or Dismissal of Formal Complaint
- 0240-09-08.14 Informal Resolution Process
- 0240-09-08.15 Retaliation
- 0240-09-08.16 Training Related to Sexual Harassment Issues
- 0240-09-08.17 Effect of Other Requirements
- 0240-09-08.18 Record Retention and Disposition
- 0240-09-08.19 Severability

0240-09-08.01 Definitions is added to Chapter 0240-09-08 Title IX Compliance and shall read as follows:

0240-09-08-.01 Definitions

- (1) Actual knowledge: notice of sexual harassment or allegations of sexual harassment to a Tennessee Tech's Title IX Coordinator or any Tennessee Tech official who has authority to institute corrective measures on behalf of Tennessee Tech. This definition is not met when the only Tennessee Tech official with actual knowledge is also the respondent.
- (2) Complainant: an individual who is alleged to be the victim of conduct that could constitute sexual harassment. Complainant does not mean the Title IX Coordinator when the Title IX Coordinator signs a formal complaint or is not otherwise an alleged victim of sexual harassment. References in this rule to the singular "complainant" include the plural, as applicable.
- (3) Deliberately indifferent: a response that is clearly unreasonable in light of the known circumstances.
- (4) Education program or activity: locations, events, or circumstances over which Tennessee Tech exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by Tennessee Tech.
- (5) Formal complaint: a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting Tennessee Tech investigate the allegation of sexual harassment. As used in this definition, the phrase "document filed by a complainant" means a document or electronic submission that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.
- (6) Hearing officer: the person who is the decision-maker with respect to the determination of responsibility after a live hearing. Hearing officer may also mean a committee that is the decision-maker with respect to

the determination of responsibility after a live hearing. A hearing officer cannot be the same person(s) as the Title IX Coordinator or the investigator(s).

- (7) Party: either complainant or respondent. References in this rule to the plural "parties" includes complainant and respondent.
- (8) Respondent: an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. References in this rule to the singular "respondent" include the plural, as applicable.
- (9) Sexual harassment: conduct on the basis of sex that satisfies one (1) or more of the following:
 - (a) A Tennessee Tech employee conditioning the provision of an aid, benefit, or service of Tennessee Tech on an individual's participation in unwelcome sexual conduct;
 - (b) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Tennessee Tech's education program or activity; or
 - (c) Sexual assault as defined by federal law, "dating violence" as defined by federal law, "domestic violence" as defined by federal or state law, or "stalking" as defined by federal law.
- (10) Supportive measures: non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to Tennessee Tech's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Tennessee Tech's educational environment, or deter sexual harassment. Supportive measures may include but are not limited to counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.
- (11) Title IX Coordinator: the person designated and authorized by Tennessee Tech to coordinate its efforts to comply with its Title IX responsibilities.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-09-08.02 Statement of Nondiscrimination on the Basis of Sex is added to Chapter 0240-09-08 Title IX Compliance and shall read as follows:

0240-09-08-.02 Statement of Nondiscrimination on the Basis of Sex

- (1) As required by law, no student, employee, or applicant for admission or employment will be excluded, on the basis of sex, from participation in, be denied the benefit of, or be subjected to discrimination under any Tennessee Tech education program or activity.
- (2) If Tennessee Tech has actual knowledge of sexual harassment in an education program or activity against a person, Tennessee Tech will respond promptly in a manner that is not deliberately indifferent.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-09-08.03 Notification and Publication Requirements is added to Chapter 0240-09-08 Title IX Compliance and shall read as follows:

0240-09-08-.03 Notification and Publication Requirements

- (1) Tennessee Tech will notify applicants for admission and employment, students, and employees, that it does not discriminate on the basis of sex in its education programs or activities and will provide the name, title, office address, electronic mail address, and telephone number of the Title IX Coordinator in that notification.

- (2) Tennessee Tech will notify applicants for admission and employment, students, and employees that inquiries about the application of Title IX may be referred to the Title IX Coordinator, to the Department of Education, or both.
- (3) Tennessee Tech will provide applicants for admission and employment, students, and employees notice of its grievance process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how Tennessee Tech will respond.
- (4) Tennessee Tech will prominently display the contact information for the Title IX Coordinator, its Title IX policies and procedures, and training materials as required by Title IX on its website and in each handbook or catalog that it makes available to applicants for admission and employment, students, and employees.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-09-08.04 General Provisions Related to Reporting Title IX Complaints is added to Chapter 0240-09-08 Title IX Compliance and shall read as follows:

0240-09-08-.04 General Provisions Related to Reporting Title IX Complaints

- (1) Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.
- (2) Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.
- (3) A complainant may file a formal complaint with the Title IX Coordinator in person, by mail, or by electronic mail, using the contact information listed for the Title IX Coordinator or by any additional method Tennessee Tech designates. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in a Tennessee Tech education program or activity.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-09-08.05 Tennessee Tech's Response to Complaints of Sex Discrimination is added to Chapter 0240-09-08 Title IX Compliance and shall read as follows:

0240-09-08-.05 Tennessee Tech's Response to Complaints of Sex Discrimination

- (1) When a person reports sex discrimination committed against a person while in the United States, Tennessee Tech will follow its rules, procedures and processes used for Title VII sex discrimination allegations, which provide for the prompt and equitable resolution of complaints alleging sex discrimination.
- (2) Where a person alleges both sex discrimination and sexual harassment committed against a person while in the United States, Tennessee Tech will follow its rules, procedures and processes for responding to a formal complaint of sexual harassment. If the formal complaint is dismissed at any point in the process, Tennessee Tech will follow its rules, procedures and processes used for Title VII sex discrimination allegations.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-09-08.06 Tennessee Tech's Response to Complaints of Sexual Harassment is added to Chapter 0240-09-08 Title IX Compliance and shall read as follows:

0240-09-08-.06 Tennessee Tech's Response to Complaints of Sexual Harassment

- (1) If Tennessee Tech has actual knowledge of sexual harassment in an education program or activity committed against a person while in the United States, Tennessee Tech will respond promptly in a

manner that is not deliberately indifferent and follow its grievance process.

- (2) Tennessee Tech will treat complainants and respondents equitably by offering supportive measures to a complainant, and in cases where a formal complaint is filed, will follow its grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.
- (3) The Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.
- (4) The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.
- (5) Tennessee Tech may remove a respondent from an education program or activity on an emergency basis only after undertaking an individualized safety and risk analysis, determining that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and providing the respondent with notice and an opportunity to challenge the decision immediately following the removal.
- (6) Tennessee Tech may place a non-student employee respondent on administrative leave during the pendency of a grievance process.

6.2

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-09-08.07 Confidentiality is added to Chapter 0240-09-08 Title IX Compliance and shall read as follows:

0240-09-08-.07 Confidentiality

- (1) Tennessee Tech will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted or required by federal or state law, or to carry out the purposes of this rule and attendant policies, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.
- (2) Tennessee Tech will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality does not impair Tennessee Tech's ability to provide the supportive measures.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-09-08.08 Written Notice to the Parties Upon Tennessee Tech's Receipt of a Formal Complaint is added to Chapter 0240-09-08 Title IX Compliance and shall read as follows:

0240-09-08-.08 Written Notice to the Parties Upon Tennessee Tech's Receipt of a Formal Complaint

- (1) When a formal complaint is filed, Tennessee Tech will provide parties with a written notice of its grievance process, including any informal resolution process(es).
- (2) Tennessee Tech will provide written notice of the allegations potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known.
- (3) Tennessee Tech's written notice will include a statement that:

(a) The respondent is presumed not responsible for the alleged conduct and that a determination

regarding responsibility is made at the conclusion of the grievance process;

- (b) The parties may have an advisor of their choice, who may be, but is not required to be, an attorney;
 - (c) The parties may inspect and review evidence; and
 - (d) Identifies any provision in its codes of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
- (4) If, in the course of an investigation, Tennessee Tech decides to investigate allegations about the complainant or respondent that are not included in the initial written notice, Tennessee Tech will provide notice of the additional allegations to the parties whose identities are known.

6.2

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-09-08.09 Investigations of Formal Complaints is added to Chapter 0240-09-08 Title IX Compliance and shall read as follows:

0240-09-08-.09 Investigations of Formal Complaints

- (1) Tennessee Tech will investigate, to the extent necessary or possible, the allegations in a formal complaint.
- (2) If the conduct alleged in a formal complaint would not constitute sexual harassment even if proved, did not occur in Tennessee Tech's education program or activity, or did not occur against a person while in the United States, Tennessee Tech will dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX; such a dismissal does not, however, preclude action under another provision of Tennessee Tech's codes of conduct or other policies.
- (3) Tennessee Tech may dismiss a formal complaint or any allegations therein, if at any time during the investigation a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein, the respondent is no longer enrolled or employed by Tennessee Tech; or specific circumstances prevent Tennessee Tech from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
- (4) If Tennessee Tech dismisses a formal complaint during the investigation phase, Tennessee Tech will promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.
- (5) Tennessee Tech may consolidate formal complaints as to allegations of sexual harassment against more than one (1) respondent, or by more than one (1) complainant against one (1) or more respondents, or by one (1) party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.
- (6) The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Tennessee Tech and not on the parties.
- (7) Tennessee Tech will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and are made and maintained in connection with the provision of treatment to the party, unless Tennessee Tech obtains that party's voluntary, written consent to do so for a grievance process.
- (8) Tennessee Tech will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
- (9) Tennessee Tech will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
- (10) Tennessee Tech will provide the parties with the same opportunities to have others present during any interview or investigative process, including the opportunity to be accompanied to any related

investigation meeting by the advisor of their choice, who may be, but is not required to be, an attorney.

- (11) Tennessee Tech will not limit the choice or presence of an advisor for either the complainant or respondent in any investigative meeting; however, Tennessee Tech may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
- (12) Tennessee Tech will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate.
- (13) Tennessee Tech will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which Tennessee Tech does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
- (14) Prior to completion of the investigative report, Tennessee Tech will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy.
- (15) Tennessee Tech will allow the parties ten (10) business days to submit a written response, which the investigator will consider prior to completion of the investigative report.
- (16) Tennessee Tech will create an investigative report that fairly summarizes relevant evidence.
- (17) At least ten (10) business days prior to a hearing or other time of determination regarding responsibility, Tennessee Tech will send the investigative report in electronic format or a hard copy to each party and the party's advisor, if any, for their review and written response to the investigative report.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-09-08.10 Grievance Process for Formal Complaints—General Provisions is added to Chapter 0240-09-08 Title IX Compliance and shall read as follows:

0240-09-08-.10 Grievance Process for Formal Complaints—General Provisions

- (1) Tennessee Tech will apply its grievance procedures and requirements equally to both parties.
- (2) During the course of the grievance process, Tennessee Tech will treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following its grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.
- (3) Tennessee Tech will design remedies to restore or preserve equal access to Tennessee Tech's education program or activity. Such remedies may include supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.
- (4) Tennessee Tech will ensure that the Title IX Coordinator, investigator, hearing officer, or decision-maker does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The intent of this provision is to provide protections analogous to, and no less protective than, the conflict of interest provisions of T.C.A. § 4-5-303.
- (5) Tennessee Tech will require an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and prohibit credibility determinations based on a person's status as a complainant, respondent, or witness.
- (6) Tennessee Tech will presume that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

- (7) Tennessee Tech will apply a preponderance of the evidence standard for all formal complaints.
- (8) Tennessee Tech will require the grievance process, including the appeal process, to conclude within a reasonably prompt time frame.
- (9) Tennessee Tech will provide the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that Tennessee Tech may implement following any determination of responsibility.
- (10) Tennessee Tech will describe the range of supportive measures available to complainants and respondents.
- (11) Tennessee Tech will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.
- (12) Tennessee Tech will not limit the choice or presence of advisor for either the complainant or respondent in any grievance proceeding; however, Tennessee Tech may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
- (13) Tennessee Tech will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all proceedings or hearings, or other meetings with a party, with sufficient time for the party to prepare to participate.
- (14) Tennessee Tech will appoint a hearing officer that meets the training requirements set forth in T.C.A. § 4-5-324.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-09-08.11 Specific Provisions Related to Conducting a Hearing of Formal Complaints is added to Chapter 0240-09-08 Title IX Compliance and shall read as follows:

0240-09-08-.11 Specific Provisions Related to Conducting a Hearing of Formal Complaints

- (1) Tennessee Tech will conduct a live hearing of formal complaints not dismissed pursuant to this rule.
- (2) At the request of either party, Tennessee Tech will provide for the live hearing to occur with the parties located in separate rooms with technology enabling the hearing officer and parties to simultaneously see and hear the party or the witness answering questions.
- (3) Live hearings may be conducted with all parties physically present in the same geographic location or, at Tennessee Tech's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.
- (4) At least seventy-two (72) hours prior to a live hearing, Tennessee Tech will provide both parties with written notice of the following:
 - (a) The time, place, date of the hearing, and electronic access information, if applicable;
 - (b) The name of each witness Tennessee Tech expects to present at the hearing and those Tennessee Tech may present if the need arises;
 - (c) The right to request a copy of the investigative file;
 - (d) The 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.
- (5) When notice is sent by United States mail or courier service, the notice is effective on the date that the

notice is mailed or delivered to the courier service. When notice is hand delivered to the parties from the institution, notice is effective on the date that the notice is delivered to the parties. When notice is sent by email, the notice is effective on the date that the email is sent to the parties' institution-provided email account.

- (6) The hearing officer may allow a temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include but is not limited to considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.
- (7) In cases that involve more than one (1) respondent, the hearing officer may, consistent with the requirements of Title IX, consider whether separate proceedings are necessary to avoid undue prejudice to the respondents.
- (8) During the hearing, the hearing officer will make evidence subject to review and inspection during the investigation phase available to give each party equal opportunity to refer to that evidence, including for purposes of cross-examination.
- (9) Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
- (10) Only relevant cross examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the hearing officer will first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
- (11) The hearing officer will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
- (12) Notwithstanding any limitations to the contrary that Tennessee Tech has placed on the advisor's participation in the hearing, the hearing officer will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.
- (13) If a party does not have an advisor at the live hearing, Tennessee Tech will provide without fee or charge to that party an advisor of Tennessee Tech's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.
- (14) If a party or witness does not submit to cross-examination at the live hearing, the hearing officer will not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the hearing officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
- (15) Tennessee Tech will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.
- (16) The hearing officer may dismiss the formal complaint or any allegations therein, if at any time during the hearing a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein, the respondent is no longer enrolled or employed by Tennessee Tech, or specific circumstances prevent Tennessee Tech from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
- (17) If the hearing officer dismisses the formal complaint during the grievance process, the hearing officer will promptly notify the Title IX Coordinator who will promptly send written notice of the dismissal and

reason(s) therefor simultaneously to the parties.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-09-08.12 Determination Regarding Responsibility is added to Chapter 0240-09-08 Title IX Compliance and shall read as follows:

0240-09-08-.12 Determination Regarding Responsibility

- (1) The hearing officer will issue a written determination simultaneously to the complainant and respondent regarding responsibility, using a preponderance of evidence to reach a determination.
- (2) The written determination must include:
 - (a) Identification of allegations potentially constituting sexual harassment;
 - (b) A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
 - (c) Findings of fact supporting the determination;
 - (d) Conclusions regarding the application of Tennessee Tech's rule, policy, and, if applicable, code of conduct to the facts;
 - (e) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions Tennessee Tech imposes on the respondent, and whether remedies designed to restore or preserve equal access to Tennessee Tech's education program or activity will be provided to the complainant; and
 - (f) Tennessee Tech's procedures and permissible bases for the complainant and/or respondent to appeal.
- (3) Either party may submit a written statement in support of the outcome to the Title IX Coordinator within ten (10) business days of the date of the determination or dismissal.
- (4) The Title IX Coordinator will be responsible for effective implementation of any remedies.
- (5) The determination regarding responsibility becomes final either on the date that Tennessee Tech provides the parties with the written appeal decision, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-09-08.13 Appeal of Determination of Responsibility or Dismissal of Formal Complaint is added to Chapter 0240-09-08 Title IX Compliance and shall read as follows:

0240-09-08-.13 Appeal of Determination of Responsibility or Dismissal of Formal Complaint

- (1) Both parties may appeal a determination regarding responsibility or the dismissal of a formal complaint or any allegations therein, only on the following bases:
 - (a) Procedural irregularity that affected the outcome of the matter;
 - (b) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made and that could affect the outcome of the matter; and
 - (c) The Title IX Coordinator, investigator(s), or hearing officer had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

- (2) A party wishing to appeal a determination regarding responsibility or the dismissal of a formal complaint or any allegations therein must file a written appeal with the Title IX Coordinator within ten (10) business days of the date of the determination or the dismissal. The written appeal must identify the basis or bases for the appeal and explain with specificity the facts supporting the basis or bases of the appeal.
- (3) As to all appeals, the Title IX Coordinator will
 - (a) Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
 - (b) Ensure that the decision-maker(s) for the appeal is not the same person as any investigator(s) or the hearing officer that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
 - (c) Ensure that the decision-maker(s) for the appeal complies with the standards set forth in Rule 0240-09-08-.10 (4).
- (4) Within a reasonable time, the decision-maker(s) will issue a written appeal decision describing the result of the appeal and the rationale for the result.
- (5) The Title IX Coordinator will provide the written appeal decision simultaneously to both parties.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-09-08.14 Informal Resolution Process is added to Chapter 0240-09-08 Title IX Compliance and shall read as follows:

0240-09-08-.14 Informal Resolution Process

- (1) Tennessee Tech will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment.
- (2) Tennessee Tech will not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility, Tennessee Tech may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, but only if Tennessee Tech
 - (a) Provides to the parties a written notice disclosing the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;
 - (b) Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
 - (c) Obtains the parties' voluntary, written consent to the informal resolution process; and
 - (d) Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.
- (3) At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.
- (4) Tennessee Tech will ensure that an individual designated to facilitate an informal resolution process does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The intent of this provision is to provide protections analogous to, and no less protective than, the conflict of interest provisions of T.C.A. § 4-5-303.
- (5) Tennessee Tech will require an informal resolution process to conclude within a reasonably prompt time

frame.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-09-08.15 Retaliation is added to Chapter 0240-09-08 Title IX Compliance and shall read as follows:

0240-09-08-.15 Retaliation

- (1) Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this rule, constitutes retaliation.
- (2) The exercise of rights protected under the First Amendment does not constitute retaliation.
- (3) Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance process does not constitute retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.
- (4) Complaints alleging retaliation may be filed with the Title IX Coordinator who will follow the procedures and processes used for Title VII retaliation allegations.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-09-08.16 Training Related to Sexual Harassment is added to Chapter 0240-09-08 Title IX Compliance and shall read as follows:

0240-09-08-.16 Training Related to Sexual Harassment Issues

- (1) Tennessee Tech will ensure that its Title IX Coordinator, investigators, hearing officers, decision-makers, and any person who facilitates an informal resolution process receive training on this rule's definition of sexual harassment, the scope of Tennessee Tech's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.
- (2) Such training will satisfy the requirements of Title IX and be developed or conducted consistent with the requirements of state law, including but not limited to T.C.A. § 4-5-324.
- (3) Tennessee Tech will ensure that hearing officers receive training on any technology to be used at a live hearing.
- (4) Tennessee Tech will ensure that hearing officers receive training on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.
- (5) Tennessee Tech will ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
- (6) Tennessee Tech will ensure that any materials used to train Title IX Coordinators, investigators, hearing officers, decision-makers, and any person who facilitates an informal resolution process promote impartial investigations and adjudications of formal complaints and do not rely on sex stereotypes.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-09-08.17 Effect of Other Requirements is added to Chapter 0240-09-08 Title IX Compliance and shall read as follows:

0240-09-08-.17 Effect of Other Requirements

- (1) Tennessee Tech will not restrict any rights protected from government action by the First Amendment of the U.S. Constitution, deprive a person of any rights that would otherwise be protected from government action under the Due Process Clauses of the Fifth and Fourteenth Amendments of the U.S. Constitution, or restrict any other rights guaranteed against government action by the U.S. Constitution or State of Tennessee Constitution.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-09-08.18 Record Retention and Disposition is added to Chapter 0240-09-08 Title IX Compliance and shall read as follows:

0240-09-08-.18 Record Retention and Disposition

- (1) Tennessee Tech will retain and dispose of records related to Title IX matters as required by federal and state laws and regulations.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-09-08.19 Severability is added to Chapter 0240-09-08 Title IX Compliance and shall read as follows:

0240-09-08-.19 Severability

- (1) If any provision of this rule or its application to any person, act, or practice is held invalid, the remainder of the rule or the application of its provisions to any person, act, or practice shall not be affected thereby.
- (2) If any provision of the Title IX regulations on which this rule is based is enjoined or held invalid or the Title IX regulations' application to any person, act, or practice is enjoined or held invalid, the remainder of this rule or the application of its provisions to any person, act, or practice shall not be affected thereby.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

6.2

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: 7/30/2020

Signature: *Claire Stinson*

Name of Officer: Claire Stinson

Title of Officer: Vice President for Planning & Finance

6.2

Department of State Use Only

Filed with the Department of State on: 7/31/2020

Tre Hargett
Tre Hargett
Secretary of State

RECEIVED
2020 JUL 31 PM 12:15
SECRETARY OF STATE
PUBLICATIONS

Title IX Compliance Comments Received and Tennessee Tech's Responses:

Comment: The rule should not reference the disciplinary sanctions contained in Tennessee Tech Policy 302, Student Conduct because the hearing officer does not apply these same sanctions upon a determination of responsibility.

Response: Complaints of sexual misconduct against a student-respondent that fall within the definition of sexual harassment under Title IX regulations are not handled through Tennessee Tech's student conduct process but under Title IX grievance procedures. These grievance procedures may include a formal hearing. Following a determination of responsibility, a hearing officer applies the sanctions contained in an institution's student code of conduct against a student-respondent. Title IX regulations require institutions to describe the range of possible disciplinary sanctions that may be imposed upon a respondent following a determination of responsibility 34 C.F.R § 106.45(7)(ii)(E). Describing the range of sanctions within the rule is necessary to comply with Title IX regulations.

Comment: The rule should not include sexual assault, stalking, domestic violence or dating violence under the definition of sexual harassment.

Response: Under Title IX regulations, sexual harassment includes sexual assault, stalking, domestic violence, and dating violence. Tennessee Tech declines to remove these terms from the statutory definition of sexual harassment.

Comment 1: The rule should state that complainant and respondent (the parties) are allowed to have more than one person with them at the formal hearing.

Comment 2: Both complainants and respondents should be provided the opportunity to have a silent support person in addition to their advisor present at all Title IX meetings, the live hearing and any related appearances.

Response: Title IX regulations state that a hearing officer must allow each party to have an advisor present at the formal hearing to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. If a party does not have an advisor present at the formal hearing, an institution must provide, without fee or charge to that party, an advisor of the institution's choice to conduct cross-examination on behalf of that party. 34 C.F.R § 106.45(6)(i). The regulations consistently reference advisor in the singular. 34C.F. R§106.45(b)(1)(v); 34 C.F.R § 106.45(b)(2)(B); 34 C.F.R § 106.45(b)(5)(iv); 34 C.F.R § 106.45(b)(5)(vi); 34 C.F.R § 106.45(b)(6). For this reason, staff recommends that Tennessee Tech decline to revise the rule as requested.



Agenda Item Summary

Date: September 29, 2020

Agenda Item: Certification of President's Responsibilities Related to Athletics

8.1

Review

Action

No action required

PRESENTER: Chair Harper

PURPOSE & KEY POINTS: The Ohio Valley Conference requires the Chair of the Board to attest that the President is responsible for the administration of the athletics program, he has the support of the Board in operating a program of integrity, and he may vote on behalf of the institution on NCAA and OVC matters. The Chair's attestation must also be presented to the Board.



OHIO VALLEY CONFERENCE

Governing Board Certification Form Academic Year 2020-21

8.1

As Chairman of the Governing Board at TENNESSEE TECH UNIVERSITY, I attest that:

- 1) Responsibility for the administration of the athletics program has been delegated to the Chief Executive Officer of the institution.
- 2) The Chief Executive Officer has the mandate and support of the board to operate a program of integrity in full compliance with NCAA, OVC, and all other relevant rules and regulations.
- 3) The Chief Executive Officer, in conjunction with the Director of Athletics and Faculty Athletic Representative, determines how the institutional vote shall be cast on issues of athletics policy presented to the NCAA and the Ohio Valley Conference.

Date Presented to the Governing Board: SEPTEMBER 29, 2020

Signed: 
(Chair of the Governing Board)

Please return completed form to:

Beth DeBauche
Commissioner
Ohio Valley Conference
215 Centerview Drive, Suite 115
Brentwood, TN 37027
bdebauche@ovc.org



Agenda Item Summary

Date: September 29, 2020

Division: Planning and Finance

Agenda Item: TTU Policy 511.1 (Fees, Charges, Refunds and Adjustments)

Review

Action

No action required

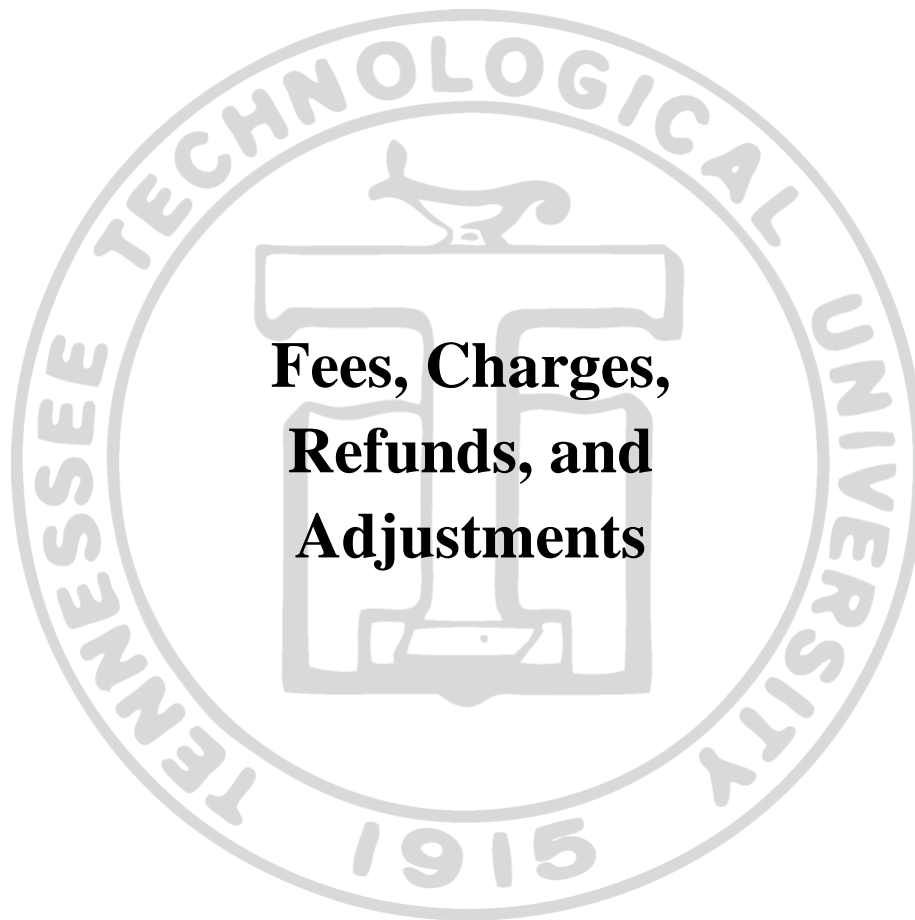
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PRESENTERS: Dr. Claire Stinson, Vice President for Planning and Finance

PURPOSE & KEY POINTS:

Updated policy to reflect changes in fee structure approved in December 2019 and March 2020 by the Board of Trustees including Undergraduate Flat Rate Model, Domestic Out-of-State Tuition and simplification of mandatory fees. Addition of a miscellaneous fee category, replacement of damaged or lost Tennessee Tech property and equipment that can be approved by the President.

**Tennessee Technological University
Policy No. 511.1**



9.1

Effective Date: July 1, 2017

Policy No: 511.1

Policy Name: Fees, Charges, Refunds, and Adjustments

Revised Date: July 1, 2020

I. Purpose

The purpose of the following guideline is to outline significant provisions for consistent administration of fees, charges, and refunds at Tennessee Tech. These policies largely represent a consolidation of existing statements and practices. They are intended to serve as a reference document for institutional staff responsible for implementing and communicating fee-related matters. The policy contents include general and specific provisions for: Maintenance Fees, out-of-state tuition, debt service fees, student activity, miscellaneous and incidental fees, deposits, residence hall fees, and refunds.

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II. Review

This policy will be reviewed every four years or whenever circumstances require review, whichever is earlier, by the Director of Financial Services in consultation with the Associate Vice President for Business and Fiscal Affairs and the Vice President for Planning and Finance, with recommendations for revision presented to the Administrative Council, University Assembly, and the Board of Trustees.

III. Definitions

- A. Maintenance Fees: a charge to students enrolled in credit courses calculated based on the number of student credit hours, also known as in-state tuition
- B. Mandatory Fees: fees consistently applied to all students regardless of major or class selection
- C. Withdrawal: the formal process whereby a student informs Tennessee Tech of the decision to cease attendance in all classes for the term
- D. LGIs: Locally Governed Institutions is the term used to refer to the six universities previously under the Tennessee Board of Regents that now have local governing boards after passage of the FOCUS Act including Austin Peay State University, East Tennessee State University, Middle Tennessee State University, Tennessee State University, University of Memphis, and Tennessee Tech
- E. Save Your Seat: the program whereby students who have not sufficiently paid their fees can retain their schedule by acknowledging during pre-registration that they will attend the current semester

F. Domestic Student: any non-resident student as defined by Tennessee Tech Policy 253, Residency Classification, who is a United States citizen

G. International Student: any non-resident student as defined by Tennessee Tech Policy 253, Residency Classification, who is not a United States citizen

IV. Policy/Procedure

A. Establishment of fees and charges

1. The Tennessee Tech Board of Trustees must approve all institutional fees and charges unless specific exceptions are provided.
2. The Tennessee Higher Education Commission (THEC) Pursuant to T.C.A § 49-7-202(n) provides binding Maintenance Fee ranges for Tennessee Tech each year during the budgeting process. The binding ranges apply to resident, undergraduate students on the Maintenance Fee rate, as well as the sum total maintenance and Mandatory Fee changes. Rates locally approved must abide by these ranges. THEC will not issue binding recommendations on graduate, out-of-state tuition, or other fee rates.
3. The Tennessee Tech President is responsible for the enforcement and collection of all fees and charges. Fees and charges that specifically do not require Board of Trustee approval must receive formal approval by the President or his/her designee.
4. Tennessee Tech will attempt to follow a general format in publishing information on fees and charges, including, but not limited to, the following:
 - a. All statements which include the fee amount should be complete and specific enough to prevent misunderstanding by readers.
 - b. When a fee is quoted, the refund procedures should be clearly stated including all qualifying conditions. If there is no refund, it should be labeled as non-refundable.
 - c. Whenever possible, specific dates related to the payment of fees and refund procedures should be stated.
 - d. It should be made clear that all fees are subject to change at any time.

B. Approval of exceptions

1. In accordance with these guidelines, the President or his/her designee has the authority to determine the applicability of certain fees, fines, charges, and refunds and to approve exceptions in instances of unusual circumstances or for special groups.

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2. All such actions should be properly documented for auditing purposes.

C. Appeals process

1. The appeals process is detailed in TTU Policy 511.2 (Student Fee Adjustments, Refunds, and Appeals).
2. Separate appeals processes may exist for different types of fees, charges, and refunds.
3. The final appeal may be directed to the Vice President for Planning and Finance.

D. Payment of student fees

1. As provided in the TTU Policy 511 (Payment of Student Fees and Enrollment):
 - a. An applicant for admission to Tennessee Tech is considered and counted as a student when all assessed fees have been paid, when the initial minimum payment due under the deferred payment plan has been paid, or when an acceptable commitment from an agency or organization approved by Tennessee Tech has been received.
 - b. An applicant shall possess an acceptable commitment when he/she has submitted a timely application(s) for financial aid with the reasonable probability of receiving such.
2. Pursuant to the above conditions, students who do not (1) prepay all fees, (2) have an approved financial aid deferment, or (3) participate in Save Your Seat will forfeit pre-registration privileges and have their schedule deleted prior to the start of classes for the semester. Students may then re-enroll under the normal registration process.

E. Maintenance Fees

1. Fees are established by the Tennessee Tech Board of Trustees.
2. The same fee is applicable to courses for which the student is enrolled on an audit basis.
3. Rates are established by the Tennessee Tech Board of Trustees and incorporated in a fee schedule by student level (undergraduate and graduate).

a. Undergraduate Students

1) Undergraduate students admitted to ~~a~~Tennessee Tech fall 2020 forward will be assessed an hourly rate for hours 1-11 or charged a flat rate once enrolled in at least 12 hours unless stated otherwise elsewhere in this policy

2) Undergraduate students admitted to Tennessee Tech prior to fall 2020 will be assessed an hourly rate for hours 1-12. The hourly rate will be discounted when undergraduate students enroll in more than 12 hours unless stated elsewhere in this policy.

b. Graduate Students

~~3.1~~ 3.1 –The hourly rate will be discounted when ~~undergraduate students enroll in more than 12 hours and~~ graduate students enroll in more than 10 hours unless stated otherwise elsewhere in this policy.

- 4. For summer sessions, Maintenance Fees and tuition are assessed using the current hourly rate for both undergraduate and graduate students with no maximum amount for total credit hours enrolled.
- 5. Maintenance Fees may not be waived; however, specific exceptions are provided in the following instances:
 - a. Pursuant to T.C.A. § 49-7-113, exceptions exist for certain disabled and elderly students, as well as state service retirees.
 - 1) For audit courses, no fee is required for persons with a permanent, total disability, persons 60 years of age or older and domiciled in Tennessee, and persons who have retired from state service with 30 or more years of service, regardless of age.
 - 2) For credit, a fee of \$70 per semester may be charged to persons with a permanent, total disability, and persons who will become 65 years of age or older during the academic semester in which they begin classes and who are domiciled in Tennessee. This fee includes all Mandatory Fees; it does not include course-specific fees such as all miscellaneous course fees, materials fees, application fee, online course fees, and parking fees. This only applies to enrollment on a space available basis, which permits registration no earlier than four (4) weeks prior to the first day of classes.
 - b. Pursuant to T.C.A. § 49-7-102, certain statutory fee exceptions exist for dependents and spouses of military personnel killed, missing in action, or officially declared a prisoner of war while serving honorably as a member of the armed forces during a period of armed conflict. If a student invokes these provisions, the correct applicable law should be determined by the

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Business Office and Military and Veteran Affairs.

- c. Military reserve and national guard personnel who are mobilized to active military service within six months of attendance at Tennessee Tech and whose mobilization lasts more than six months shall be charged upon re-enrollment at such institution the tuition, Maintenance Fees, student activity fees, and required registration or matriculation fees that were in effect when such student was enrolled prior to mobilization.
 - 1) After re-enrollment, no increase in tuition, Maintenance Fees, student activity fees, or required registration or matriculation fees shall be assessed to such student until a period of time equal to one year plus the combined length of all military mobilizations has elapsed.
 - 2) In no event, however, shall a student's tuition and fees be frozen after re-enrollment for more than four years.
 - 3) To be eligible for the tuition and fee freeze, the student shall have completed military service under honorable conditions and shall re-enroll at Tennessee Tech within six months of release from active duty.
 - 4) A student eligible for the tuition and fee freeze may transfer from one state institution of higher education to another state institution of higher education one time with such student's tuition and fees calculated at the institution to which the student transfers as if the student had been in attendance at that institution before the mobilization that resulted in the student's tuition and fee freeze at the initial institution.

F. Accounting treatment and relations to other state schools

- 1. A revenue account for Maintenance Fees is used to record both the revenue assessed and refunds made.
- 2. As provided in the Governmental Accounting Standards Board (GASB) Statements 34 and 35, summer school revenues and expenditures must be accrued at fiscal year-end. Summer school activity will not be allocated to only one fiscal year.
- 3. In some cases, full fees are not assessed to students. These occur when statutes establish separate rates for such groups as the disabled, elderly, and military dependents. The difference between normal fees and special fees is not assessed. Fees not assessed in these cases do not represent revenue.
- 4. Agreements/contracts may be executed with a third party (federal agency, corporation, institution, etc.), but not with the individual student, to deliver

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routine courses at a fixed rate or for the actual cost of delivering the course and may provide for fees not to be charged to individual students. Individual student fees will be assessed as usual and charged to the functional category Scholarships and Fellowships. The amount charged to or paid by the third party is credited to the appropriate Grants and Contracts revenue account.

5. In some cases, a non-credit course provides an option to grant regular credit. If a separate or additional fee is collected because of the credit, that amount is reported as Maintenance Fee revenue.
 6. Full-time employees of the Tennessee Board of Regents (TBR), the University of Tennessee systems (UT), and LGIs may enroll in one course per term at any public postsecondary institution, with fees waived for the employee.
 7. No tuition-paying student shall be denied enrollment in a course because of enrollment of TBR, UT, and LGI employees.
 8. Spouses and dependents of employees of the TBR system and other LGIs may be eligible for a student fee discount for undergraduate courses at TBR institutions, the University of Tennessee, and other LGIs.
 9. Tennessee Board of Regents institutions and the LGIs may exchange funds for tuition fees of employees' spouses and dependents who participate in a TBR and LGIs' educational assistance programs.
 10. To the extent they are not reimbursed by the State, fee waivers for full-time State employees and fee discounts to children of certified public school teachers shall be accounted for as a scholarship.
- G. Out-of-state tuition is an additional fee charged to students classified as non-residents as defined by Tennessee Tech Policy 253, Residency Classification, who are enrolled for credit courses, including audit courses. This fee is in addition to the Maintenance Fee.
1. Out-of-state tuition fee rates are established by the Tennessee Tech Board of Trustees and are incorporated in the annual fee schedule by student level:
 - a. A separate hourly rate and/or flat rate for out-of-state tuition will be set for undergraduate and graduate students.
 - b. Domestic Students
 - 1) Undergraduate students will be assessed an hourly rate for hours 1-11 or charged a flat rate once enrolled in at least 12 hours.

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2) Graduate students will be assessed an hourly rate for hours 1-9 or charged a flat rate once enrolled in at least 10 hours

c. International Students

1) The hourly rate will be discounted when undergraduate students enroll in more than 12 hours.

2) The hourly rate will be discounted when graduate students enroll in more than 10 hours.

3) For summer sessions, out-of-state tuition fees are assessed using the current hourly rate with no maximum amount for total credit hours enrolled.

~~2.~~

3.2.Applicability of out-of-state tuition is determined pursuant to Tennessee Tech Policy 253, Residency Classification, governing a student's in-state and out-of-state classification for admission purposes. The business office will collect fees based upon student classification as determined by the appropriate authority within the institution.

4.3.Accounting treatment

- a. A revenue account for out-of-state tuition is used for recording both credits for fees and debits for refunds.
- b. Other accounting is the same for out-of-state tuition as that outlined under Maintenance Fees except that separate out-of-state accounts are used.
- ~~e.~~In the case of fees not collected from students under grants and contracts, the same expense account under Scholarships and Fellowships may be used.

~~H. Recruitment focus area plan~~

- ~~1. The plan applies to admitted students (both undergraduate and graduate) who graduate from a high school located in a county within a 250-mile radius of the city in which the main campus of Tennessee Tech is located.~~
- ~~2. The out-of-state tuition rate charged to students eligible for the plan will equal the institution's state subsidy per full-time equivalent for the prior fiscal year. This rate would be capped at 12 hours for undergraduate students and 10 hours for graduate students.~~
- ~~3. The recruitment focus area rate does not impact students who otherwise qualify for border county classification or other in-state residency classification.~~
- ~~4. The Maintenance Fee and the out-of-state tuition should each be recorded as outlined in sections F and G.4 above.~~

~~I. The eRate is available to students who enroll at Tennessee Tech, who are classified as non-residents of Tennessee, and who are enrolled exclusively in online courses.~~

- ~~1. The eRate is 150% of the institution's approved undergraduate or graduate Maintenance Fee.~~
- ~~2. The hourly rate will not be discounted for students receiving the eRate and enrolling in greater than 12 undergraduate hours or 10 graduate hours.~~
- ~~3. To qualify for an eRate, students must:
 - ~~a. Meet all institution admission requirements; and~~
 - ~~b. Be verified as an online out-of-state student enrolled exclusively in courses delivered online by a procedure documented by the institution. Out-of-state students here refers to geographic location and does not include undocumented students living in Tennessee.~~~~
- ~~4. Students enrolled in any type courses other than online (on-ground, telecourse, distance education, etc.) will not be eligible for the eRate specified in this guideline and will instead incur traditional non-resident fees and charges.~~
- ~~5. Students who enroll in both online courses and other type courses and subsequently drop the other type courses will not then become eligible for the eRate.~~

~~6. Tennessee Tech enrolling eRate students as defined in this guideline must provide a method to mitigate any negative impact on the opportunity for Tennessee student enrollment in online courses.~~

~~7. Accounting treatment~~

~~a. The eRate is comprised of the Maintenance Fee and a 50% markup that represents the out-of-state tuition portion.~~

~~b. The Maintenance Fee and the out-of-state tuition should each be recorded as outlined in Sections F and G.4 above.~~

H. Program Service Fee

1. Debt service fees

- a. The amount of debt service fees will be approved by the Tennessee Tech Board of Trustees.
- b. For simplicity of administration and communication, Tennessee Tech may combine debt service with ~~Maintenance-Mandatory~~ Fees in quoting fee rates, in fee billings and charges, and in making refunds.
- c. Revenue from debt service fees will be recorded in the unrestricted current fund and then transferred to the retirement of indebtedness fund as either a mandatory transfer or a non-mandatory transfer. The portion of debt service fee revenue used for current-year debt service will be reported as a mandatory transfer. Any additional debt service fee revenue will be transferred to the retirement of indebtedness fund as a non-mandatory transfer.
- d. At the conclusion of the debt retirement for a given project, the debt service fee attributed to the project will cease. Any new project requires the approval of a new debt service fee on its own merits without the reallocation of any existing fee. Any continuation of fees necessary for renewal and replacement of a project for which the debt is totally retired must be approved for that purpose by the Tennessee Tech Board of Trustees.

2. Student Activity Fees

- a. A student government activity fee may be established pursuant to T.C.A. § 49-8-109. Any increase in this fee shall be subject to a referendum for student body approval or rejection. These fees will be restricted current funds additions. These fees are refundable on the same basis as Maintenance Fees or as established by Tennessee Tech Board of Trustees.

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J.b. Student activity fees (other than student government activity fees) will be approved by the Tennessee Tech Board of Trustees. Such fees may be recommended based on services to be provided which are related to the activity fee. These fees will be unrestricted current funds revenues. These fees are refundable on the same basis as Maintenance Fees or as established by the Tennessee Tech Board of Trustees.:

K.3. Technology Access Fees (TAF)

- a. A fee shall be levied by Tennessee Tech for the purpose of providing student access to computing and similar technologies.
- b. TAF is refundable on the same basis as Maintenance Fees.
- c. Tennessee Tech shall establish expenditure accounts and designated revenue accounts for purposes of recording technology access fees and expenditures.
- d. The TAF should be used by Tennessee Tech for direct student benefit, for items such as new and improved high technology laboratories and classrooms, appropriate network and software, computer and other equipment, and technological improvements that enhance instruction. Examples of TAF use include the following items:
 - 1) Computers and other technical laboratory supplies, equipment, and software and maintenance.
 - 2) Network costs (WWW internet, interactive video, etc.)
 - 3) "Smart" or multimedia classroom equipment and classroom modifications.
 - 4) Lab and course staffing - student and staff assistance for lab and classroom uses.
 - 5) Renewal and replacement reserves as necessary.
 - 6) New machines for faculty use when faculty are actively engaged in developing and conducting on-line courses.
 - 7) Faculty and staff development directly related to the introduction or application of new technology that impacts students. These guidelines should have the flexibility to place instructional technology in a faculty lab where course materials are being prepared. For example, TAF funds can be used to create faculty labs to include the purchase of computers and to

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conduct faculty training and course development. (Travel costs for faculty and staff are excluded; however, consultants may be hired as needed for training.)

- 8) Infrastructure (wiring, network, servers, etc.) necessary to provide students maximum computing capability. A ceiling is established of 50% of the total project costs from which TAF can be used.
- 9) Expand technology resources in library, i.e., video piped anywhere on campus, interactive video room for distance education, network for web video courses.

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4. Facilities Fee

This fee will be used to improve facilities and fund expenditures such as replacing carpets in student lounges, remodeling classrooms, etc. The fee will not be used for routine maintenance, but will be used to make improvements to areas that have an impact on students. The intended projects will be disclosed during the normal budget cycles. The fee is refundable on the same basis as Maintenance Fees.

4.1. Specialized academic fees

- 1. Certain academic programs require expensive maintenance/updating of equipment and software and the employment of highly qualified staff. The high costs of instruction for these programs can be offset by establishing specialized academic fees, with the Tennessee Tech Board of Trustees approval.
- 2. To receive approval for a specialized academic fee, a program will be required to meet criteria a., High Cost of Instruction, as defined below. Additionally, the program should document meeting criteria b - g., as applicable.
 - a. High Cost of Instruction. Programs qualifying for charging specialized academic fees must demonstrate that they are more costly than other programs offered by Tennessee Tech. If appropriate, the extraordinary cost of the program must be validated including benchmarking with similar programs in the region and nation.
 - b. High Demand. The number of students enrolled in the program and the student credit hours generated are sufficient to justify additional fees.
 - c. High Cost of Updating/Maintaining Equipment and Software. Programs qualifying for charging specialized academic fees are expected to be those

that require extensive maintenance and regular updating of equipment and/or software. An average hardware/software cost per student credit hour serves as the basis for determining the amount of the fee.

- d. Accreditation. Meeting standards of specific accrediting agencies may also qualify a specialized program for charging specialized academic fees. The accrediting standards that justify a fee are those that specify the possession and use of certain equipment and unique software that are extraordinarily costly and/or the employment of faculty with specific credentials that demand high salaries.
- e. High Recognition and Quality. The programs approved for specialized academic fees are expected to be distinctive and with a regional or national reputation. The program must demonstrate that it has achieved exceptional recognition in its particular enterprise.
- f. High Value to Tennessee. The program must demonstrate that it is a good investment for the State of Tennessee to justify charging extra fees to the student. The graduates' earning potential and the associated benefit to the state economy should be projected, as well as the efforts taken by the institution to aid graduates in finding appropriate employment in Tennessee.
- g. Impact on Affected Students. Through surveys, questionnaires, or other suitable means, the program must demonstrate that the charging of additional fees will not diminish enrollment. The program should demonstrate that enrolled students realize that the potential earning power in the work force justifies their additional investment.

3. Tennessee Tech's Colleges and Schools must submit documentation of the above applicable criteria when requesting approval of a specialized academic fee. Specialized academic course fee revenues are limited to funding related costs accumulated in the instruction function.

M.J. All miscellaneous fees must be approved by the Tennessee Tech Board of Trustees. Fees for courses requiring special off-campus facilities or services do not require Board approval but should reflect the cost of the facilities or services.

N.K. Incidental fees and charges are subject to approval by the Tennessee Tech Board of Trustees including:

- 5. Application fees: undergraduate \$25.00, graduate \$30.00, international \$40.00.
- 6. Returned check fees: Tennessee Tech will charge a nonrefundable returned check fee that is the maximum set by state law. This fee will apply to all returned checks received by the institution, whether from students,

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faculty, staff, or other parties. The university will review state statutes each spring to determine any changes.

7. Parking: A nonrefundable fee may be levied per academic year, per fiscal year and/or per academic term for motor vehicle registration, and such fee shall be applicable to each student, faculty and staff member.

8. Traffic fines: These nonrefundable fines apply to all employees and students.

9. Applied music fees: These fees are charged for private music lessons or small group training sessions and are refundable on the same basis as Maintenance Fees.

10. Late registration fee: Up to \$100 will be charged during the entire period of late registration.

~~11. Facilities fee: This fee will be used to improve facilities and fund expenditures such as replacing carpets in student lounges, remodeling classrooms, etc. The fee will not be used for routine maintenance, but will be used to make improvements to areas that have an impact on students. The intended projects will be disclosed during the normal budget cycles. The fee is refundable on the same basis as Maintenance Fees.~~

O.L. The following fees and charges may be approved by the Vice President for Planning & Finance and the President and established and administered by Tennessee Tech. No specific approval or notification to the Tennessee Tech Board of Trustees will be required unless subject to other Board or State requirements.

1. Sales of goods and services of a commercial nature, including bookstores, food services, vending, laundry, and similar activities.
2. Rental of non-student housing and facilities.
3. Admissions fees to athletic and other events open to the public, including special events sponsored by campus organizations and activities.
4. Sales and services of educational activities such as clinical services, publications, etc.
5. Registration for conferences, institutes, and non-credit activities.
6. Fees for use of campus facilities for recreational purposes.
7. Parking permits and parking meters for use by guests and visitors.

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- 8. Nonrefundable library fines, which will apply to students, faculty, staff, and other library users.
- 9. Nonrefundable thesis and dissertation fees determined based upon cost to the institution.
- 10. Child care fees for kindergarten, preschool, early childhood, day care, or similarly defined activities. The refund policy will be established by Tennessee Tech.
- 11. Nonrefundable special exam fee determined based upon cost to Tennessee Tech.
- 12. Nonrefundable standardized test fees determined based upon the cost for administering the tests.
- 13. Nonrefundable identification card replacement. There will be no charge for the original identification card. A fee may be set by Tennessee Tech to offset the cost of replacing the card. This fee applies only to student ID cards and not to faculty and staff ID's.
- 14. Replacement of damaged or lost Tennessee Tech property and equipment. Fee must be based on reasonable cost to replace.

P.M. Deposits

- 1. Breakage deposits may be recommended by Tennessee Tech for Board approval for courses in which it can be shown that there is a reasonable chance of loss or damage to items issued to students. The amount of the deposit should be related to the materials issued and subject to a 100% refund.
- 2. A deposit may be established by Tennessee Tech for rent or lease of buildings and facilities or for the issuance of other institutional property or equipment. Deposits should be subject to a 100% refund if no damage or loss occurs. The amount of such deposits should be related to the value of the facilities or equipment subject to loss and the general ability of the institution to secure reimbursement should loss or damage occur.
- 3. Tennessee Tech is authorized to require a security deposit for residence hall facilities which may be forfeited by the student for failure to enter into a residence agreement or non-compliance with applicable agreement terms.

Q.N. Student residence hall and apartments

- 1. All regular and special rental rates for student dormitories and student apartments will be approved by the Tennessee Tech Board of Trustees upon

the recommendation by the President. Special rates for non-student groups during summer periods may be ~~recommended~~ approved by the Vice President for Planning and Finance and the President.

- 2. Rental for student dormitory or residence hall units shall be payable in full in advance of the beginning of a term. However, Tennessee Tech shall offer an optional payment plan under which a prorated amount of the rental shall be payable monthly in advance during the term. A monthly service charge and a late payment charge may be assessed. Residence Hall students can participate in the deferred payment plan (TTU Policy 511.3 Deferred Payment Plan).

R.O. Tennessee Tech may submit for Board of Trustee approval of fees and charges not specifically covered by this policy.

- 1. **P.** Fees may be established to control the utilization of facilities and services or to offset the cost of extraordinary requirements as a result of specific programs or activities.
- 2. **Q.** When fees and charges are incorporated in agreements with outside contractors and vendors, specific rates, refunds, and conditions must be clearly stated.
- 3. **R.** Fees for auxiliary services must take into consideration that Auxiliary Enterprises should be at least a break-even operation with rates and charges generating revenue sufficient to cover all expenses as defined in operating budget guidelines.
- 4. **S.** Fees established for non-credit courses and activities shall be sufficient to cover the total costs incurred in providing the program, including any indirect costs, plus a minimum of 25% of the annual instructional salary costs including contractual salary costs or personal services contracts.
- 5. **T.** Students enrolled for six or more hours are eligible for full-time privileges, i.e., access to social, athletic, and cultural functions, pursuant to T.C.A. § 49-8-109.

S. U. Refunds and fee adjustments

- 1. Adjustments to all fees and charges must be in accordance with the following provisions except as previously stated, or when required by federal law or regulation to be otherwise.
- 2. Pursuant to T.C.A. §§ 49-7-2301 and 49-7-2302, students called to active military or National Guard service during the semester are entitled to a 100% adjustment or credit of Mandatory Fees. Housing and meal ticket charges may be prorated based on usage.
- 3. Maintenance Fee refunds and adjustments

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- a. Refunds are 100% for courses canceled by Tennessee Tech.
- b. Changes in courses involving the adding and dropping of equal numbers of SCH's for the same term at the same time require no refund or assessment of additional Maintenance Fees, unless the dropping and adding involves TN eCampus courses.
- c. The fee adjustment for Withdrawals or drops during regular terms (fall and spring) is 75% from the first day of classes through the fourteenth calendar day of classes and then reduced to 25% for a period of time which extends 25% of the length of the term. When the first day of the academic term falls on a Saturday, the 100% refund period is extended through the weekend until the following Monday morning (12:01 am). There is no fee adjustment after the 25% period ends. Dropping or withdrawing from classes during either the 75% or the 25% fee adjustment period will result in a fee adjustment of assessed Maintenance Fees based on the total credit hours of the final student enrollment.
- d. For summer sessions and other short terms, the 75% fee adjustment period and the 25% fee adjustment period will extend a length of time which is the same proportion of the term as the 75% and 25% periods are of the regular terms.
- e. All fee adjustment periods will be rounded to whole days and the date on which each fee adjustment period ends will be included in publications. In calculating the 75% period for other than the fall and spring and in calculating the 25% length of term in all cases, the number of calendar days during the term will be considered. When the calculation produces a fractional day, rounding will be up or down to the nearest whole day.
- f. A full refund (100%) is provided on behalf of a student whose death occurs during the term. Any indebtedness should be offset against the refund.
- g. A 100% refund will be provided for students who enroll under an advance registration system but who drop a course or courses prior to the beginning of the first day of class.
- h. A 100% refund will be provided to students who are compelled by Tennessee Tech to withdraw when it is determined that through Tennessee Tech error they were academically ineligible for enrollment or were not properly admitted to enroll for the course(s) being dropped. An appropriate official must certify in writing that this provision is applicable in each case.

- b. The student is prevented from entering Tennessee Tech because of medical reasons confirmed in writing by a licensed physician, or
- c. Residence hall space is not available.
- d. Full refund will be made in the case of the death of the student.

8. The Tennessee Tech meal plan refund policy is described in Policy 511.2 (Student Fee Adjustments, Refunds, and Appeals).

V. Interpretation

The Vice President for Planning and Finance or his/her designee has the final authority to interpret the terms of this policy.

VI. Citation for Authority for Policy

T.C.A. § 49-8-113; T.C.A. § 49-8-201(f)(8)(C); TBR Guideline B-060; TBR Rule 0240-1-2.01 et seq.; T.C.A § 49-7-2301; T.C.A § 49-7-2302;

Approved by:

Administrative Council: February 22, 2017

University Assembly: April 19, 2017

Board of Trustees: March 23, 2017

President on September 3, 2020, pursuant to Policy 101, Section VII.A.

Received by:

Administrative Council:

9.1



Agenda Item Summary

Date: September 29, 2020

Division: Planning and Finance

Agenda Item: TTU Policy 511.2 (Student Fee Adjustments, Refunds and Appeals)

Review

Action

No action required

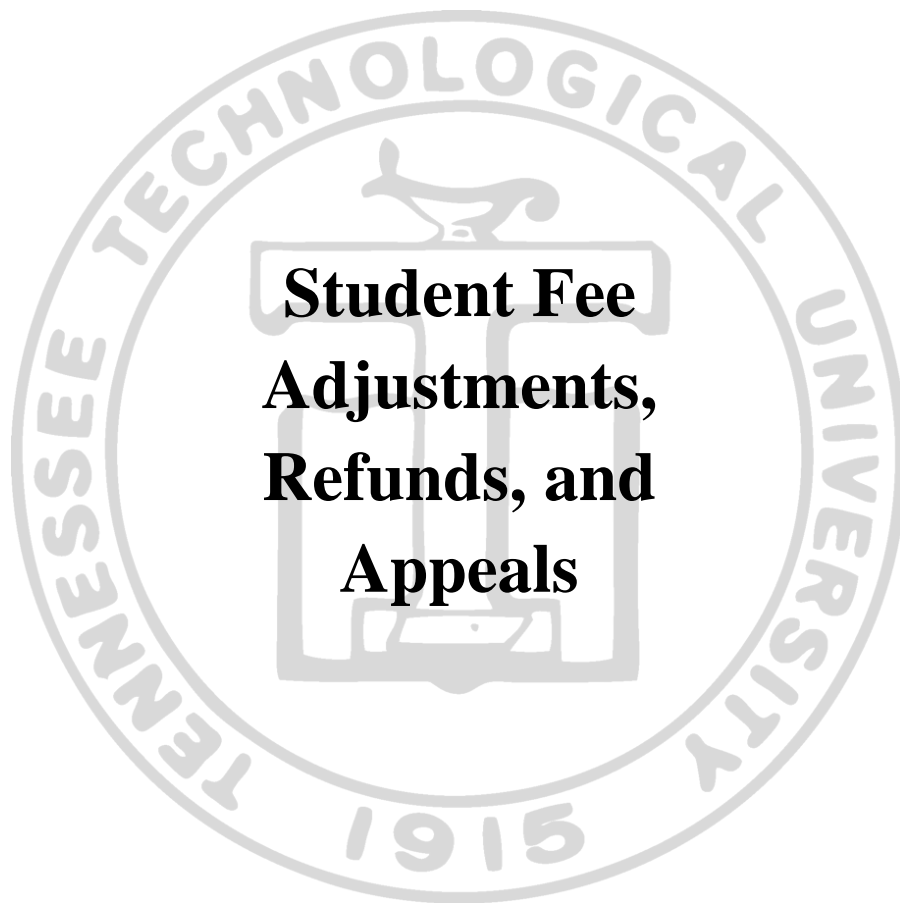
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PRESENTERS: Dr. Claire Stinson, Vice President for Planning and Finance

PURPOSE & KEY POINTS:

Removal of two definitions to reflect changes in fees structure approved in March 2020 by the Board of Trustees regarding the Undergraduate Flat Rate Model.

**Tennessee Technological University
Policy No. 511.2**



9.2

Effective Date: July 1, 2017

Policy No.: 511.2

Policy Name: Student Fee Adjustments, Refunds, and Appeals

Revised Date: July 1, 2020

I. Purpose

This policy describes the procedures for making fee adjustments and refunds.

II. Review

This policy will be reviewed every four years or whenever circumstances require review, whichever is earlier, by the Director of Financial Services in consultation with the Associate Vice President for Business and Fiscal Affairs and the Vice President for Planning and Finance, with recommendations for revision presented to the Administrative Council, University Assembly, and the Board of Trustees.

III. Scope

This policy applies to refund calculations related to student registration fees, dormitory rent and prepayment, and meal plan adjustments.

IV. Definitions

~~—Base Maintenance Fees: Maintenance Fees assessed for the first twelve (12) hours of undergraduate enrollment and for the first ten (10) hours of graduate enrollment~~

~~B.A.~~ Direct Deposit: electronic transmittal of funds directly to a student’s bank account

~~C.B.~~ DMBA: Distance Master of Business Administration Program

~~D.C.~~ Dropping a Course: a schedule change involving deletion of a single course from a student’s class schedule

~~E.D.~~ Equal Exchange: the dropping and adding on the same day of an equal number of student credit hours, for the same Part-of-Term, within the same program (campus, DMBA, or TN eCampus)

~~F.E.~~ Excess Aid: the amount by which federal financial aid, grants, or scholarships credited to a student account exceeds Tennessee Tech charges for the semester

~~G.F.~~ Maintenance Fees: also known as tuition, charges to students enrolled in credit courses calculated based on the number of student credit hours

~~H.G.~~ Mandatory Meal Plan: required meal plan for freshmen living in the residence halls for the first two semesters of enrollment, excluding summer

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~~H. Over base Maintenance: Maintenance Fees assessed at a reduced per hour rate for enrollment beyond the first twelve (12) hours of undergraduate enrollment and beyond the first ten (10) hours of graduate enrollment~~

~~I.H.~~ Part-of-Term: the time frame over which a course is delivered and may cover a full semester, a portion of the semester, or the time period between semesters

~~J.I.~~ Refund Penalty: the reduced refund students receive when they reduce their schedule, usually twenty-five percent (25%) or seventy-five percent (75%), as determined by the date of the schedule change

~~K.J.~~ TN eCampus: online learning program administered by the Tennessee Board of Regents

~~L.K.~~ Withdrawal: the formal process whereby a student informs Tennessee Tech of the decision to cease attendance in all classes for the term

V. Policy/Procedures

- A. Fees, conditions of assessment, and refund policies are subject to change by action of the Tennessee Tech Board of Trustees without prior notice.
- B. Except as provided in this policy, refunds and adjustments of refundable fees are processed in accordance with provisions outlined in TTU Policy 511.1 (Fee Charges, Refunds, and Fee Adjustments), as may be amended from time to time.
- C. The following are additional requirements and clarifications for Tennessee Tech to carry out TTU Policy 511.1 (Fee Charges, Refunds, and Appeals) with regard to registration fee adjustments and refunds.
 - 1. The following are changes that may result in refunds:
 - a. Dropping a Course
 - b. Withdrawal from Tennessee Tech
 - c. Cancellation of a class by Tennessee Tech
 - d. Death of the student.
 - 2. Schedule changes involving Equal Exchanges do not require a refund or assessment of additional Maintenance Fees, but adjustment of related

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special course fees may be required. Schedule changes between campus courses and DMBA and TN eCampus courses are not equal exchanges.

3. In adherence to TTU Policy 1203, students must file a formal application for withdrawal to apply for a refund, if applicable. For the purposes of this policy, Withdrawals are effective on the date the student formally files the application.
4. There are three refund percentage periods: 100%, 75% and 25%. TTU Policy 511.1 (Fee Charges, Refunds, and Fee Adjustments), as may be amended from time to time, defines the period calculation for each. Reference the University Calendar to review official Tennessee Tech refund deadline dates. Examples of commonly occurring refund calculations are shown here.

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D. Residence hall rent adjustments are processed in accordance with TTU Policy 511.1 (Fee Charges, Refunds, and Fee Adjustments) and TTU Policy 305_(Student Housing), as may be amended from time to time.

E. Refund of meal plan charges

1. Students may change their meal plan selection once during the first two weeks of each semester without a Refund Penalty. Students opting for a more extensive meal plan are obligated to pay the difference in price. Freshmen dormitory residents who are required to have a meal plan may select only other Mandatory Meal Plans.
2. Beginning with the day residence halls officially open for the semester, meal plan charges will be refunded according to the following schedule:

a.	0 days – 14 days	100%	of plan cost minus used meals and dining dollars
b.	15 days – 22 days	75%	of plan cost minus used dining dollars
c.	23 days – 30 days	25%	of plan cost minus used dining dollars
d.	After 30 days	0%	
3. The same refund schedule described in Section V.E.2. applies to students who move from a residence hall to a Tech Village apartment and choose to delete their meal plan. The Mandatory Meal Plan requirement does not apply to residents of Tech Village.
4. Tennessee Tech will refund one hundred percent (100%) of the meal plan charge on behalf of a student whose death occurs during the term.
5. Exceptions to the above stated meal plan refund policy will be at the discretion of Dining Services.

F. Refund processing

1. Students are required to participate in the Direct Deposit process for delivery of excess aid and other refunds. Procedures to sign up for direct deposit are available on the Bursar web page. Direct Deposit excess aid refunds are available beginning the last working day before classes begin.
2. In accordance with federal regulations, for students who fail to set up Direct Deposit, paper checks will be available beginning no later than fourteen (14) days into the term.
3. Tennessee Tech will process a refund of credit card payments as a credit back to the card. When more than one card is used to pay an outstanding balance, the refund will be credited to the last card used for the amount charged on that card. Any remaining refund after all cards are refunded is delivered via Direct Deposit or paper check.
4. As an exception, excess aid resulting from federal aid credited to the student account after fees have been paid with a credit card will be delivered to the student by direct deposit rather than as a credit back to the card.
5. A Parent Loan for Undergraduate Students (PLUS) excess aid credit is delivered either to the student or to the parent in accordance with the parent's directive. If the parent chooses to receive the credit, a paper check is mailed to the address provided by the parent on the loan application.
6. No refunds for less than \$1.00 will be issued unless specifically requested.

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G. Appeals process

1. Students appealing a refund decision due to exceptional circumstances must submit the Fee Refund Request Form to the Office of the Registrar Fee Refund Committee. Proof of extenuating circumstances must accompany the completed form.
2. Students must submit their appeal within two full academic semesters (Fall & Spring) after the term for which they want a refund. The following link presents examples of deadlines. No appeal will be considered beyond this deadline, absent good cause.
3. The Committee meets at least biweekly if appeals are pending. The Business Office will notify each student in writing within one week of the Committee's decision. If the appeal relates to a prior term, the Committee may require additional time. Any necessary transcript or financial adjustments will be applied to the student's record.

- 4. If the Committee denies the appeal based on insufficient documentation, the student may resubmit the appeal as described in Section V. G.1. with additional documentation for further review.
- 5. If the Committee denies the appeal for any other reason, students may submit a written request for final review to the Vice President for Planning and Finance within ten (10) business days after the denial notification, absent good cause. The Vice President for Planning and Finance will issue a written decision within ten (10) business days of receipt of the student's request, absent good cause. The decision by the Vice President for Planning and Finance is final.

VI. Interpretation

The Vice President for Planning and Finance or his/her designee has the final authority to interpret the terms of this policy.

VII. Citation of Authority

T.C.A. § 49-8-203 (a)(1)(C)

Approved by:

Administrative Council: February 22, 2017

University Assembly: April 19, 2017

Board of Trustees: March 23, 2017

President on August 24, 2020, pursuant to Policy 101, Section VII.A.

Received by:

Administrative Council:

University Assembly:

9.2



Agenda Item Summary

Date: September 29, 2020

Agenda Item: TTU Policy 144 (Title IX Policy & Grievance Procedures)

9.3

Review

Action

No action required

PRESENTER: Dr. Claire Stinson, Vice President for Planning & Finance

PURPOSE & KEY POINTS:

TTU Policy 144 (Title IX Policy and Grievance Procedures) reflects the Title IX rule requirements and provides additional details as required by the federal regulations. This policy is substantially the same as the policy approved by the Board at its June 23, 2020, meeting. The only changes are in the definitions of certain crimes, which have been updated to reflect the current statutory language.

Tennessee Technological University Policy No. 144

9.3



Effective Date: August 14, 2020

Policy No: 144

Policy Name: Title IX Policy and Grievance Procedures

Revised Date: September 29, 2020

I. Purpose

This policy is intended to provide a single, easily accessible, and user-friendly document for students, employees, and others affected by sexual harassment to find information regarding Tennessee Tech’s rules and procedures related to the offenses defined herein.

II. Scope

Allegations of prohibited discrimination or harassment not within the scope of this policy are subject to the procedures described in Tennessee Tech Policy 141 (Prohibited Discrimination and Harassment).

III. Definitions

- A.** Actual knowledge -- notice of sexual harassment or allegations of sexual harassment to Tennessee Tech’s Title IX Coordinator or any Tennessee Tech official who has authority to institute corrective measures on behalf of Tennessee Tech. This definition is not met when the only Tennessee Tech official with actual knowledge is also the respondent.
- B.** Complainant -- an individual who is alleged to be the victim of conduct that could constitute sexual harassment. Complainant does not mean the Title IX Coordinator when the Title IX Coordinator signs a formal complaint or is not otherwise an alleged victim of sexual harassment. References in this rule to the singular “complainant” include the plural, as applicable.
- C.** Consent -- a clear and unambiguous agreement, expressed outwardly through mutually understandable words or actions, to engage in agreed upon sexual activity. An individual who is asleep, unconscious, mentally or physically incapacitated either through the effect of drugs or alcohol or for any other reason, or who is under duress, threat, coercion, or force cannot give consent. Past consent does not imply future consent. Consent can be withdrawn at any time.

~~**D.** Dating violence -- as defined under [federal law \(34 U.S.C. 12291\(a\)\(10\)\)](https://www.federalregister.gov/documents/2012/07/16/31154-01) <https://www.tntech.edu/titleix/definitions.php>, ~~violence committed by a person:~~~~

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~~1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and~~

~~2. Where the existence of such a relationship shall be determined based on a consideration of the following factors:~~

~~a. The length of the relationship;~~

~~b. The type of relationship; and~~

~~c. The frequency of interaction between the persons involved in the relationship.~~

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- E. Deliberately indifferent -- a response that is clearly unreasonable in light of the known circumstances.
- F. Disciplinary Sanctions -- remedies and penalties that Tennessee Tech may impose upon a respondent following a determination of responsibility are as follows:
 - 1. A student who violates this policy is subject to the disciplinary sanctions set forth in Tennessee Tech Policy 302, Student Conduct. These include:
 - a. Informal Warning
 - b. Official Warning
 - c. No Contact Order
 - d. Restitution
 - e. Restriction of Privileges
 - f. Educational Action
 - g. Disciplinary Probation
 - h. Housing Probation, Suspension or Cancellation of Housing Contract
 - i. Other Interim Measures

~~j.~~ Expulsion

~~i.~~

2. An employee who violates Tennessee Tech Policy 144, Title IX Policy and Grievance Procedures, is subject to the disciplinary sanctions set forth in Tennessee Tech Policy 650, Disciplinary Action. These include:
 - a. Verbal or Written Warning
 - b. Suspension with Pay
 - c. Suspension without Pay
 - d. Demotion
 - e. Disciplinary Probation
 - f. Termination
3. Students or employees found guilty of violating this policy may also face criminal prosecution.

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~~G.~~ Domestic violence -- as defined under [federal law \(34 U.S.C. 12291\(a\)\(8\)\)](#) <https://www.tntech.edu/titleix/definitions.php>, ~~includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or 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.~~

~~G.~~

~~H.~~ Education program or activity -- locations, events, or circumstances over which Tennessee Tech exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by Tennessee Tech.

~~I.~~ Formal complaint -- a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting

Tennessee Tech investigate the allegation of sexual harassment. As used in this definition, the phrase “document filed by a complainant” means a document or electronic submission that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

I.

J. Hearing officer -- the person(s) who conducts the live hearing and is the decision-maker with respect to the determination of responsibility. A hearing officer cannot be the same person(s) as the Title IX Coordinator or the investigator(s).

K. Officials with Authority -- Tennessee Tech employees who have the authority to institute corrective measures to redress sexual harassment or allegations of sexual harassment on behalf of Tennessee Tech. Tennessee Tech Officials with Authority are:

1. The President
2. The Title IX Coordinator
3. The Dean of Students
4. Associate Vice President of Human Resources

L. Respondent -- as defined under federal law an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. References in this rule to the singular “respondent” include the plural, as applicable.

~~**M.** Sexual assault -- as defined under [federal law \(20 U.S.C. 1092\(f\)\(6\)\(A\)\(v\)\)](https://www.tntech.edu/titleix/definitions.php) <https://www.tntech.edu/titleix/definitions.php>, an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.~~

~~M.~~

- ~~**1. Forcible sex offenses are defined as any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent. Forcible sex offenses include:**~~
 - ~~**a. Forcible Rape -- (Excluding statutory rape). The carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances**~~

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~~where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.~~

~~b. **Forcible Sodomy -- Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.**~~

~~e. **Sexual Assault With An Object -- To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.**~~

~~d. **Forcible Fondling -- The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent.**~~

~~e. **Dating violence, domestic violence and stalking.**~~

~~2. Nonforcible sex offenses are defined as nonforcible sexual intercourse.
Nonforcible sex offenses include:~~

- ~~a. **Incest -- Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.**~~
- ~~b. **Statutory Rape -- Nonforcible sexual intercourse with a person who is under the statutory age of consent.**~~

~~N. Sexual harassment -- conduct on the basis of sex that satisfies one or more of the following:~~

- ~~1. A Tennessee Tech employee conditioning the provision of an aid, benefit, or service of Tennessee Tech on an individual's participation in unwelcome sexual~~

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conduct;

- 2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Tennessee Tech’s education program or activity; or
- 3. Sexual assault, dating violence, domestic violence and stalking as defined by federal law.

~~Q. Q. Stalking — as defined under by federal law (34 U.S.C. 12291(a)(30)) <https://www.tntech.edu/titleix/definitions.php>. — engaging in a course of conduct directed at a specific person that~~

~~O.~~

~~1. Would cause a reasonable person to fear for his or her safety or the safety of others; or~~

~~2. Suffer substantial emotional distress.~~

P. Supportive measures -- non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to Tennessee Tech’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Tennessee Tech’s educational environment, or deter sexual harassment. Supportive measures may include but are not limited to counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

Q. Title IX Coordinator -- the person designated and authorized by Tennessee Tech to coordinate its efforts to comply with its Title IX responsibilities.

IV. Policy

A. As required by law, no student, employee, or applicant for admission or employment will be excluded, on the basis of sex, from participation in, be denied the benefit of,

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or be subjected to discrimination under any Tennessee Tech education program or activity.

- B.** When a person reports sex discrimination committed against a person while in the United States, Tennessee Tech will follow its rules, procedures and processes used for Title VII sex discrimination allegations, which provide for the prompt and equitable resolution of complaints alleging sex discrimination.
- C.** If Tennessee Tech has actual knowledge of sexual harassment in an education program or activity committed against a person while in the United States, Tennessee Tech will respond promptly and follow its grievance procedures in a manner that is not deliberately indifferent.
- D.** If the allegations in a formal complaint do not meet the definition of sexual harassment, or did not occur in the school's education program or activity against a person while in the United States, Tennessee Tech will dismiss such allegations for purposes of Title IX but may still address the allegations in any manner deemed appropriate under all Tennessee Tech policies.
- E.** Where a person alleges both sex discrimination and sexual harassment committed against a person while in the United States, Tennessee Tech will follow its rules, procedures and processes for responding to a formal complaint of sexual harassment. If the formal complaint is dismissed at any point in the process, Tennessee Tech will follow its rules, procedures and processes used for Title VII sex discrimination allegations.
- F.** As required by law, Tennessee Tech will not restrict rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment.

V. Notification and Publication Requirements

- A.** Tennessee Tech will notify applicants for admission and employment, students, and employees, that:
 - 1. It does not discriminate on the basis of sex in its education programs or activities and will provide the name, title, office address, electronic mail address, and telephone number of the Title IX Coordinator in that notification;
 - 2. Inquiries regarding the application of Title IX may be directed to the Title IX Coordinator, the U.S. Department of Education, or both;

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3. Its grievance process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how Tennessee Tech will respond; and
 4. The contact information for the Title IX Coordinator and its Title IX policies and procedures.
- B.** These notifications along with other information related to Title IX will be placed on Tennessee Tech’s website and in each handbook or catalog that it makes available to applicants for admission and employment, students, and employees.
- C.** The Title IX Coordinator is responsible for coordinating the effective implementation of the notification and publication requirements.

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VI. Confidentiality

- A.** Tennessee Tech will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted or required by federal or state law, or to carry out the purposes of this rule and attendant policies, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.
- B.** Tennessee Tech will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality does not impair Tennessee Tech’s ability to provide the supportive measures.

VII. Immediate Steps a Complainant Should Take After Sexual Assault

- A.** In the immediate aftermath of a sexual assault, domestic violence, dating violence or similar event, the complainant should first get to a safe place and to call 911 if in immediate danger.
- B.** The complainant should next seek medical attention, regardless of whether a complainant has decided to report the crime to the police. It is very important for the complainant of sexual assault to seek medical attention immediately so that the complainant can be screened for sexually transmitted diseases/pregnancy/date rape drugs, obtain emergency contraception, and receive treatment for any physical injuries.

- C. The complainant has the right to accept or decline any or all parts of a medical exam. However, critical evidence may be lost or missed if not collected or analyzed.
- D. Valuable physical evidence can be obtained from the complainant's clothing. Every effort should be made to save anything that might contain the respondent's DNA. Therefore, if at all possible, a complainant of sexual assault should not:
 - 1. Bathe or shower;
 - 2. Wash his or her hands;
 - 3. Brush his or her teeth;
 - 4. Use the restroom;
 - 5. Change clothes;
 - 6. Comb hair;
 - 7. Clean up, move things, or change anything associated with the crime scene; or
 - 8. Move anything the offender may have touched.
- E. Regardless of whether the complainant has decided to report the crime, receiving a forensic medical exam and keeping the evidence safe from damage will improve the chances that law enforcement can access and test the stored evidence should the complainant choose to prosecute at a later date.
- F. The complainant is encouraged to preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs or other copies of documents, if any, that would be useful to investigators.

VIII. Reports of Sex Discrimination or Sexual Harassment

- A. Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone,

or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

- B. A report may be made at any time (including during non-business hours) to the Title IX Coordinator at 931-372-3112, titleix@tntech.edu, 1 William L. Jones Drive, Box 5037, Cookeville, TN 38505 or to the U.S. Department of Education, Office of Civil Rights, 800-421-3481, OCR@ed.gov, 400 Maryland Avenue, SW, Washington D.C. 20202-1100.

IX. Supportive Measures

- A. Upon receipt of a report of sexual harassment or upon the filing of a formal complaint the Title IX Coordinator will promptly contact the complainant and:
 - 1. Discuss the availability of supportive measures;
 - 2. Consider the complainant's wishes with respect to supportive measures;
 - 3. Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and
 - 4. Explain the process for filing a formal complaint.
- B. In cases where a formal complaint is filed, and an investigation is commenced, Tennessee Tech will offer supportive measures to the respondent as well.
- C. Mutual restrictions on contact between the parties may be obtained through the Title IX Coordinator.
- D. In cases where a formal complaint is filed Tennessee Tech may remove a respondent from an education program or activity on an emergency basis only after the Title IX Coordinator, in consultation with appropriate personnel, undertakes an individualized safety and risk analysis, determining that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and providing the respondent with notice and an opportunity to challenge the decision immediately following the removal.
- E. Tennessee Tech may place a non-student employee respondent on administrative leave during the pendency of a grievance process.
- F. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

X. Grievance Procedures

A. Regarding its grievance procedures, Tennessee Tech will:

1. Apply its grievance procedures and requirements equally to both parties;
2. Presume that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process;
3. Apply a preponderance of the evidence standard throughout the grievance process;
4. Assume the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility;
5. Require an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence and prohibit credibility determinations based on a person’s status as a complainant, respondent, or witness;
6. Treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following its grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent;
7. Design remedies to restore or preserve equal access to Tennessee Tech’s education program or activity. Such remedies may include supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent;
8. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney; however, the advisor may not participate in the proceeding other than to render advice to the party or to cross examine the other party or witnesses during a live hearing;
9. Provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate;

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10. Provide parties written notice of the grievance process, including informal resolution; and
11. Ensure that the Title IX Coordinator, investigator, hearing officer, or decision-maker does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

B. Timeframe for the Grievance Process

Tennessee Tech will make reasonable efforts to conclude the grievance process, including the investigation, hearing and appeal within ninety (90) calendar days following receipt of the complaint, absent good cause. The anticipated timeframe for the investigation hearing appeal or informal resolution are:

1. Investigation -- 45 calendar days
2. Hearing -- 30 calendar days
3. Appeal (if applicable) -- 15 calendar days
4. Informal Resolution (if applicable) -- 30 calendar days

XI. Formal Complaint

- A. Only a complainant or the Title IX Coordinator may file a formal complaint.
- B. If Title IX Coordinator files a formal complaint, the Title IX Coordinator is not considered a complainant or a party during a grievance process.
- C. A formal complaint must contain:
 1. the complainant's physical or digital signature, or otherwise indicate that the complainant is the person filing the formal complaint; and
 2. a written notice of the allegations potentially constituting sexual harassment, including sufficient details known at the time; sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known.
- D. Upon receipt of the formal complaint, Tennessee Tech will provide the parties written notice of the allegations potentially constituting sexual harassment, including

sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known.

- E.** In addition, the written notice to the parties shall include statements that:
 - 1.** The respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;
 - 2.** The parties may have an advisor of their choice, who may be, but is not required to be, an attorney; however, the advisor may not participate in any investigative interview or proceeding other than to render advice to the party or to cross examine the other party or witnesses during the live hearing;
 - 3.** The parties may inspect and review evidence; and
 - 4.** Identifies any provision in its codes of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
- F.** If, during the course of an investigation, Tennessee Tech decides to investigate allegations about the complainant or respondent that were not included in the initial written notice, Tennessee Tech will provide notice of the additional allegations to the parties.
- G.** Tennessee Tech may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.
- H.** Tennessee Tech may dismiss a formal complaint or any allegations therein, if at any time during the investigation, a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein, the respondent is no longer enrolled or employed by Tennessee Tech; or specific circumstances prevent Tennessee Tech from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
- I.** If Tennessee Tech dismisses a formal complaint during the investigation, Tennessee Tech will promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties.
- J.** If the conduct alleged in a formal complaint would not constitute sexual harassment even if proved, did not occur in Tennessee Tech's education program or activity, or

did not occur against a person in the United States, Tennessee Tech must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX; such a dismissal does not, however, preclude action under another provision of Tennessee Tech's codes of conduct or other policies.

XII. Investigative Reports

- A. Tennessee Tech will investigate, to the extent necessary or possible, the allegations in a formal complaint and create an investigative report that fairly summarizes relevant evidence.
- B. During the investigatory process, both parties will have an equal opportunity to:
 - 1. Present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; and
 - 2. Inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which Tennessee Tech does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
- C. Tennessee Tech will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
- D. Prior to completion of the investigative report, Tennessee Tech will:
 - 1. Send the investigative report along with the evidence subject to inspection and review in an electronic format or a hard copy to each party and the party's advisor, if any;
 - 2. Allow the parties 10 business days to submit a written response to the investigative report, which the investigator will consider prior to completion of the investigative report; and
- E. At the conclusion of 10 business days, the Title IX Coordinator will send the investigative report along with the evidence subject to inspection and review in an electronic format or a hard copy to the Hearing Officer.

9.3

XIII. Formal Complaint Hearing

- A. A live hearing of formal complaints not dismissed will be conducted by a hearing

officer that meets the requirements set forth in Tennessee Code Annotated Section 4-5-324.

- B.** Live hearings may be conducted with all parties physically present in the same geographic location or, at Tennessee Tech's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.
- C.** Either party may request that the live hearing to occur with the parties located in separate rooms with technology enabling the hearing officer and parties to simultaneously see and hear the party or the witness answering questions.
- D.** Tennessee Tech will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.
- E.** At least seventy-two (72) hours prior to a live hearing, Tennessee Tech will provide both parties with written notice of the following:
 - 1.** The time, place, and date of the hearing and electronic access information, if applicable;
 - 2.** The name of each witness Tennessee Tech expects to present at the hearing and those Tennessee Tech may present if the need arises;
 - 3.** Their right to request a copy of the investigative file; and
 - 4.** Their 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.
- F.** When notice is sent by United States mail or courier service, the notice is effective on the date that the notice is mailed or delivered to the courier service. When notice is hand delivered to the parties from the institution, notice is effective on the date that the notice is delivered to the parties. When notice is sent by email, the notice is effective on the date that the email is sent to the parties' institution-provided email account.
- G.** The hearing officer may allow a temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include but is not limited to considerations such as the absence of a party, a party's advisor or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.
- H.** In cases that involve more than one respondent, the hearing officer may, consistent

with the requirements of Title IX, consider whether separate proceedings are necessary to avoid undue prejudice to the respondents.

- I.** During the hearing, the hearing officer will make evidence subject to review and inspection during the investigation phase available to give each party equal opportunity to refer to that evidence, including for purposes of cross-examination.
- J.** Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
- K.** Only relevant cross examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the hearing officer will first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
- L.** The hearing officer will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
- M.** Notwithstanding any limitations to the contrary that Tennessee Tech has placed on the advisor's participation in the hearing, the hearing officer will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.
- N.** If a party does not have an advisor at the live hearing, Tennessee Tech will provide without fee or charge to that party an advisor of Tennessee Tech's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party
- O.** If a party or witness does not submit to cross-examination at the live hearing, the hearing officer will not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the hearing officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
- P.** The hearing officer may dismiss the formal complaint or any allegations therein, if at any time during the hearing a complainant notifies the Title IX Coordinator in writing

that the complainant would like to withdraw the formal complaint or any allegations therein, the respondent is no longer enrolled or employed by Tennessee Tech, or specific circumstances prevent Tennessee Tech from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

- Q.** If the hearing officer dismisses the formal complaint during the grievance process, the hearing officer will promptly notify the Title IX Coordinator who will promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties.

XIV. Determination of Responsibility

- A.** The hearing officer will issue a written determination regarding responsibility simultaneously to the parties. The written determination will include:
 - 1.** The allegations potentially constituting sexual harassment;
 - 2.** A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
 - 3.** The findings of fact supporting the determination;
 - 4.** The conclusions regarding the application of Tennessee Tech’s rules, policy and if applicable, code of conduct to the facts;
 - 5.** A statement of, and rationale for, the result as to each allegation, including a determination of responsibility, any disciplinary sanctions Tennessee Tech imposes on the respondent, and whether remedies designed to restore or preserve equal access to Tennessee Tech’s education program or activity will be provided to the complainant; and
 - 6.** The procedures and permissible bases for the complainant and/or respondent to appeal.

9.3

XV. Appeals

- A.** Both parties may appeal a determination of responsibility or the dismissal of a formal complaint or any allegations therein.
- B.** A party wishing to appeal a determination or the dismissal must file a written appeal with the Title IX Coordinator within 10 business days of the date of the determination or dismissal. The written appeal must identify the basis or bases for the appeal and

explain with specificity the facts supporting the basis or bases of the appeal.

C. The following are the only bases for an appeal:

1. A procedural irregularity affected the outcome of the matter;
2. New evidence that could affect the outcome of the matter that was not reasonably available at the time the determination or dismissal was made; and
3. A conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent by the Title IX Coordinator, investigator(s), or hearing officer that affected the outcome of the matter.

D. As to all appeals, the Title IX Coordinator will:

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the decision-maker(s) for the appeal is not the same person as any investigator(s) or the hearing officer that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
3. Ensure that the decision-maker(s) for the appeal complies with the standards set forth in Section X.

E. If a party is a student, the Vice President for Student Affairs is the appeal decision maker. If a party is an employee, the Vice President for Planning and Finance is the appeal decision maker,

F. The respective Vice President will issue a written appeal decision describing the result of the appeal and the rationale for the result within the anticipated timeframe, absent good cause.

G. The Title IX Coordinator will provide the written appeal decision simultaneously to both parties.

XVI. Informal Resolution

A. After the filing of a formal complaint, the Title IX Coordinator may facilitate the informal resolution process, such as mediation, that does not involve a full investigation and adjudication. The informal resolution process may go forward only if the Title IX Coordinator:

1. Obtains the parties' voluntary, written consent to the informal resolution process;

2. Provides to the parties a written notice disclosing the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared; and
 3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.
- B. Prior to agreeing to an informal resolution, a party may withdraw from the informal resolution process and resume grievance procedures with respect to the formal complaint.
 - C. Tennessee Tech will ensure that an individual designated to facilitate an informal resolution process does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
 - D. The informal resolution process will conclude within 30 days of the parties agreeing to participate, absent good cause.
 - E. Tennessee Tech will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment.

9.3

XVII. Retaliation

- A. Neither Tennessee Tech nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing.
- B. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this rule, constitutes retaliation.

- C. The exercise of rights protected under the First Amendment does not constitute retaliation.
- D. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance process does not constitute retaliation. However, a determination regarding responsibility, alone, is insufficient to conclude that any party made a materially false statement in bad faith.
- E. Complaints alleging retaliation may be filed with the Title IX Coordinator who will follow the procedures and processes used for Title VII retaliation allegations as set forth in Tennessee Tech Policy 141, Prohibited Discrimination and Harassment.
- F. Retaliation will result in disciplinary measures up to and including termination or expulsion.

9.3

XVIII. Interpretation

The Tennessee Tech Compliance Officer or his/her designee has the final authority to interpret the terms of this policy.

XIX. Citation of Authority for Policy

T.C.A. § 49-8-203(a)(1)(E); Tennessee Tech Policy 006 (Nondiscrimination Policy); Title IX of the Education Amendments of 1972 and its regulations, Section 485(f) of the Reauthorization of Education Act as amended, by Section 304 of the Violence Against Women Reauthorization Act of 2013; 34 CFR § 668.41, § 668.46, and Appendix A to Subpart D of Part 668.

Approved by: President on June 17, 2020 and September 2, 2020, pursuant to Policy 101, Section VII.A.

Board of Trustees: June 23, 2020;

Received by:

Administrative Council: September 2, 2020

University Assembly:



Agenda Item Summary

Date: September 29, 2020

Division: Planning and Finance

Agenda Item: Tenure Recommendations

Review

Action

No action required

9.4

PRESENTERS: Dr. Lori Bruce, Provost

PURPOSE & KEY POINTS:

Recommendations and supporting documentation for granting tenure to an eligible faculty member. This tenure recommendation is being presented at the September Board meeting, as Dr. Tester was hired after the June Board meeting. Dr. Tester was hired as Associate Professor in the Department of General and Basic Engineering. The filling of this position was critical because of its role in the new Master of Science in Engineering Management program.

J O H N T . T E S T E R , P H D

CV

John T. Tester, Ph.D.

Professor



Degrees

- Ph.D. Industrial & Systems Engineering, Virginia Tech, 1999
- M.S. Systems Engineering, Air Force Institute of Technology, 1990
- B.S. Mechanical Engineering, Tennessee Technological University, 1983

Academic Experience (details follow Industry Experience)

Professor (09/16 – present)

Mechanical Engineering Department, College of Engineering, Forestry and Natural Sciences (CEFNS), Northern Arizona University

Chair, Mechanical Engineering Department, 08/17-08/18

Design4Practice Director, College of Engineering, Forestry, and Natural Sciences, 08/07-08/09

Associate Professor (06/00 – 09/16)

Special Appointments—

National Renewable Energy Laboratory Visiting Faculty (09/08 – 06/09)

Renewable Fuels and Lubricants (ReFUEL) Laboratory, Denver, CO

Boeing Welliver Faculty Summer Fellow (06/05 – 08/05)

Primary site location: Boeing Rotorcraft Division, Mesa, AZ

NASA/ASEE Summer Faculty Fellow (06/04 – 08/04)

Marshall Space Flight Center (MSFC), Flight Projects Directorate, Pressurized Carriers Group, Huntsville, Alabama.

Visiting Professor (08/99 – 06/00)

Industrial and Systems Engineering (ISE) Department, Virginia Tech

Graduate Instructor, Research and Teaching Assistant (08/95 – 08/99)

Doctoral Candidate, Industrial and Systems Engineering Department, Virginia Tech

Instructor, Taught Manufacturing labs, Aerospace Manufacturing class, Linear Programming

9.4

J O H N T . T E S T E R , P H D

Industry Experience***Mechanical / Manufacturing Engineer (08/92 - 07/95 and 5/97 - 8/97)****Amtech Systems Corporation, Albuquerque, NM*

- Broad responsibilities in this startup company; primary areas of expertise included CAD, injection-molded product design, finite element analysis (FEA), packaging assembly and electronics and mechanical test analysis.
- Designed electronic packaging and enclosures for new radio identification (RFID) systems. Managed transition-to-production of the newly developed products. Designed, analyzed, scheduled and tested manufacturing tooling for these products.
- Developed and conducted mechanical vibration and environmental tests for new design verification.
- While doctoral candidate at VPI: Returned to Amtech for summer of 1997 as a contracted engineer, in order to resolve ongoing MRP (production) conflicts associated with the introduction of new products. Recommended capital investment alternatives to handle increases in electronic assembly production.

Space Systems Logistics Analyst (03/91 - 07/92) (Captain, US Air Force)*Air Force Operational Test and Evaluation Center (AFOTEC), Kirtland AFB, NM.*

- Managed the logistical testing of space satellite and ground support systems. Evaluated test data through either statistical analysis or computer projections through simulations. Logistics test analyst for all Strategic Defense Initiative (SDI) subprograms.
- Programs included:
 - Global Positioning System (GPS) Operational Equipment. Managed the test program, which collected reliability data on the Air Force's newly installed GPS equipment and satellites.
 - Command Systems Operations Center (CSOC). Located at Falcon Air Force Base, the facility tracked and received data from most of the Air Force's satellite systems. The test program evaluated the reliability, maintainability and suitability of the site under operational conditions.
 - Global Protection Against Limited Strikes (GPALS). A spin-off of the Strategic Defense Initiative (SDI), or "Star Wars," AFOTEC projected the system's reliability and maintainability.
 - Cheyenne Mountain Upgrade. This program upgraded the computer and communication capabilities of the Cheyenne Mountain complex. Managed the on-site test team during a phased equipment installation program.

Masters Graduate Student (04/89 - 3/99) (while serving as USAF Captain)*Air Force Institute of Technology (AFIT), Wright Patterson Air Force Base, OH*

- Thesis topic: Designing and Modeling of a Large Space Structure, sponsored by Boeing Aerospace, Seattle, Washington.
- Conducted research in the "bond graph" graphical modeling approach to dynamic mechanical system simulation, integration and control.
- Conducted postgraduate studies in reliability engineering and logistics.

9.4

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Mechanical & Processes Engineer (04/84 - 04/89) (USAF Captain, final rank)*Ogden Air Logistics Center, Scientific and Technical Division, Hill AFB, UT*

- Advanced Composites Engineer and Program Manager for the facility. Wrote the composites patch repair section of Air Force Composites Repair Handbook, 1988.
- Conducted redesign of F-16 parts for injection molding and other manufacturing processes.
- Developed wing trailing edge repair procedures for the Boeing Air Launched Cruise Missile.
- Assisted in the first implementation of CAD/CAM processes for the logistic center's landing gear refurbishment facility which was particularly targeted towards CNC milling.
- Improved the injection molding facility at military aircraft depot. Conducted personnel training, equipment procurement and facility layout.
- Human Factors Engineering Program Manager for the facility.

Co-op Engineering Intern (03/81 - 12/81)*Babcock & Wilcox Nuclear Power Generation Division (BWNPGD), Lynchburg, VA*

- CAD Drafting intern, creating engineering change order documentation for BWNPGD to support Three Mile Island federal and industry reviews.

ACADEMIC CAREER DETAILS***University Faculty Advisor, Intercollegiate Student Competitions***

- SAE Mini-Baja Competitions; represented NAU and mentored student teams at 29 intercollegiate student competitions since Spring 2003. Supported 7 additional teams, but arranged travel for other faculty and staff to attend those competitions.
 - American Institute of Aeronautics and Astronautics (AIAA) Unmanned Aerial Vehicle (UAV) Intercollegiate student competition. Dayton, OH, July 2007.
 - SAE AeroDesign Competition
 - Fort Worth, TX: [2005](#), [2011](#),
 - Van Nuys, CA: [2006](#), [2007](#), [2009](#), [2012](#), [2013](#), [2015-Micro](#), [2015-RegularClass](#) , 2018 Regular Class, 2018 Micro Class, 2019-Regular Class, 2019-Micro Class.
 - SAE-Baja Competition
 - Tucson, AZ: 2020
 - [Gorman, CA: 2019](#)
 - [Portland, OR: 2018](#)
 - [Gorman, CA: 2017](#)
 - [Portland, OR: 2015](#)¹
 - [El Paso, TX: 2014](#)
 - [Bellingham, WA: 2010](#)
 - [Burlington, WI: 2009](#)²
 - [Portland, OR 2006](#)
 - [Green Valley, AZ: 2005](#)
 - [Portland, OR: 2004](#)

¹ Team designed and built vehicle, but did not attend event that year.

² Dr. Tester did not attend due to Sabbatical.

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- [Provo, UT: 2003](#)
- SAE SuperMileage Car Competition
 - Detroit, MI: [2007](#), 2008
- Shell Ecomarathon
 - Pasadena, CA: [2007](#), [2008](#)
 - Houston, TX: [2010](#), [2011 \(two teams\)](#), [2012](#) (two teams, one vehicle), [2013](#), [2014](#)
- NASA Human Exploration Rover Challenge – [Montgomery, AL: 2015](#)
- ASME Human Powered Vehicle (HPV) competition – San Jose, CA: 2008.

Patents

- **John Tester and Andrew Dethlefs (2015). Cable Manipulator. [Publication No. US 20130193389 A1](#).**
- **John Tester and Andrew Dethlefs (2013). Electrical cable portable rotary manipulator. [Publication No. US8444115 B2](#); also under [US20090134266](#), [US20130193389](#).**

*Peer Reviewed Disseminations*³

Trevas, David; Tester, John; Improving Machine Design Instruction by Developing Computational Design Tools, ASEE Pacific Southwest (PSW) Conference, Los Angeles, CA, April, 2019

Tahir Uzma, Hessel Anthony L., Lockwood Eric R., Tester John T., Han Zhixiu, Rivera Daniel J., Covey Kaitlyn L., Huck Thomas G., Rice Nicole A., Nishikawa Kiisa C., “Case Study: A Bio-Inspired Control Algorithm for a Robotic Foot-Ankle Prosthesis Provides Adaptive Control of Level Walking and Stair Ascent,” *Frontiers in Robotics and AI*, v5, pg36, 2018, DOI=10.3389/frobt.2018.00036

Hessel AL, Tahir U, Petak J, LeMoyne RC, Han Z, Tester J and Nishikawa KC, A Neuromuscular Algorithm for a Powered Foot-Ankle Prosthesis Shows Robust Control of Level Walking and Stair Ascent, 2015 Dynamic Walking, June 2015 Columbus, OH

Tester, J; Development of a Product-oriented Manufacturing Processes Laboratory, American Society of Engineering Education (ASEE) Conference and Exposition, Seattle, WA, June 14-18, 2015

Tester, J; Design of an Assembly for a Manufacturing Processes Laboratory, ASEE Pacific Southwest (PSW) Conference, San Diego, CA, April 10-11, 2015

LeMoyne R, *Petak J*, Tester JT, Nishikawa KC (2014). Simulation of a computational winding filament model with an exponential spring to represent titin, 36th Annual International IEEE EMBS Conference, Chicago, IL, August 26-30, 2014.

Petak J, Heckathorne N, LeMoyne R, Dyer J, Yeo SH, Pai D, Tester J & Nishikawa K (2013). Winding filament muscle model for musculo-skeletal simulations. American Society of Biomechanics. September 2013, Omaha, Nebraska.

LeMoyne R, *Hessel A*, Tester J, Nishikawa K; Arizona Physiological Society; Ankle rehabilitation system using bio-inspired model actuator (Phoenix, AZ; November, 2013)

³ Author in italics indicates student advisee

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Tester JT, Yeo SH, Pai DK, Nishikawa KC; A new muscle model with implications for actuation and control. Dynamic Walking, Pensacola, FL, 2012.

John T. Tester, Rand Decker, "A Collaborative Examination of Engineering Education and STEM issues by the Engineering Schools of the West Initiative (ESWI) Affiliates," Proceedings of the 2012 ASEE PSW Section Conference, April 20, 2012, Cal Poly - San Luis Obispo.

Aaron Williams (NREL); Jonathon Burton (NREL); Earl Christensen (NREL); Bob McCormick (NREL); John T. Tester (Northern Arizona University), "Emissions from Various Biodiesel Sources Compared to a Range of Diesel Fuels in DPF Equipped Diesel Engines," Proceedings of the ASME 2011 Internal Combustion Engine Division Fall Technical Conference, October 2-5, 2011, Morgantown, WV, USA. ICEF2011-60106.

Xin He, John C. Ireland, Bradley T. Zigler, Matthew A Ratcliff, Keith E. Knoll, and Teresa L. Alleman (NREL) and John T. Tester (Northern Arizona University), "The Impacts of Mid-level Biofuel Content in Gasoline on SIDI Engine-out and Tailpipe Particulate Matter Emissions," SAE 2010 Powertrains, Fuels & Lubricants Meeting, October 25-27, 2010, San Diego, CA.

Xin He, John C. Ireland, Bradley T. Zigler, Matthew A Ratcliff, Keith E. Knoll, and Teresa L. Alleman, Jon H. Luecke (NREL) and John T. Tester (Northern Arizona University), "The Impacts of Mid-level Alcohol in Gasoline on SIDI Engine-out and Tailpipe Emissions," Proceedings of the ASME 2010 Internal Combustion Engine Division Fall Technical Conference, September 12-15, 2010, San Antonio, Texas, USA.

Urban, Jillian; Tester, John; "Using two-dimensional edge detection to produce three-dimensional medical prototypes from MRI data," 25th Southern Biomedical Engineering Conference 2009, Miami, Florida, May 15-17, 2009

Denzine, G.; Hamann, J.; Marley, R.; Munoz, D.; Plumb, C.; Porter, D.; Tester, J.; Wang, E.; "Perception of teaching excellence by faculty and administrators in the Engineering Schools of the West", Frontiers In Education (FIE), October 18-21, 2009, San Antonio, TX.

Tester, John T., "Management of a Large Team-Design and Robotics-Oriented Sophomore Design Class," Proceedings, 38th ASEE/IEEE Frontiers in Education Conference, October, 2008, Saratoga Springs, NY.

Tester, John T.; Wood, Perry G., "Assessing the Motivational Impact of Including Rapid Prototyping into a Freshman CAD Class," ASEE Pacific Southwest Conference, April, 2007, Flagstaff, AZ.

Tester, J., Hatfield, J., "Using an IR Network in a Robotic Competition Class," 36th ASEE/IEEE Frontiers in Education Conference, October 28 – 31, 2006, San Diego, CA.

Tester, John T., "Management of a Large, Robotics-Oriented Design Class," ASEE PSW Conference, April 11-13, 2007, Reno, NV.

Guo, Boyun; Holder, Donald W.; Tester, John T.; "Two-Phase Oxidizing Flow in a Volatile Removal Assembly Reactor under Microgravity Conditions," American Institute of Aeronautics and Astronautics (AIAA) Journal, 2005.

Tester, J., Haden, C., Hatfield, J., "Enhancement and Assessment of a Non-Traditional Engineering Design Course," ASEE 2005 Annual Conference and Exposition, Portland, OR, Jun 12-15 2005.

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Hatfield, J., Tester, J., "LEGO Plus," ASEE 2005 Annual Conference and Exposition, Portland, OR, Jun 12-15 2005. .

Tester, J., Hatfield, J., "The Design4Practice Sophomore Design Course: Adapting to a Changing Academic Environment," ASEE 2005 Annual Conference and Exposition, Portland, OR, Jun 12-15 2005. .

John T. Tester, David Scott, Jerry, Hatfield, Rand Decker, Fonda Swimmer; "Developing Recruitment and Retention Strategies Through "Design4Practice" Curriculum Enhancements," 34th ASEE/IEEE Frontiers in Education Conference, Savannah, GA, Oct. 2004. .

Hatfield, Jerry M.; Tester, John T., "Assessing individual performance within a team using peer evaluations," Proceedings, ASEE 2004 Annual Conference and Exposition, Salt Lake City, UT, Jun 20-23 2004.

Tester, J., and *Hargroder, T.*, "Reducing Distortion in simulated injection-molded wind turbine blades," ASME Wind Energy Symposium Technical Papers AIAA Aerospace Sciences Meeting and Exhibit, Reno, Nevada, Jan 5-8, 2004. .

Slack, R., Acker, T., Duque, E.P.N., and J. Tester, "Development of a Renewable Energy Engineering Instructional Laboratory," Proceedings of the World Renewable Energy Congress VIII, Denver, CO, August 23-27, 2004.

Tester, J., and *Hargroder, T.*, "Reducing Warp in Injection-Molded Wind Turbine Blades through Simulation and Design of Experiments," American Wind Energy Association (AWEA) Windpower 2003 Conference, Austin, Texas, 2003. .

Tester, J. T., "Combining renewable energy and design-for-manufacturing research in an undergraduate research project," Frontiers in Education, 2003. FIE 2003 33rd Annual, 5-8 Nov. 2003, S1E - 10-15 vol.3, Westminster, CO.

Tester, J. T., "Adaptation of a Cutting Stock Pattern Generation Algorithm to the PCB Panel Design Problem," Proceedings of the International Conference on Flexible Automation and Intelligent Manufacturing (FAIM'01), Ed: M. El-Baradie, T. Szecsi, W.G. Sullivan, M.M. Ahmad, Dublin, July 16-18, 2001.

Tester, J. T., "Reducing electronic panel assembly time via panel design selection," International Journal of Flexible Automation and Integrated Manufacturing, 7, Begell House, Inc., 1999, p. 47-66.

Mitchiner, R. J. and Tester, J. T., "Introducing Plastic Product Design into the Machine Design Curriculum," 1998 American Society for Engineering Education (ASEE) Annual Conference, Session 2566 Mechanical Engineering, Seattle, WA, June 1998. .

Tester, J. T., "The Need for Optimized Panel Design in the Electronic Assembly Process," *Seventh* International Conference on Flexible Automation and Intelligent Manufacturing (FAIM), Portland, OR, USA, June 1998.

Tester, J. T., "Industrial Engineering Research and Automation in Electronic Product Manufacturing," *Sixth* International Conference on Flexible Automation and Intelligent Manufacturing (FAIM), Middlesbrough, England, June 1997

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Tester, J. T. and Robinson, D. G., "Multidisciplinary Design of a Space System," IEEE International Conference on Systems Engineering, Fairborn, Ohio, August 1991. .

Posters

Romero, I, Tester, J, November 2017. Design of a Simple Test Fixture for a Powered Foot-Ankle Prosthesis. 5th ASU Rehabilitation Robotics Workshop, Tempe, AZ.

Tahir U, Petak JL, Tester, J, Nishikawa KC November 2015. A biologically inspired controller for a robotic prosthesis provides robust control during level walking and stair ascent. Graduate student symposium Northern Arizona University

Tahir U, Petak JL, Tester, J, Nishikawa KC November 2015. A biologically inspired controller for a robotic prosthesis provides robust control during level walking and stair ascent. Arizona physiological society annual meeting. *Best graduate student presentation awarded.*

Tahir, U, Petak JL, Tester J, Nishikawa KC. October 2015. A novel neuromuscular model for a robotic prosthesis based on velocity-dependent muscle activation. Society for neuroscience annual meeting

Hessel AL, Tahir U, Petak J, LeMoyne RC, Han Z, Tester J, Nishikawa KC. July 2015. Powered Ankle-Foot Prosthesis with a Bio-inspired Control Algorithm Successfully Produces Human Walking and Stair Ascent. Dynamic walking annual meeting

Hessel AL, Tahir U, Petak J, Tester J, Nishikawa KC. June 2015. A bioinspired control algorithm for a powered foot ankle prosthesis: robust control of level walking and stair ascent. Arizona Board of Regents Meeting.

Tester J, *Lockwood E, Petak J, Hessel A*, and Nishikawa K, Comparison of Ankle Torque Reporting Methods for a Robotic Prosthesis, , 2015 Dynamic Walking, June 2015 Columbus, OH .

Tahir U; Petak JL; Tester J; Nishikawa KC; Can a biologically-inspired control algorithm for an active prosthetic device improve the metabolic cost of transport in humans? AZ Bio Expo 2014.

Tester J, *Petak J, Tahir U, LeMoyne R, Nishikawa K.* July 2014. Implementation of a Winding Filament Muscle Model into a Robotic Ankle Prosthesis. World congress of biomechanics.

Tahir U, Petak J, Tester J Nishikawa KC, September 2014. Cost of transport using a biologically-inspired control algorithm for an active prosthetic device. AZ bio Expo

LeMoyne, R; Hessel; A; Tester, JT; Nishikawa, K; , September 2014. Ankle Rehabilitation System using Winding Filament Model Actuator, AZ bio Expo

LeMoyne R., Lemons D., Andaya J., Hessel A., Tester J., Nishikawa K.; Ankle rehabilitation device using 3D printing for therapy of ankle dorsiflexion, Arizona Physiological Society Meeting, July 2014.

Petak JA, Heckathorne N, LeMoyne R, Dyer JM, Yeo SH, Pai DK, Tester JT & Nishikawa K (2013). A new muscle model for neuro-musculo-skeletal simulations. 2013 Dynamic Walking. June 2013 Pittsburg, PA.

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Awbrey, D. A.; Tester, J. T., "Modeling of a Multi-Dimensional Simulation Platform," MSC 2009 Virtual Product Development Conference, Phoenix, AZ, April 20, 2009.

Professional & Technical Publications (non-refereed)

John Ireland, Aaron Williams, and Robert L. McCormick, (NREL), John Tester (NAU), Preliminary Measurement of Particle Size and Number Emissions from a DPF Equipped Heavy-Duty Engine, National Renewable Energy Laboratory, Non-Petroleum Based Fuels Program, FY2010 Milestone Report for Subtask 4: Effect of Biodiesel on PM Size/Number Emissions, September 2010.

John T. Tester, Sabbatical Project Report: Particulate Matter (PM) Test System Design for ReFUEL, delivered to the National Renewable Energy Laboratory (NREL) Renewable Fuels and Energy Laboratory (ReFUEL), May 15, 2010.

John T. Tester, "Observations and Comments from the Boeing Welliver Faculty Summer Fellowship at Mesa," submitted to The Boeing Corporation, August 10, 2005.

Hahn, Randall L.; Harter, Nathan W.; Mastrangelo, Christina M.; Mobolurin, Ayodele O.; Onyebueke, Landon C.; Petrick, Irene J.; Stutts, Daniel S.; Tester, John T. "Boeing Welliver Faculty Summer Fellowship, Group Report," submitted to The Boeing Corporation, August 10, 2005.

John T. Tester, "RACK DISTRIBUTION EFFECTS ON MPLM CENTER OF MASS—EXTENDED REPORT," NASA Technical report to Marshall Space Flight Center, Flight Projects Directorate, Pressurized Carriers Group, August 22, 2004.

John T. Tester and Jon Holladay, "RACK DISTRIBUTION EFFECTS ON MPLM CENTER OF MASS," Contribution to 2004 NASA/ASEE Summer Faculty Fellowship Program Final Report, Marshall Space Flight Center, Flight Projects Directorate, Pressurized Carriers Group, August 5, 2004.

Grant research proposals funded

- John Tester-Northern Arizona University, Krishna Muralidharan-University of Arizona, Bruno Azeredo-Arizona State University, "Advancing Additive Manufacturing Frontiers on Earth and Beyond," Regent Innovation Funds Grant Proposal. 2019-2020, \$350,000. NAU \$48,000.
- Kiisa C. Nishikawa (PI), John T. Tester (Co-PI), Kyle N. Winfree (Co-PI), Katherine Strausser (Co-PI; Ekso Bionics), "PFI: AIR-TT: Preflex versus Reflex Control of a Multijoint Robotic Exoskeleton," NSF 16-583, 2017-2018, \$199,903
- Zhiu (PI, iWalk, Inc.), Nishikawa, K., (Co-PI), Tester, J. (Senior Personnel) (2014) *STTR: Emulating Biological Actuation*, NSF STTR; \$199,000.
- Tester, J. (2014-present) RAPIDLab ongoing budget (not counted as grant revenues after 2014).
- Catherine Propper, Biology. (2013) Co-PI: John T. Tester, Mech. Engineering; Niranjana Ventrakaman, Elect. Engineering. *Ultra-sensitive Assay System for Evaluation of Water Contaminants: Functionalization and Field Testing*. Arizona Technology Research and Innovation Fund (TRIF), \$59,140.
- Tester, J. (PI), & Nishikawa, K. (Co-PI) (2012-present. *Emulating Biological Actuation*. NSF Partnership for Innovation (PFI) - \$599,804.
 - Tester, J. (2013 & 2014) *Research Experience for Undergraduates (REU) Supplement, to NSF PFI grant*; \$32,000 total
- Tester, J. (2013) RAPIDLab Proposal-- Personnel support for prototyping development. TRIF \$86,763.

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- Tester, J.(PI), Nishikawa, K. (Co-PI), Venkatraman, N. (Co-PI) (2012). Developing the muscle-emulating robotic actuator. TRIF - \$99,994 (Tester Portion: \$49,600)
- Tester, J. (2012), RAPIDLab CAD Support Expansion. TRIF \$12,490.
- Tester, J. (2012). RAPIDLab Proposal--3D Printer with high detail. TRIF \$54,761.
- Tester, J. (2012) RAPIDLab Proposal-- Benchtop injection molding machine. TRIF \$28,937
- Nishikawa, K. (PI), & Tester, J. (Co-PI) (2011) Intellectual Property Development (IP-Dev), Robotic Actuator Post-doctorate support. NAU Office of Vice President for Research (OVPR), \$150,000.
- Propper, C (PI), Tester, J. (Co-PI) (2011). *Ultra-sensitive Assay System for Evaluation of Water Contaminants: Functionalization and Field Testing*. TRIF \$15,091 (Tester Portion \$4300).
- Tester, J. (PI) (2011), *Equipment Proposal for Research Instrumentation and Small Business Innovation Support* , NAU OVPR, \$26,552.
- Tester, J. (PI) (2011), *RAPIDLAB Computer Numerical Control Mill*, NAU OVPR, \$65,421.
- Tester, J. (PI) (2011), *RAPIDLAB Polymer Based Material 3D Printer*, NAU OVPR, \$134,705.
- Tester, J. (PI) (2010), *RAPIDLAB Building Utilities Upgrades*, Unsolicited proposal to NAU OVPR, \$215,000.
- Tester, J.; (PI) (2006)“Use of Robotic-assisted Insulated Cable (RIC) Manipulator Device to Mitigate Soft Tissue Repetitive Motion Injuries (STRMI) – Detailed Design & Field Testing,” sponsored by the Salt River Project, Inc. (SRP). (2006). \$40,000

Grants, Other funded:

- Acker, T.(PI), Tester, J. (Co-PI), Kipple, A. (Co-PI), (2013), *National Collegiate Wind Competition NAU Team Proposal*, National Renewable Energy Laboratory, \$24,986.
- *Urban, Jillian*; Tester, J (mentor); (2008) *Two-Dimensional Edge Detection to Produce Three Dimensional Medical Prototypes from MRI Data*, NASA Space Internship Proposal. \$2700.
- Tester, J.; APS Capstone Educational Donation, Mechanical and Multidisciplinary Design Projects. \$20,000.
- Tester, J.; Marley Entrepreneurship Education Planning Grant, NAU Business School, (2008), \$800 0
- Tester, J.; “The Northern Arizona University Skyjacks AIAA UAV Competition,” Air Force Research Laboratory. USAF/AIAA, (2006) \$7,000.
- Tester, J.; “Travel Grant for NAU/NMSU Engineering Education Collaboration,” Engineering Schools of the West Initiative (ESWI) Sustainable Collaboration grant, (2006) \$5000.
- SAE@NAU Student Chapter; Dr. John Tester, Advisor: Shell EcoMarathon Competition successful early entry award. Shell Oil, (2006) \$10,000.
- SAE@NAU Student Chapter; Dr. John Tester, Advisor: Arizona Community Foundation/ GeoFund donation to the SAE Student branch, (2006) \$5,000
- Tester, J.; “Restructuring EGR 286 for Retention and Outreach: The Next Steps,” from the NAU CENS Hewlett Pipeline Committee; Co-PI Jerry Hatfield. 2004, \$42,500.
- Tester, J.; NASA Space Grant for Undergraduate Research—“Simulation of system dynamics for small wind turbines,” \$4800, Funded: 2004.
- Tester, J.; Hooper Undergraduate Research Assistantship sponsor—“Development of new course materials for sophomore design course,” \$5,040, Funded: 2004.
- Tester, J.; “Support for SAE Mini-Baja Student Competition and Outreach,” from the NAU CENS Hewlett Pipeline Committee; Funded: 2004, \$3,000.
- Tester, J.; “Restructuring EGR 286 for Retention and Outreach,” from the NAU CENS Hewlett Pipeline Committee; Co-PI Jerry Hatfield. Funded: 2003, \$34,000.

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- Tester, J.; “Sustainable Product Realization,” from NAU ERDENE. Investigate developing an NAU technical group with resources to assist and stimulate renewable energy-related business growth in Arizona. Funded: 8/03, \$30,000.
- Tester, J.; NASA Space Grant for Undergraduate Research—Investigation of twist in injection molded wind turbine blades, \$7850, 2002.
- Tester, J.; Hooper Undergraduate Research Assistantship sponsor—CAD Simulation of twist in injection molded wind turbine blades, \$6700, 2002.
- Tester, J.; Arizona Tri-University Distance Masters Course Development Grant for Product Realization course, \$5300, 2002.
- Tester, J.; Turbine blade development for the Sustainable Energy Systems (SES) research group, Summer 2000, \$8,100; 2002, \$3200.
- Tester, J.; Arizona Tri-University Distance Masters Course Development Grant for Manufacturing Systems Engineering course, \$5300, 2001.

Professional Service

- Board Director, ASEE PSW (American Society of Engineering Education-Pacific Southwest) Division, 2017-present
- Chair, Faculty Awards, ASEE PSW (American Society of Engineering Education-Pacific Southwest) Division, 2010-2017
- Chair, Student Awards, ASEE PSW (American Society of Engineering Education-Pacific Southwest) Division, 2008-2010
- Reviewer, ASEE National Conference, 2001-Present
- Reviewer, ASEE PSW Conference, 2004 – Present
- Reviewer for Frontiers in Education (FIE), 2003- 2011
- Hewlett Foundation Engineering Schools of the West workshops
 - Palo Alto, CA 2009
 - Sedona, AZ 2011
 - Bozeman, MT 2013
- Western Association of Graduate Schools Innovation in Technology Award, Dissertation reviewer, 2010-2011

Membership

- Member, ASEE, 2000-Present
- Member, SAE, 2000-Present
- Member, ASME, 2000-2016

Professional Development

- HAAS CNC mill training, Tempe, AZ, Fall 2011, Fall 2012, Fall 2015.
- Training for operation of Objet Pro 3D printing system; PADT, Inc., Tempe, AZ, Fall 2013.
- Hewlett Foundation-sponsored Engineering Schools of the West (EWSI) workshop, Bozeman, Montana, “First year Engineering Education Classes Best Practices” 7/22-24, 2012
- Fortus 400mc additive manufacturing system training; PADT, Inc., Tempe, AZ, Spring 2012
- D4P Workshop, NAU campus, Fall 2012, Fall 2013
- NSF MILL pre-proposal workshop. 11/4/10-11/5/10.
- Veterans in Education Workshop, University of San Diego. September 2010.
- CMS Training Fall 2011
- SUCEED Workshops participant, Flagstaff, AZ, 2008, 2009, 2006

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Courses list

Undergraduate courses, Northern Arizona University

Dates	Course	Credit Hours	Student level	Typical Enrollment	Comments
Fall 2006, Fall 2007, Fall 2008	Mechanical Engineering Capstone Design I ME 476C	3	Senior	32	First Semester of Senior Capstone Design course.
Spring 2007, Spring 2008, Spring 2009	Mechanical Engineering Capstone Design II ME 486	3	Senior	32	Second Semester of Capstone Design course. Also required development and planning for the NAU Undergraduate Research and Design Conference.
Fall 2002, 2006, 2008, 2010, 2011, 2013, 2014, 2015, 2017, 2018, 2019, Spring 2004	Manufacturing Processes (lecture) ME 467	3	Junior, Senior	81	Introduction to basic materials-based manufacturing methods. An integrated weekly hands-on laboratory was part of the offering (4 hours total) in 2002, 2004 and 2006). Today, lecture hall styled class, with laboratory separate, due to increased enrollment.
Fall 2008, 2010, 2011, 2013, 2014, 2015, 2018	Manufacturing Processes Lab ME 467L	1	Junior, Senior	18	Oriented to making a simple, final product, using manual and CNC machining, welding and assembly.
Fall 2004, Spring 2003, 2006, 2012, 2014, 2016, 2017	Kinematics and Synthesis of Mechanisms ME 484	3	Junior, Senior	50	Analysis and design of mechanisms. Incorporating computer 3D modeling tools, such as Solidworks, ADAMS, I-deas, and Unigraphics
Fall 2012, Spring 2002, 2005, 2007, 2011, 2014, 2019	Advanced CAD/CAM ME 482 (was 381)	3	Junior, Senior	33	Introduction to the mathematics, programming, and applications behind Computer-Aided Design and Manufacturing (CAD/CAM).
Fall 2010, 2011, 2018, 2010, Spring 2012,	Engineering Graphics (CAD) ME 180	3	Freshman	30	Introduction to CAD. Currently using SolidWorks, in past led transitions to SDRC I-deas, Unigraphics, SolidEdge, then SolidWorks.

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Dates	Course	Credit Hours	Student level	Typical Enrollment	Comments
2018, 2019					
Spring 2001, 2002, 2003, 2004, 2005	Mechanical Engineering Design ME 386	3	Junior	35	Technical, project-oriented design with engineering analysis tools, including CAD, CAM and FEA.
Fall 2013, Spring 2013, 2015	Engineering Design EGR 386W	3	Junior	35	Redesigned EGR 386 course to incorporate basic technical writing skills; multidisciplinary for Mechanical, Electrical, Civil, and Environmental Engineering
Fall 2006, Spring 2006	Student Project Development ME 399	1	Under-grad	3	Students, other than senior capstone students, earned credit for national engineering competition project work (aka, SAE, ASME).
Fall 2003	Automotive Engineering ME 399	2	Under-grad	6	Modular Learning —collaborative effort with visiting international exchange professor from Dresden, Germany, in Automotive Engineering.
Fall 2000	Materials Science ME 340	3	Junior	35	Emphasis on materials science in manufacturing processes.
Fall 2000, 2001, 2003, 2004, 2006, 2011, Spring 2001, 2004, 2006, 2007, 2011, 2012, 2013	Engineering Design EGR 286	3	Soph	30-60	Team design in engineering-oriented projects. Concentrating on presentation skills, documentation, and ethics through a mechatronics-oriented project.

9.4

Graduate courses, Northern Arizona University

Dates	Course	Credit Hours	Student level	Typical Enrollment	Comments
Spring 2014, 2015, 2016	Advanced Engineering Design EGR 502	3	Grad ⁴	16	Multidisciplinary Design, focusing on system optimization and simulation. Includes graduate students in Electrical, Mechanical, Civil, and Environmental Engineering.

⁴ Masters of Science was highest level of degree in Mechanical Engineering until 2018

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Dates	Course	Credit Hours	Student level	Typical Enrollment	Comments
Fall 2001, 2003, Fall 2005	Mfg Systems Engr & Mgmt ME 555	3	Grad	12	Manufacturing systems. Elective in masters program. <i>Archived with increased enrollment</i>
Fall 2002, 2003	Product Realization ME 550	3	Grad	8	Introduction of product realization analysis and management tools. <i>Archived, given increased undergraduate enrollment assignments.</i>

Undergraduate courses, Virginia Tech

Dates	Course	Credit Hours	Student level	Typical Enrollment	Comments
					<u>Virginia Tech Courses taught as post-doctoral graduate.</u>
Spring 2000	Deterministic Operations Research ⁵	3	Soph	30	Mathematics course required for Industrial Engineering undergraduate students
Spring 2000	Aerospace Manufacturing ⁵	3	Junior and Senior	18	Joint class with Aerospace Engineering department. Knowledge-based course (no laboratory). Field trips to nearby aerospace companies.
Fall 1999 ⁶	Manufacturing Processes Laboratory ⁵	1	Soph	260	Introduction to classic manufacturing processes. Thirteen laboratories, one per each weekly, 3-hour session.

⁵ Offered at Virginia Polytechnic Institute and State University

⁶ Twelve sections required; in charge of seven graduate student instructors who taught some labs, graded most assignments, and reports with my solution keys and directions.

Tennessee Tech University

Board of Trustees



FACULTY TENURE CERTIFICATION STATEMENT

One faculty member is hereby recommended for tenure upon appointment.

If this recommendation is approved, the percentage of tenured faculty members at Tennessee Tech University in Fall 2020 will be 60%.

DATE: September 2, 2020

9.4

Tennessee Tech University
Board of Trustees



FACULTY TENURE RECOMMENDATIONS FOR 2020 – 2021

Recommended personnel are listed alphabetically by last name. An asterisk indicates faculty also being recommended for promotion.

	Name	Department/Division	Current Rank
1	Tester, John	General and Basic Engineering	Associate Professor

9.4

Agenda Item Summary

Date: September 29, 2020

Agenda Item: Approval of Temporary Part-time Continuation of Employment of University Counsel

Review

Action

No action required

PRESENTER: President Oldham

PURPOSE & KEY POINTS: The Executive Committee approved the temporary part-time continuation of employment for Kae Carpenter as University Counsel until a full-time general counsel is hired and an overlap period is no longer required.


10.1



Office of the President

TENNESSEE TECH

MEMORANDUM

To: Executive Committee – Board of Trustees
From: Dr. Philip Oldham, President 
Date: September 9, 2020
Subject: Appointment of a Direct Presidential Report

10.1

Upon the retirement on June 30, 2020 of Kae Carpenter as University Counsel for Tennessee Tech, a national search began immediately for the next General Counsel. The national search resulted in several qualified candidates with top candidates identified and a hire is imminent.

Effective July 1, 2020, I am recommending that the Executive Committee approve the temporary, part-time continuation of employment for Kae Carpenter as University Counsel until a full-time general counsel is hired and an overlap period is no longer required. This will allow for consistency and continuity on legal matters.



Agenda Item Summary

Date: September 29, 2020

Agenda Item: President's Performance Review for FY20

Review

Action

No action required

10.2

PRESENTER(S): Chair Harper

PURPOSE & KEY POINTS:

The Executive Committee is responsible for organizing and conducting an annual performance review of the President. Vice-chair Vanhooser reported on the status of the President's performance review.

2020 SCHEDULE FOR PRESIDENT'S EVALUATION

PLEASE NOTE THAT ALL DOCUMENTS RELATED TO EVALUATIONS ARE CONFIDENTIAL PURSUANT TO TENNESSEE CODE ANNOTATED SECTION 10-7-504(a)(26)

June 23	Quarterly Board meeting
June 25	The President's confidential self-assessment is due to the Executive Committee ("EC"). The President's Office will provide faculty evaluations to the EC.
June 25	The EC sends the President's confidential self-assessment to Board members and requests their confidential assessments of the President via an assessment survey. The EC also sends an assessment survey to Cabinet members.
July 10	Board and Cabinet members' confidential assessments of the President are due to the EC.
By July 31	The Executive Committee Representative ("ECR") completes a confidential summary of the assessments and confidentially shares the summary with the EC.
By August 14	The ECR meets with the President to discuss the combined assessments.
By August 28	The ECR drafts a confidential evaluation based on the combined assessments and meeting with the President and sends the confidential draft evaluation to the President and the Board.
By September 11	Board members may provide additional confidential written comments, which the ECR may incorporate into the final confidential written evaluation.
By September 25	The ECR gives the final confidential written evaluation to the President and the Board.
September 29	Quarterly Board meeting



Agenda Item Summary

Date: September 29, 2020

Agenda Item: Consideration of a Periodic Comprehensive Review of the President

Review

Action

No action required

10.3

PRESENTER(S): Chair Harper

PURPOSE & KEY POINTS:

The "Procedures for President's Performance Reviews and Comprehensive Reviews" requires the following: "Two years after the first annual assessment of the President is conducted, the Executive Committee should consider whether or not to perform a comprehensive review of the President's performance in a subsequent year."

Periodic Comprehensive Review

(Excerpted from "Procedures for President's Performance Reviews and Comprehensive Reviews")

1. Two years after the first annual assessment of the President is conducted, the Executive Committee should consider whether or not to perform a comprehensive review of the President's performance in a subsequent year.
2. If such a comprehensive review is to be performed, the Executive Committee may choose to engage the assistance of one or more external advisors.



Agenda Item Summary

Date: September 29, 2020

Agenda Item: Board Self-Evaluation

Review

Action

No action required

10.4

PRESENTER: Chair Harper

PURPOSE & KEY POINTS: Tennessee Tech's accreditation body, SACSCOC, requires Tennessee Tech to have a board that "regularly evaluates its responsibilities and expectations." SACSCOC Principle 4.2.g. As evidence of that requirement, SACSCOC recommends a board self-evaluation.

The Executive Committee discussed and is recommending a Board self-evaluation.

Board Self-Evaluation 2019-2020

DRAFT

Printed On: September 08,
2020

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As part of its obligation to assess the performance and effectiveness of the Board, the Executive Committee is soliciting written feedback from the Board members on the Board's operations and processes.

All responses will be submitted anonymously and are a very important step in ensuring the Board is operating as meaningfully as possible. The Executive Committee thanks you in advance for providing this feedback.

Board Self-Evaluation 2019-2020

DRAFT

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Q: 1

The board understands its responsibilities, including its fiduciary responsibilities.

Not able to assess Strongly disagree Disagree Agree Strongly Agree

Comments (optional)

Q: 2

The Board understands its ethical duties, including conflict of interest issues.

Not able to assess Strongly disagree Disagree Agree Strongly Agree

Required *

Comments (optional)

Q: 3

The Board receives sufficient training and information related to its responsibilities, including its fiduciary and ethical duties.

Not able to assess Strongly disagree Disagree Agree Strongly Agree

Required *

Comments (optional)

Q: 4

The Board's structure aids the Board in completing its work in a timely and efficient manner.

Not able to assess Strongly disagree Disagree Agree Strongly Agree

Required *

Comments (optional)

Q: 5

The materials in the committee and board books are relevant to the the agenda and are helpful.

10.4

Board Self-Evaluation 2019-2020

DRAFT

Printed On: September 08, 2020

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Not able to assess Strongly disagree Disagree Agree Strongly Agree

Required *

Comments (optional)

[Empty text box for comments]

Q: 6

The Board ensures the regular review of Tennessee Tech's mission statement and strategic plan.

Not able to assess Strongly disagree Disagree Agree Strongly Agree

Required *

Comments (optional)

[Empty text box for comments]

Q: 7

The Board keeps itself informed of Tennessee Tech's performance against predetermined plans and goals.

Not able to assess Strongly disagree Disagree Agree Strongly Agree

Required *

Comments (optional)

[Empty text box for comments]

Q: 8

The roles and responsibilities of the Board are clearly defined and separate from those of Tennessee Tech's employees.

Not able to assess Strongly disagree Disagree Agree Strongly Agree

Required *

Comments (optional)

[Empty text box for comments]

Q: 9

The Board's role in setting Tennessee Tech's policies is appropriate.

Not able to assess Strongly disagree Disagree Agree Strongly Agree

10.4

Board Self-Evaluation 2019-2020

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Required *

Comments (optional)

[Empty text box for comments]

Q: 10

The Board delegates to the President authority to lead Tennessee Tech's employees and to carry out its mission.

- Not able to assess
 - Strongly disagree
 - Disagree
 - Agree
 - Strongly Agree
-

Required *

Comments (optional)

[Empty text box for comments]

Q: 11

The Board's method for evaluating the President's performance is satisfactory.

- Not able to assess
 - Strongly disagree
 - Disagree
 - Agree
 - Strongly Agree
-

Required *

Comments (optional)

[Empty text box for comments]

Q: 12

The Board fully discusses Tennessee Tech's annual budget and understands it prior to approving it.

- Not able to assess
 - Strongly disagree
 - Disagree
 - Agree
 - Strongly Agree
-

Required *

Comments (optional)

[Empty text box for comments]

Q: 13

The Board regularly reviews Tennessee Tech's fiscal health and takes any necessary actions.

- Not able to assess
 - Strongly disagree
 - Disagree
 - Agree
 - Strongly Agree
-

Required *

10.4

Board Self-Evaluation 2019-2020

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Comments (optional)

[Empty text box for comments]

Q: 14

The Board provides visionary leadership for Tennessee Tech.

Not able to assess	Strongly disagree	Disagree	Agree	Strongly Agree
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Required *

Comments (optional)

[Empty text box for comments]

10.4

Q: 15

Board members demonstrate integrity.

Not able to assess	Strongly disagree	Disagree	Agree	Strongly Agree
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Required *

Comments (optional)

[Empty text box for comments]

Q: 16

The Board is an effective decision-making body.

Not able to assess	Strongly disagree	Disagree	Agree	Strongly Agree
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Required *

Comments (optional)

[Empty text box for comments]

Q: 17

Is the Board devoting its attention to Tennessee Tech's major issues?

[Empty text box for comments]

Required *

Q: 18

Are there major issues to which the Board should devote more time?

[Empty text box for comments]

Board Self-Evaluation 2019-2020

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*Required **

Q: 19

What advice would you offer to the Board to sustain or improve its relationship with the Tennessee Tech community?

*Required **

Q: 20

What other information would you like to share regarding the Board's performance?

*Required **

10.4

Board Self-Evaluation 2019-2020

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SUBMISSION PAGE

Thank you for your participation in this questionnaire!

Select the submit option to mark your responses as final and complete your participation in this questionnaire. If you would like to review or change any of your responses, use the previous button to access prior pages.



Agenda Item Summary

Date: September 29, 2020

Division: Planning and Finance

Agenda Item: Financial Update

Review

Action

No action required

PRESENTERS: Dr. Claire Stinson, Vice President for Planning and Finance

PURPOSE & KEY POINTS:

Operating Budget Updates: Update on University finances including tuition and fee revenue projections based on fall semester enrollments. Committee will be updated on status of budget reductions implemented at the beginning of the fiscal year.

Capital Budget Updates: Matching requirement for new engineering building will be discussed with the committee and the committee will be provided an update on the status of private funds designated for the match requirement. The committee will receive a briefing on proposed new residence hall to be located on the west side of campus.

12.1



Agenda Item Summary

Date: September 29, 2020

Division: Planning and Finance

Agenda Item: Employee Performance Evaluation Analysis

Review

Action

**No action
required**

PRESENTERS: Dr. Leslie Hardin, Associate Vice President of Human Resources

PURPOSE & KEY POINTS:

Overview of FY20 employee performance outcomes.

12.1



Agenda Item Summary

Date: September 29, 2020

Division: Planning and Finance

Agenda Item: Engineering Building Design Presentation

Review

Action

No action required

PRESENTERS: Garry Askew, Bauer Askew Architecture and Kim Chamberlin, Upland Design

PURPOSE & KEY POINTS:

Presentation on design drawings for the new Engineering Building.

12.1



Agenda Item Summary

Date: September 29, 2020

Agenda Item: Announcement of 2021 Regular Board Meeting Dates

Review

Action

No action required

PRESENTER: Chair Harper

PURPOSE & KEY POINTS:

The meeting dates for 2021 will be as follows:

March 11

June 24

September 23

December 2

13.1