

**Policy Title:** General Policy on Student Conduct and Disciplinary Sanctions

**Policy Type:** Student **New/revised:** Revised

**Old Policy #:** 3:02:00:01

**Approval level:**  Board of Trustees  
 President  
 Vice President  
 Other (specify here)

**Purpose:** The ETSU Board of Trustees authorizes the University to take such action as may be necessary to maintain campus conditions and preserve the integrity of the institution and its educational environment. Institutional policies on this subject shall be subject to prior review and approval by University Counsel and Student Affairs.

**Part I Institution Policy Statement**

**Part II Disciplinary Offenses**

**Part III Academic and Classroom Misconduct**

**Part IV Disciplinary Sanctions**

**Part V Disciplinary Procedures**

**Policy:**

**I. INSTITUTION POLICY STATEMENT**

- A. Students enrolled in postsecondary educational institutions are citizens of their civic communities as well as the academic community. As such they are expected to conduct themselves as law-abiding members of each community at all times. Admission to an institution of postsecondary education carries with it special privileges and imposes special responsibilities apart from those rights and duties enjoyed by non-students. In recognition of the special relationship that exists between the institution and the academic community which it seeks to serve, the ETSU Board of Trustees has authorized the presidents of the institution to take such action as may be necessary to maintain campus conditions and preserve the integrity of the institution and its educational environment.
- B. Pursuant to this authorization and in fulfillment of its duties to provide a secure and stimulating atmosphere in which individual and academic pursuits may flourish, the University has developed rules, which are intended to govern student conduct. The institution may expand on these regulations, subject to Board approval. Following are East Tennessee State University's ("ETSU" or "the University") policies. In addition, students are subject to all federal, state and local laws and ordinances. If a student's violation of such laws or ordinances also adversely affects the institution's pursuit of its educational objectives, the institutions may enforce their own regulations regardless of the status or outcome of any external proceedings instituted by other civil or criminal authorities.
- C. For the purpose of these regulations, a "student" shall mean any person who is admitted and/or registered for study at the University for any academic period. This shall include any period of time following admission and/or registration, but preceding

the start of classes for any academic period. It will also include any period which follows the end of an academic period through the last day for registration for the succeeding academic period, and during any period while the student is under suspension from the institution. Finally, "student" shall also include any person subject to a period of suspension or removal from campus as a sanction which results from a finding of a violation of the regulations governing student conduct. Students are responsible for compliance with the Rules of Student Conduct and with similar institutional policies at all times.

- D. Disciplinary action may be taken against a student for violation of the regulations which occur on institutionally owned, leased or otherwise controlled property, while participating in international or distance learning programs, and off campus, when the conduct impairs, interferes with, or obstructs any institutional activity or the mission, processes, and functions of the institution. Institutions may enforce their own regulations regardless of the status or outcome of any external proceedings instituted in any other forum, including any civil or criminal proceeding.
- E. These regulations, and related material incorporated herein by reference, are applicable to student organizations as well as individual students. Student organizations are subject to discipline for the conduct and actions of individual members of the organization while acting in their capacity as members of, or while attending or participating in any activity of, the organization.
- F. Confidentiality of Discipline Process. Subject to the exceptions provided pursuant to the Family Educational Rights and Privacy Act of 1974 (FERPA), 20 USC 1232g and/or the Tennessee Open Records Act, TCA § 10-7-504(a)(4), a student's disciplinary files are considered "educational records" and are confidential within the meaning of those Acts.

## II. DISCIPLINARY OFFENSES

- A. Institutional disciplinary measures shall be imposed, through appropriate due process procedures, for conduct which adversely affects the institution's pursuit of its educational objectives, which violates or shows a disregard for the rights of other members of the academic community, or which endangers property or persons on property owned or controlled by an institution.
- B. ETSU has adopted the following non-exclusive list providing notice of offenses for which both individuals and organizations may be subject to disciplinary action:
  - 1. **Conduct Dangerous to Self or Others.** Causing physical harm to any person (including oneself); endangering the health or safety of any person (including oneself); engaging in conduct that causes a reasonable person to fear harm to his/her health or safety; or making an oral or written statement that an objectively reasonable person hearing or reading the statement would interpret as a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.
  - 2. **Hazing.** Hazing, as defined in TCA § 49-7-123(a)(1), means any intentional or reckless act, on or off the property, of any higher education institution by an individual acting alone, or with others, which is directed against any other person(s) that endangers the mental or physical health or safety of that person(s), or which induces or coerces a person(s) to endanger such person(s) mental or physical health or safety. Hazing does not include customary athletic events or similar contests or competitions, and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization;

3. **Disorderly Conduct.** Any individual or group behavior which is abusive, obscene, lewd, indecent, violent, excessively noisy, disorderly, or which unreasonably disturbs institutional functions, operations, classrooms, other groups or individuals;
4. **Obstruction of or Interference with institutional activities or facilities.** Any intentional interference with or obstruction of any institutional, program, event, or facility including the following:
  - a. Any unauthorized occupancy of institution or institutionally controlled facilities or blockage of access to or from such facilities
  - b. Interference with the right of any institution member or other authorized person to gain access to any activity, program, event or facilities sponsored or controlled by an institution,
  - c. Any obstruction or delay of a campus security officer, public safety officer, police officer, firefighter, EMT, or any official of an institution, or failure to comply with any emergency directive issued by such person in the performance of his or her duty;
5. **Misuse of or Damage to Property.** Any act of misuse, vandalism, malicious or unwarranted damage or destruction, defacing, disfiguring or unauthorized use of property belonging to another including, but not limited to, any personal property, fire alarms, fire equipment, elevators, telephones, institution keys, library materials and/or safety devices;
6. **Theft, Misappropriation, or Unauthorized Sale of Property;**
7. **Misuse of Documents or Identification Cards.** Any forgery, alteration of or unauthorized use of institutional documents, forms, records or identification cards, including the giving of any false information, or withholding of necessary information, in connection with a student's admission, enrollment or status in the institution;
8. **Firearms and Other Dangerous Weapons.** Any possession of or use of firearms, dangerous weapons of any kind, or replica/toy guns, e.g. BB guns, pellet guns, paintball guns, water guns, cap guns, toy knives or other items that simulate firearms or dangerous weapons;
9. **Explosives, Fireworks, and Flammable Materials.**
10. **Alcoholic Beverages.** The use and/or possession of alcoholic beverages on institution owned or controlled property. This offense includes the violation of any local ordinance, state, or federal law concerning alcoholic beverages, on or off institution owned or controlled property, including but not limited to where an affiliated group or organization has alcoholic beverages present and available for consumption;
11. **Drugs.** The unlawful possession or use of any drug or controlled substance (including, but not limited to, any stimulant, depressant, narcotic or hallucinogenic drug, or marijuana), sale or distribution of any such drug or controlled substance. This offense includes the violation of any local ordinance, state, or federal law concerning the unlawful possession or use of drugs and the misuse of legally prescribed or "over the counter" drugs on or off institution owned or controlled property;
12. **Drug Paraphernalia.** The use or possession of equipment, products or materials that are used or intended for use in manufacturing, growing, using or distributing any drug or controlled substance. This offense includes the

violation of any local ordinance, state, or federal law concerning the unlawful possession of drug paraphernalia, on or off institution owned or controlled property;

13. **Public Intoxication.** Appearing on institution owned or controlled property or at an institutional sponsored event while under the influence of a controlled substance or of any other intoxicating substance;
14. **Gambling.** Unlawful gambling in any form;
15. **Financial Irresponsibility.** Failure to meet financial responsibilities to the institution promptly including, but not limited to, knowingly passing a worthless check or money order in payment to the institution or to a member of the institution community acting in an official capacity;
16. **Unacceptable Conduct in Disciplinary Proceedings.** Any conduct at any stage of an institutional disciplinary proceeding or investigation that is contemptuous, disrespectful, threatening, or disorderly, including false complaints, testimony or other evidence, and attempts to influence the impartiality of a member of a judicial body, verbal or physical harassment or intimidation of a judicial board member, complainant, respondent or witness;
17. **Failure to Cooperate with Institutional Officials.** Failure to comply with directions of institutional officials acting in the performance of their duties;
18. **Violation of General Rules and Regulations.** Any violation of the general rules and regulations of the institution as published in an official institutional publication, including the intentional failure to perform any required action or the intentional performance of any prohibited action;
19. **Attempts, Aiding and Abetting.** Any attempt to commit any of the offenses listed under this section or the aiding or abetting of the commission of any of the offenses listed under this section (an attempt to commit an offense is defined as the intention to commit the offense coupled with the taking of some action toward its commission). Being present during the planning or commission of any offense listed under this section will be considered as aiding and abetting. Students who anticipate or observe an offense must remove themselves from the situation and are required to report the offense to the institution;
20. **Violations of State or Federal Laws.** Any violation of state or federal laws or regulations proscribing conduct or establishing offenses, which laws and regulations are incorporated herein by reference;
21. **Violation of Imposed Disciplinary Sanctions.** Intentional or unintentional violation of a disciplinary sanction officially imposed by an institution official or a constituted body of the institution;
22. **Sexual Battery or Rape.** Committing any act of sexual battery or rape as defined by state law; May include any sexual act or penetration which is accompanied by threat, coercion, use of restraint or force, or any sexual act where the respondent knows, or should have known, that the victim was unable or incapable of giving consent.
23. **Sexual Misconduct.** An offense including acts of sexual assault, domestic violence, dating violence and/or stalking as defined in East Tennessee State University's Student Sexual Misconduct Policy. All matters involving

allegations of sexual misconduct will be governed by the procedures set forth in East Tennessee State University's Student Sexual Misconduct Policy.

24. **Harassment or Retaliation.** Any act by an individual or group against another person or group in violation of ETSU policies, as well as federal and/or state laws prohibiting discrimination, including, but not limited to, East Tennessee State University's Student Sexual Misconduct Policy.;
25. **Academic Misconduct.** Plagiarism, cheating, fabrication. For purposes of this section the following definitions apply:
  - a. **Plagiarism.** The adoption or reproduction of ideas, words, statements, images, or works of another person as one's own without proper attribution,
  - b. **Cheating.** Using or attempting to use unauthorized materials, information, or aids in any academic exercise or test/examination. The term academic exercise includes all forms of work submitted for credit or hours,
  - c. **Fabrication.** Unauthorized falsification or invention of any information or citation in an academic exercise.
26. **Unauthorized Duplication or Possession of Keys.** Making, causing to be made or the possession of any key for an institutional facility without proper authorization;
27. **Litter.** Dispersing litter in any form onto the grounds or facilities of the campus;
28. **Pornography.** Public display of literature, films, pictures or other materials which an average person applying contemporary community standards would find, (1) taken as a whole, appeals to the prurient interest, (2) depicts or describes sexual conduct in a patently offensive way, and (3) taken as a whole, lacks serious literary, artistic, political or scientific value;
29. **Abuse of Computer Resources and Facilities.** Misusing and/or abusing campus computer resources including, but not limited to the following:
  - a. Use of another person's identification to gain access to institutional computer resources,
  - b. Use of institutional computer resources and facilities to violate copyright laws, including, but not limited to, the act of unauthorized distribution of copyrighted materials using institutional information technology systems,
  - c. Unauthorized access to a computer or network file, including but not limited to, altering, using, reading, copying, or deleting the file,
  - d. Unauthorized transfer of a computer or network file,
  - e. Use of computing resources and facilities in a manner that interferes with normal operation of the institutional computing system,
  - f. Use of computing resources and facilities that violate ETSU policy or state or federal law,
  - g. Violation of any published information technology resources policy,
  - h. Unauthorized peer-to-peer file sharing;
30. **Unauthorized Access to Institutional Facilities and/or Grounds.** Any unauthorized access and/or occupancy of institutional facilities and grounds is prohibited, including, but not limited to, gaining access to facilities and grounds that are closed to the public, being present in areas of campus that

are open to limited guests only, being present in academic buildings after hours without permission, and being present in buildings when the student has no legitimate reason to be present;

31. **Providing False Information.** Giving any false information to, or withholding necessary information from, any institutional official acting in the performance of his/her duties in connection with a student's admission, enrollment, or status in the institution;
32. **Unauthorized Surveillance.** Making or causing to be made unauthorized video or photographic images of a person in a location in which that person has a reasonable expectation of privacy, without the prior effective consent of the individual, or in the case of a minor, without the prior effective consent of the minor's parent or guardian. This includes, but is not limited to, taking video or photographic images in shower/locker rooms, residence hall rooms, and men's or women's restrooms, and storing, sharing, and/or distributing of such unauthorized images by any means;
33. **Tobacco/Smoking Violations.** Violation of any institutional smoking or other tobacco use rules or policies.

- C. Disciplinary action may be taken against a student for violations of the foregoing regulations which occur at or in association with enrollment at the institution governed for any academic period. Each student shall be responsible for his/her conduct from the time of application for admission through the actual awarding of a degree including periods prior to or between semesters. Conduct occurring while a student is registered or enrolled at the institution, but not discovered until after the awarding of a degree is actionable under these provisions and may result in the retroactive application of a disciplinary sanction. Should a student withdraw from the institution with disciplinary action or academic misconduct action pending, the student's record may be encumbered by the appropriate institutional office until the proceedings have been concluded.

### III. **ACADEMIC AND CLASSROOM MISCONDUCT**

- A. The instructor has the primary responsibility for maintenance of academic integrity and controlling classroom behavior, and can order the temporary removal or exclusion from the classroom of any student engaged in disruptive conduct or conduct that violates the general rules and regulations of the institution for each class session during which the conduct occurs. Extended or permanent exclusion from the classroom, beyond the session in which the conduct occurred, or further disciplinary action can be effected only through appropriate procedures of the institution.
- B. Plagiarism, cheating, and other forms of academic dishonesty are prohibited. Students guilty of academic misconduct, either directly or indirectly, through participation or assistance, are immediately responsible to the instructor of the class. In addition to other possible disciplinary sanctions which may be imposed through the university's academic misconduct policy as a result of academic misconduct, the instructor has the authority to assign an "F" or a zero ("0") for the exercise or examination, or to assign an "F" in the course.
- C. Students may appeal a grade assignment associated with a finding of academic misconduct, as distinct from a student disciplinary sanction, through the university's academic misconduct procedure. Courses may not be dropped pending the final resolution of an allegation of academic misconduct. (See Part 5 Disciplinary Procedures, Paragraph (6) Academic Misconduct Procedures).

- D. Disruptive behavior in the classroom may be defined as, but not limited to, behavior that obstructs or disrupts the learning environment (e.g., offensive language, harassment of students and professors, repeated outbursts from a student which disrupt the flow of instruction or prevent concentration on the subject taught, failure to cooperate in maintaining classroom decorum, etc.), text messaging, and the continued use of any electronic or other noise or light emitting device which disturbs others (e.g., disturbing noises from beepers, cell phones, PDAs (personal digital assistants), palm pilots, lap-top computers, games, etc.).
- E. Class attendance and punctuality requirements are established by the faculty in the printed syllabus for each course. Students are expected to attend classes regularly and on time and are responsible for giving explanations/rationale for absences and lateness directly to the faculty member for each course in which they are enrolled. In cases where student absences are the result of emergency circumstances (e.g., death in the family, a student's serious injury or incapacitating illness), for which students are unable to make immediate contact with faculty, the student may contact the Office of Student Affairs for assistance in providing such immediate notification to faculty. However, the student remains responsible for verifying the emergency circumstances to faculty and for discussing arrangements with faculty for completion of coursework requirements. Both give guidance and clarification to both students and faculty on matters of classroom conduct and attendance requirements.

#### IV. DISCIPLINARY SANCTIONS

- A. Upon a determination that a student or student organization has violated any of the disciplinary offenses set forth in these regulations, institutional disciplinary policies, or the general policies of the institution, disciplinary sanctions may be imposed, either singly or in combination, by the appropriate institution officials.
- B. Definition of Sanctions:
  - a. **Restitution.** Restitution may be required in situations which involve destruction, damage, or loss of property, or unreimbursed medical expenses resulting from physical injury. When restitution is required, the student or student organization is obligated by the appropriate judicial authority to compensate a party or parties for a loss suffered as a result of disciplinary violation(s). Any such payment in restitution shall be limited to actual cost of repair, replacement or financial loss;
  - b. **Warning.** The appropriate institutional official may notify the student or student organization that continuation or repetition of specified conduct may be cause for other disciplinary action;
  - c. **Reprimand.** A written or verbal reprimand or censure may be given to any student or student organization whose conduct violates any part of these regulations and provides notice that any further violation(s) may result in more serious penalties;
  - d. **Service to the Institution or Community.** A student, or student organization, may be required to donate a specified number of service hours to the institution performing reasonable tasks for an appropriate institution office, official(s), or the local community. The service required shall be commensurate to the offense (e.g., service for maintenance staff for defacing institutional property);
  - e. **Specified Educational/Counseling Program.** A student or student organization may be required to participate in specified educational or counseling program(s) relevant to the offense, or to prepare a project or report concerning a relevant

topic. This may include but is not limited to a mandated visit to the University Counseling Center for an initial evaluation and documented follow through on any prescribed treatment program;

- f. **Apology.** A student or student organization may be required to apologize to an affected party, either verbally or in writing, for the behavior related to a disciplinary offense;
- g. **Fines.** Penalties in the form of fines may be imposed against a student or student organization whenever the appropriate institutional authority deems appropriate. The sanction of fines may be imposed in addition to other forms of disciplinary sanctions. Failure to pay fines may result in further disciplinary action. All funds from fines for violation of university drug and/or alcohol policies will be used to support the university's alcohol and drug education and awareness programs.
- h. **Restriction.** A restriction upon a student's or student organization's privileges for a period of time may be imposed. This restriction may include, for example, denial of the ability to represent the institution at any event, ability to participate in institution sponsored travel, use of facilities, parking privileges, participation in extracurricular activities or restriction of organizational privileges;
- i. **Probation.** Continued enrollment of a student or recognition of a student organization on probation may be conditioned upon adherence to these regulations. Any student or organization placed on probation will be notified in writing of the terms and length of the probation. Probation may include restrictions upon extracurricular activities, or any other appropriate special condition(s). Any conduct in further violation of these regulations 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;
- j. **Suspension.** Suspension is the separation of a student or student organization from the institution for a specified period of time. Suspension may be accompanied by special conditions for readmission or recognition;
- k. **Expulsion.** Expulsion entails a permanent separation from the institution. The imposition of this sanction is a permanent bar to the student's admission, or a student organization's recognition to the institution. A student or organization that has been expelled may not enter institution property or facilities without obtaining prior approval from an appropriate campus official with knowledge of the expulsion directive;
- l. **Delay and/or Denial of Degree Award.** During the period disciplinary charges are pending against a student, the university may deny and/or delay issuance of a degree. Further, the university may refuse to issue a degree to a student who is serving a suspension or has been expelled from the university;
- m. **Revocation of Admission, Degree, or Credential;**
- n. **Housing Probation.** Continued residence in campus or student housing may be conditioned upon adherence to these regulations as well as institutional housing regulations. Any resident placed on housing probation will be notified in writing of the terms and length of the probation. Probation may include restrictions upon the activities of the resident, including any other appropriate special condition(s);



- o. **Housing Suspension and Forfeiture.** A resident suspended from housing may not reside, visit, or make any use whatsoever of a housing facility or participate in any housing activity during the period for which the sanction is in effect. A suspended resident shall be required to forfeit housing fees (including any unused portion thereof and the Housing Deposit). A suspended resident must vacate the housing unit. Housing suspension shall remain a part of the student resident's disciplinary record.
  - p. **Any alternate sanction** deemed necessary and appropriate to address the misconduct at issue;
  - q. **Interim Suspension.** As a general rule, the status of a student or student organization accused of violation of these regulations should not be altered until a final determination has been made in regard to the charges. However, interim suspension, pending the completion of disciplinary procedures, may be imposed upon a finding by the appropriate institutional official that the continued presence of the accused on campus constitutes an immediate threat to the physical safety and well-being of the accused, any other member of the institution its guests, property, or substantial disruption of classroom or other campus activities. In any case of interim suspension, the student, or student organization, shall be given an opportunity at the time of the decision, or as soon thereafter as reasonably possible, to contest the suspension.
  - r. **Student Organization Suspension.** In the event that a student organization is suspended from the University, the organization may not, during the term of the suspension, engage in or sponsor any activity or program, and may not hold meetings nor recruit members; engage in social functions of any type; use university buildings, facilities, property, and equipment; use university resources, services, or funds; participate or attempt to participate as an organization in any University event; or co-sponsor or participate as an organization in another registered/recognized organization's activities. Suspension may be accompanied by special conditions for readmission or recognition.
- C. The president of East Tennessee State University is authorized, at his or her discretion, to intervene in order to negotiate a mutually acceptable resolution to any disciplinary proceeding, or, subsequently, to convert any sanction imposed to a lesser sanction, or to rescind any previous sanction, in appropriate cases.

V. **DISCIPLINARY PROCEDURES**

- A. **General:** In the implementation of regulations pertaining to discipline and conduct of students, the University shall insure the constitutional rights of students by affording a system of constitutionally and legally sound procedures which provide the protection of due process of law. In furtherance of this mandate, East Tennessee State University has established the following policies setting forth the disciplinary procedures for the institution.
- B. **UAPA:** All cases which may result in: (a) suspension or expulsion of a student, or student organization, from the institution, for disciplinary reasons or (b) revocation of registration of a student organization, are subject to the contested case provisions of the Tennessee Uniform Administrative Procedures Act (UAPA), TCA § 9-8-01 et seq., and shall be processed in accord with the Uniform Contested Case procedures unless the student or organization, after receiving written notice, waives those procedures and elects to have the case disposed of in accord with institutional procedures or waives all

right to contest the case under any procedure. These procedures shall be described in the institution's policy.

- C. **Institutional Procedures:** For matters not subject to the requirements of UAPA, or matters in which a student has waived his/her right to a UAPA hearing, East Tennessee State University has established the following procedures to address complaints of student or student organization misconduct.

1. **Determination of Procedure to be Used**

- a. A disciplinary case involving violations of university regulations or infringements upon student rights may be reviewed under Institutional Administrative Procedures or may be referred to the appropriate judicial board for review under Institutional Judicial Procedures, as determined by the appropriate university official.
- b. The university official who shall determine who shall hear a case and whether an alleged violation of university regulations shall be processed under the Institutional Administrative Procedures or the Institutional Judicial Procedures is as follows:
  - i. The Director of Housing or designee, where the alleged violation is of the regulations of the Residence Hall Association (RHA).
  - ii. The Associate Dean of Students or designee, where the alleged violation of university regulations are other than those of the RHA.
- c. Determinations of which procedures shall be utilized for processing an alleged violation of university regulations shall be at the discretion of the appropriate university official; provided, however, the relationship between the hearing officer and the accused student must be one which is free from duress or coercion, and is a relationship which is objective and conducive to the purpose of an administrative hearing.
- d. If a student chooses to admit to a violation of law or university regulations, the student may request that the sanction be imposed by the appropriate university official. At this hearing, the student may present witnesses and other evidence relevant to the offense that may mitigate the disciplinary sanction in the student's favor.

2. **Description of Institutional Administrative Procedures**

- a. The university official hearing each case, in cases held under Institutional Administrative Procedures, shall be as follows:
  - i. The Director of Housing, Associate Director of Housing, Area Coordinators, or Apartment Managers, or designee where the alleged violation is of the Residence Hall Association (RHA).
  - ii. The Dean of Students or designee where the alleged violation is of university regulations other than those of the RHA.
- b. Due process procedures shall be observed in all administrative hearings under Institutional Administrative Procedures.
- c. Appeals Under Institutional Administrative Procedures (See Part V Disciplinary Procedures, Paragraph C. Institutional Procedures, Subpart 4. Appeals)
  - i. Cases heard by the Director of Housing or designee may be appealed to the Dean of Students or designee.

- ii. Cases heard by the Dean of Students or designee may be appealed to the Vice President for Student Affairs or designee.

### 3. **Description of Institutional Judicial Procedures**

- a. Purpose of the Judiciary. The purpose of Institutional Judicial Procedures shall be to provide fair and just treatment in cases involving either violation of university regulations or infringements upon students' rights, and to take appropriate measures for those found guilty.
- b. Due process procedures shall be observed in all hearings under Institutional Judicial Procedures
- c. Components of the Judiciary. The Judiciary of East Tennessee State University shall consist of the following components:
  - i. The University Judicial Committee shall be the highest court authorized by the university president.
  - ii. The Student Court shall be the next highest court within the student judicial system.
  - iii. The Residence Hall Association (RHA), Inter-Fraternity Council (IFC), Panhellenic Council (PC), and the Pan-Hellenic Council (PHC) Judicial Boards shall each be lower courts within the student judicial system.

### 4. **Appeals**

- a. All cases may be appealed by the student or organization in question to the next higher judicial authority in accordance with the Appeal Procedures provided below.
- b. Appeals for decisions of the University Judicial Board will be reviewed by the Vice President for Student Affairs. The decision of the Vice President for Student Affairs is final.
- c. Appeal Procedures
  - i. If the accused desires to appeal, a statement of reasons for appealing must be forwarded to the Dean of Students (or designated college official for academic misconduct cases). This statement must be filed within three (3) days following receipt by the accused of a copy of the decision being appealed.
  - ii. The statement of reasons for appeal will be forwarded to the appropriate appeal board or officer, which will set a date for reviewing the case and notify the accuser.
  - iii. Appeal hearings are not new disciplinary hearings; they are a review of the existing case. It is not the function of the appeals process to permit a rehearing of the factual issues presented to the adjudicating body, but rather it is to ensure that the disciplinary procedures has been implemented fairly and consistently with these rules.
  - iv. Grounds for Appeal. The appeal must specify grounds which would justify consideration. The written appeal must contain the substantive proof upon which the appellant is basing the appeal. Appeals that do not include the specific information that substantiates the appeal will be immediately denied. General dissatisfaction with the outcome of the decision shall

not be accorded as a basis for consideration of an appeal. An appeal may be filed based on one of the following conditions:

- i. an error in procedural due process by the body of original jurisdiction which prejudiced the disciplined student to the extent that he/she was denied a fundamentally fair hearing as a result of the error; or
  - ii. the emergence of new evidence which could not have been previously discovered by the exercise of due diligence and which, had it been presented at the initial hearing, would have substantially affected the original decision of the adjudicating body; or
  - iii. the respondent feels that the assigned sanctions are unduly harsh.
- v. Appeals which do not allege sufficient grounds shall be denied consideration and dismissed. Appeals which do allege sufficient grounds will be accepted for consideration and forwarded to the appellate body. The appellate body may, at its own discretion, permit written or oral statements from the concerned parties at the time the appeal is considered.
- vi. The appeal board or officer, upon reviewing the case, will have several options. The original decision may be affirmed or reversed. In cases where the original action is inappropriate as a result of issues involved in the appeal, the appeal board or officer may revert the case back to the original board or hearing officer, modify the original action, or hold a completely new hearing
- vii. The appeal board or officer will notify the accused of the outcome of the appeal in writing within fifteen (15) business days.
- d. Special Provisions Applicable to Both Institutional Administrative Procedures and Institutional Judicial Procedures
- i. Failure to Appear. If the accused student fails to appear at the scheduled hearing or provide adequate notice of excuse, the hearing officer or court may:
  - ii. Reset a formal hearing of the case for the next scheduled meeting.
  - iii. Dispose of the case in whatever manner it deems just based upon available information

**D. Institutional Judicial Hearings:**

**1. Composition and Selection of the Courts. The composition of the University Judiciary Courts shall be as follows:**

- a. The University Judicial Committee shall be composed of the Assistant Dean of Students or designee, President of the Student Government Association (SGA) or designee, Chief Justice of SGA, an Associate Justice, and three of the faculty members appointed to serve by the Vice President for Student Affairs. Alternates may be appointed. Members are appointed to renewable one year terms. Quorum is 2/3 of the composition of the court. Each member shall have (1) vote. Members

may continue to serve until such time as their replacements are appointed or elected and receive all required training.

- b. The Student Court shall be composed of a Chief Justice and seven (7) Associate Justices, one of whom shall be designated to serve as the alternate Chief Justice. Alternates may be appointed. Each member shall be appointed by the SGA president and confirmed by a majority of the Student Senate present and voting. Members are appointed to renewable one year terms. Quorum is 2/3 of the composition of the court. Each justice shall have (1) vote, with the Chief Justice voting only to break a tie. Alternate Justices may be appointed. Members may continue to serve until such time as their replacements are appointed or elected and receive all required training.
  - c. The Residence Hall Association Judicial Board shall be composed of five members appointed by the Director of Housing after being confirmed by a majority of the Residence Hall Association present and voting. Alternates may be appointed. Members are appointed to renewable one year terms. At least three members must be present to have quorum. Each member shall have (1) vote. Alternate Justices may be appointed. Members may continue to serve until such time as their replacements are appointed or elected and receive all required training.
  - d. The Inter-Fraternity Council Judicial Board shall be composed of one representative from each member organization. The Executive Vice-President of IFC shall chair the Committee. Members are appointed to renewable one year terms. Alternates may be appointed. Quorum is 2/3 of the composition of the court. Each member shall have (1) vote, with the Chair voting only to break a tie.
  - e. The Panhellenic Council (PC) Judicial Board shall be composed of one representative from each member organization. The Executive Vice-President of the PC shall chair the Committee. The Vice-President for Internal Communication shall serve as Vice-Chair. Members are appointed to renewable one year terms. Alternates may be appointed. Quorum is 2/3 of the composition of the court. Each member shall have (1) vote.
  - f. The Pan-Hellenic Council (PHC) Judiciary Committee shall be composed of the president from each member organization. The Vice-President of the PHC shall chair the Committee. Members are appointed to renewable one year terms. Alternates may be appointed. Quorum is 2/3 of the composition of the court. Each member shall have (1) vote, with the Chair voting only to break a tie.
  - g. Board members will receive annual training on the student conduct system process, due process, and the hearing of cases. Additionally Student Court and University Judicial Committee members will receive specialized annual training related to hearing Sexual Misconduct cases.
2. **Powers and Limitations. The relative powers of the components of the Judiciary are as follows:**
- a. The University Judicial Committee shall exercise the highest judicial authority on campus, next to that of the Vice President for Student Affairs and the University President or his/her designee. This

committee's authority shall include the right to suspend or expel a student.

- b. The next highest judicial authority shall be vested in the Student Court. All sanctions, with the exception of suspension and expulsion, are available to the Student Court. The Student Court shall have the power to request any member of the student body, a representative from any campus organization, or any faculty member or administrator to appear before the court, provided that the subpoena/request is issued in writing at least five (5) days prior to the appearance.
- c. The Residence Hall Association, the Inter-Fraternity, Panhellenic, and the Pan-Hellenic Judicial Boards shall provide, through their respective constitutions, the powers and limitations of their respective judicial boards, all of which shall be subordinate to the Student Court

**3. Operation of the Courts. All cases that enter the University Judiciary shall be administered through the appropriate channel:**

- a. Any member of the university community may file a complaint against any student for misconduct. Complaints shall be submitted in writing and directed to the Dean of Students. A complaint should be submitted as soon as possible after the event takes place, preferably within ten (10) days of the alleged misconduct.
  - i. Violations of official university regulations other than regulations of the RHA, IFC, the PC's, or General Policies on Student Organizations shall be reported directly to the Dean of Students, who shall either direct that the case be reviewed under the Institutional Administrative Procedures or referred to the appropriate judicial board.
  - ii. Violations of the internal standards of the RHA, the IFC, or PC's shall be reported to the authorities designated in their respective constitutions. Violations of General Policies on Student Organizations shall be reported to the Director of Student Activities.
  - iii. The RHA authorities shall report the case to the Housing office, where the Director of Housing or designee shall either direct that the case be reviewed under the Institutional Administrative Procedures or referred to the Residence Hall Judicial Board.
  - iv. The IFC, PC, and PHC authorities shall report the case to the Director of Student Activities who shall refer the case to the Dean of Students who will either direct that the case be reviewed under the Institutional Administrative Procedures or referred to the Inter-Fraternity Judicial Board, the Panhellenic Judicial Board, or the Pan-Hellenic Judicial Committee.
  - v. Violations of the Student Government Constitution or Code of Laws shall be reported to the Student Government Vice President, who shall refer the case to the Dean of Students. The Dean of Students shall direct that the case be heard by the Student Court.

- b. All judicial decisions must be reported in writing to the Dean of Students within two (2) class days from such time as the decision has been reached.
- c. Due process procedures shall be observed in all hearings under Institutional Judicial Procedures.
- d. The circumstances surrounding all cases handled by the University Judiciary shall be confidential
- e. The official records of all cases shall be maintained by the Student Affairs office.
- f. All official correspondence concerning the decision of a judicial board, court, or committee shall be by the Dean of Students or designee, except in cases involving interpretation of the Student Government Constitution or Code of Laws. The Chief Justice of the Student Court shall make written report of the decision and the circumstances surrounding it, taking care to exclude any information of a personal nature, to the Attorney General of the SGA.
- g. All hearings by the judicial boards, court, or committee shall be held in closed session unless otherwise requested by the defendant.
- h. All subsequent meetings concerning readmission of students or reinstatement of organizational charters shall be initiated through the Associate Dean of Students or designee.

**4. Jurisdiction of the Courts**

- a. Each judicial board or court may serve as a court of original jurisdiction
  - i. The University Judicial Committee shall hear those cases involving a student who is accused of violating general university regulations, and if found guilty, may be subject to suspension or expulsion from the institution, who have waived their right to a hearing pursuant to UAPA procedures. The Committee shall also hear other cases deemed appropriate by the Dean of Students.
  - ii. The Student Court shall have original jurisdiction in those cases involving alleged violations of general university regulations which do not warrant suspension or expulsion. The Student Court shall also hear those cases involving alleged violations of the Student Government Constitution or Code of Laws, and any other cases deemed appropriate by the Dean of Students.
  - iii. The Residence Hall Judicial Board shall have the original jurisdiction in cases involving violation of Housing regulations, standards established by its constitution, and any other cases referred to it by the Director of Housing.
  - iv. The IFC, the PC, or PHC Judicial Boards shall have the original jurisdiction only in cases involving violations of regulations specified in their own Constitution and By-Laws.

- E. **Minimum Requirements of Due Process for Institutional Hearings:** Students subject to any disciplinary sanction are entitled to a due process hearing unless that right is waived by the student after receiving written notice of the available procedures. For matters not subject to the requirements of UAPA, or matters in which a student has waived his/her right to a UAPA, East Tennessee State University has established the following

guidelines and rights to address complaints of student or student organization misconduct.

**1. Hearing Guidelines**

- a. At least seventy-two (72) hours prior to the hearing the accused student is entitled to written notification of the time, date, and place of the hearing and of his rights as outlined below.
- b. At least seventy-two (72) hours prior to the hearing the accused student is entitled to a written statement of the charges in sufficient detail as to enable the student to prepare a case, including how the alleged violation came to the attention of the university.
- c. All administrative hearings and hearings of judicial bodies will be closed, except to the accused, his/her advisor, the complainant, his/her advisor, the members of the appropriate judicial board/committee, or individual administrator assigned to the case. Witnesses may also appear upon request of the members of the appropriate judicial board/committee, or individual administrator assigned to the case, the accused, or the complainant.
- d. In hearings involving more than one accused student, the chairperson of the judicial body or individual administrator assigned to the case, in his or her discretion, may permit the hearings concerning each student to be conducted separately
- e. In cases heard by a judicial board, the accused student or complainant may challenge the ability of a judicial member to render an impartial judgment and may request the member's removal at that time. The judicial board will rule on the request. If any members of a judicial board feel that their relationship with either the case or the individuals involved would affect their ability to render an impartial judgment, they may disqualify themselves
- f. The complainant and the accused have the right to be assisted by any advisor they choose, at their own expense. The advisor may be an attorney. The accused is responsible for presenting his or her own case and advisors are not permitted to speak or to participate directly in any hearing before a judicial body.
- g. The university, the accused, the complainant and the judicial body shall all have the privilege of presenting witnesses, subject to the right of questioning by the judicial body.
- h. Pertinent records, exhibits and written statements may be accepted as evidence for consideration by a judicial body at the discretion of the chairperson
- i. The accused student and the complainant are entitled to ask questions of the hearing officer, of the judicial board, and of any witnesses called before the administrative or judicial hearing.
- j. Hearings shall proceed in the following order:
  - i. Reading of the charges
  - ii. The student's denial or admission of the charges
  - iii. Presentation of evidence by the university and questions by the student charged and/or the hearing body



- iv. Presentation of evidence by the student charged and questions by the university and/or the hearing body, and
    - v. Closing statement by both parties
  - k. After the hearing, the judicial body shall determine (by majority vote if the judicial body consists of more than one person) whether the student has violated each section of the Student Code of Conduct which the student is charged with violating.
  - l. The judicial body's determination shall be made on the basis of the "preponderance of the evidence", meaning, whether it is "more likely than not" that the accused student violated the Student Code of Conduct.
  - m. The student shall be notified in writing of the decision of the hearing body/authority within five (5) days of the hearing or the judicial body's decision. Every attempt will be made to verbally notify the student of the decision prior to the five (5)-day period. In cases involving alleged sexual assault and/or sexual misconduct, both the accused and accuser shall be notified in writing within five (5) days of the judicial body's decision.
  - n. There shall be a single record, such as minutes or a tape recording, of all hearings before a judicial body. The record shall be the property of the university.
  - o. Any question of interpretation regarding the Student Code of Conduct shall be referred to the Vice President for Student Affairs or the Dean of Students
  - p. The student shall be advised of the method and time limitations for appeal, if any is applicable
2. **Victim's Rights**
- a. Some actions that violate the university regulations involve victimization of one or more students by another student(s). This behavior may include acts of theft or damage to property, physical violence, and other acts that endanger the safety of others in the university community. If a student has filed a complaint and is identified as a victim, that student is entitled to certain rights during the disciplinary process.
  - b. If a charge is filed with the appropriate judicial official, it is important to remember that the accused student is being charged with violating a university rule or regulation. Although a victim's input may be sought during the disciplinary process, the ultimate disposition of the case rests with the university. If a victim withdraws his or her complaint during the course of the disciplinary proceeding, the university reserves the right to proceed with the case on the basis of evidence other than the testimony of the victim.
  - c. During the course of a disciplinary proceeding, victims have the following rights:
    - i. During the course of a disciplinary proceeding, victims have the following rights:
    - ii. To submit a written account of the alleged incident.

- iii. To be advised of the date, time and location of the disciplinary hearing, and to request rescheduling of the hearing for good cause.
- iv. To be accompanied by an advisor of the victim's choosing during the hearing process, although the advisor will not be permitted to speak for the victim during the hearing.
- v. To testify as a witness during the hearing.
- vi. To decline to testify, with knowledge that such action could result in dismissal of the university's charges for lack of evidence.
- vii. To submit a written impact statement to the hearing panel for consideration during the sanctioning phase of the disciplinary process

3. **All matters involving allegations of impermissible discrimination, harassment (including, but not limited to, sexual violence or misconduct), or retaliation will be governed by the procedures outlined in Student Sexual Misconduct Policy and/or an institutional policy that reflects the requirements of that Guideline. In cases involving alleged sexual assault and/or misconduct, both the accuser and the accused shall be entitled the following:**

- a. a pre-hearing meeting in which rights, procedures, and process are reviewed.
- b. the same opportunity to have others present during a disciplinary proceeding
- c. to be informed of the outcome of any disciplinary proceeding involving allegations of sexual assault and/or sexual misconduct,
- d. to be informed at least 2 business days in advance of the judicial board members or hearing officer who will hear a case and of any witnesses who are being called
- e. that the judicial board members or hearing officer has received sexual assault/misconduct adjudication training
- f. the accuser will have the same right to appeal (if any) as those afforded the accused
- g. the accuser will also be notified when the complaint is delivered to the accused

F. **ACADEMIC MISCONDUCT PROCEDURES**

Academic misconduct will be subject to disciplinary action. Any act of dishonesty in academic work constitutes academic misconduct. Penalties for academic misconduct, beginning with the first offense, will vary with the seriousness of the offense and may include, but are not limited to: a grade of "F" on the work in question, a grade of "F" of the course, reprimand, probation, suspension, and/or expulsion. For a second academic misconduct offense the penalty may be permanent expulsion from the University. Allegations of academic misconduct will be handled pursuant to the procedures described below as distinct from other student disciplinary matters. In any cases where suspension or expulsion are possible sanctions, the student shall be entitled to the option of having a UAPA hearing (detailed in Part 6 Disciplinary Procedures, Paragraph (2) UAPA) and shall be given at least five (5) days in which to choose the UAPA or the formal hearing process.

1. **Administration of Discipline Procedures**

- a. Charges of academic misconduct may be brought by members of the faculty, staff, or student body.
- b. For undergraduate and graduate students, cases in which an instructor, or other individual, determines that a student has committed an act of academic misconduct, the matter will be reported in writing to both the student and to the dean of the school or college in which the alleged misconduct occurred. Cases of alleged academic misconduct involving graduate students (including those enrolled in the Ph.D. program in Biomedical Sciences within the College of Medicine) will be reported to the Dean of the Graduate School. Alleged violations of students at the Quillen College of Medicine (COM) or the Gatton College of Pharmacy (COP) will be adjudicated through the respective college procedure: the Student Honor System as detailed in the COM Student Handbook and the Academic Misconduct section of the COP Student Handbook.
- c. The dean of the school or college in which the alleged misconduct occurred or their designee will investigate the report of misconduct and will obtain all information pertinent to the investigation. After having made this investigation, the official will arrange a conference with the student against whom the allegations of misconduct have been made. At this conference the student will be informed, in writing, of the allegations.
- d. The student will not be subjected to any form of pressure to coerce admission of guilt or information about his/her conduct or that of others after gathering all the facts of the case
- e. Based on the investigation of the reported misconduct, including any information provided by the accused student, the official shall determine whether the allegations have been substantiated. In cases where the charges are substantiated, the official shall determine an appropriate sanction, and attempt to resolve the matter without initiating a formal disciplinary hearing. Potential sanctions may include any penalty up to, but not including, suspension or expulsion from the institution.
- f. The student may accept the proposed resolution of the matter or elect to have a formal hearing. In the event the student elects to waive the hearing and accept the suggested punishment the official shall prepare a waiver of hearing for the student's signature.

2. **Formal Hearing Procedures**

For undergraduate and graduate students, the student will be informed, in writing, of the time and place of the hearing, as well as the specific allegations. The student also will be advised of the structure and procedure for the hearing, the range of possible punishment, and his/her right to be accompanied by an advisor. Such notice should be given at least seven (7) days in advance of the hearing. The dean or designee will designate three (3) faculty members and three (3) students, from a standing college or school committee on academic misconduct to hear the charges. The standing committee shall be appointed by the Dean of each school or college for one year and shall consist of a minimum of eight (8) members, four (4) faculty

members and four (4) students). Neither the individual bringing the charges, nor the dean or his/her agent shall be members of the hearing committee.

- a. Both the accused and the accuser shall be entitled to be present throughout the hearing, until the hearing committee goes into executive session.
- b. At the hearing, it shall be the responsibility of the dean or designee to be present and to coordinate the presentation of evidence relevant to the alleged misconduct.
- c. The student will bear the burden of proof by a preponderance of the evidence.
- d. The student may be accompanied by an advisor.
- e. The student shall be given an opportunity to testify and present evidence and witnesses relevant to the charges and penalties involved and to cross-examine any witnesses. In no case will the committee consider statements against the student unless he/she has been advised of their contents and the names of those who made them and given opportunity to rebut any unfavorable inferences which might be drawn from them. The student may decline to testify, with knowledge that silence may be considered as evidence.
- f. The committee is not bound by strict rules of evidence. Determinations as to the admissibility of evidence in the hearings rest solely in the discretion of the committee.
- g. The disciplinary hearing shall be private, unless otherwise requested by the student, in writing, and a record of it shall be made.
- h. After all evidence has been presented; members of the committee will meet in executive session to deliberate on the charges. The committee's decision and recommendation shall be based on a majority vote of the six committee members, all of whom must be present at the hearing.
- i. Upon a finding against the student, the committee shall recommend such penalty as deemed appropriate.
- j. If the committee recommends expulsion or suspension and the dean concurs, the approval of the vice president for academic affairs must be obtained. The dean then advises the student of the dean's decision and of the student's right to appeal to the president

### 3. Appeals

Appeal from a finding of guilt of academic misconduct and the imposition of a sanction for the offense may be taken to the president of the university. (See Part V Disciplinary Procedures, Paragraph C. Institutional Procedures, Subpart 4. Appeals)

- G. **Interim Suspension Hearings:** Hearings conducted with regard to interim suspensions imposed pending the outcome of a disciplinary investigation or proceeding shall be conducted consistent with the minimum requirements of due process applicable to an institutional hearing, taking into account the need for a timely hearing. The evidence presented at the hearing shall be limited to that which is relevant to the basis asserted for imposition of the interim suspension.
- H. The president of East Tennessee State University is authorized, at his or her discretion, to intervene in order to negotiate a mutually acceptable resolution to any disciplinary

proceeding, or, subsequently, to convert any finding or sanction imposed to a lesser finding or sanction, or to rescind any previous finding or sanction, in appropriate cases.

3/24/2017 – approved by the Board of Trustees.