



**EAST TENNESSEE STATE
U N I V E R S I T Y**

**Policy Development
and Administrative Rulemaking**

Policy Name: Policy Development & Administrative Rulemaking

Policy Purpose

This policy establishes the university-wide procedure for the development, revision, and review of all university policies and procedures. Additionally, consistent with the Tennessee Uniform Administrative Procedures Act, this policy establishes the process East Tennessee State University will follow when it engages in rulemaking as authorized by the Focus Act.

Applicability

This policy applies to all employees and students of East Tennessee State University.

Responsible Official, Office, and Interpretation

University Counsel is responsible for the review and revision of this policy. For questions about this policy, please contact the Office of University Counsel. University Counsel in consultation with the President, pursuant to the [Board's March 24, 2017, delegation of authority](#) to the President to establish certain policies and procedures for educational programs and other operations of the University, has the final authority to interpret this policy.

Defined Terms

A defined term has a specific meaning within the context of this policy.

Academic Council

An advisory body to the Provost that reviews and makes recommendations to the President as to whether or not to approve a policy.

Administrative Rule

Any ETSU regulation, standard, statement, or document of general applicability that is not a policy that describes the procedure or practice requirements of an agency; or implements, prescribes, or interprets an enactment of the general assembly or congress or a regulation adopted by a federal agency. Administrative rule includes the establishment of a fee, the amendment or repeal of a prior rule, and ETSU statements that relate to the discipline or housing of students. Administrative rule does not include

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general policy statements that are substantially repetitious of existing law or ETSU statements that relate to admission, graduation, or curriculum of ETSU students. Administrative rules are required by law to go through the formal rulemaking process as administered by the Tennessee Secretary of State.

Comment Period

A fourteen (14) calendar day period during which students and employees may comment on a proposed new policy or revised policy.

Defined Term

A capitalized term within a policy that has a specific definition and meaning within the context of that particular University Policy.

Effective Date

The date the policy (or revision) is approved by the President or Board of Trustees. The date a procedure is approved or revised.

Emergency Policy

A temporary policy enacted by the President when extraordinary circumstances require immediate action.

Policy Template

The required template for all University Policies.

Procedures

Specific methods and processes for implementing University Policies. Procedures may be revised in the discretion of the Responsible Official when needed.

Office of University Counsel

The university department responsible for offering guidance to a policy originator, ensuring a legal review of draft policies occurs, and reviewing policies for accuracy, clarity, and consistency, as well as ensuring compliance with this policy and procedure. The Office

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of University Counsel may designate any University staff members to assist in the policy review process.

Responsible Official

A vice presidential or higher position to whom the Responsible Office for a policy reports or the Board of Trustees. This individual is a member of the Academic Council or University Council and sponsors the policy at Academic Council or University Council. The Responsible Official is charged with assigning staff to develop, draft, revise, and respond to public comment related to the policy.

Responsible Office

The office that is responsible for the day-to-day implementation of the policy, including but not limited to administering the policy, answering questions on the policy, or guiding others on how to follow the policy.

Stakeholder

University units or positions that are particularly impacted by a university policy and procedure. Stakeholders may include faculty senate, staff senate, student government association, or other operational stakeholders.

Substantive Revision

Revisions that alter the intent, scope, meaning, or application of a university policy.

Technical Revision

A revision that does not alter the intent, scope, meaning, or application of a university policy or procedure, including, but not limited to, changes to defined terms, job titles, department names, responsible personnel, grammatical errors, format revisions, hyperlink updates, policy renumbering, statutory or regulatory citations.

Unit Policy

A written directive that applies to a specified academic, administrative, or other unit of the university and governs a process that is unique to that unit. Unit Policies may be referred to by various names which include, but are not limited to department rule,

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department guideline, department policy, by-law, charter, regulation, handbook, standard operating procedure, or statement of standards.

University Council

An advisory body to the President that reviews and makes recommendations to the President as to whether or not to approve a policy.

University Policy

A guiding principle that addresses the governance or internal management inherent in carrying out the mission of the university that does not affect private rights, privileges, or procedures available to the public. Unless a University policy explicitly states otherwise, it is binding on all employees and students.

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Policy

All written University Policies and Procedures or Administrative Rules submitted for review and approval by the East Tennessee State University Board of Trustees or its President must be developed or revised in a transparent, collaborative, and efficient manner. University Policies and Procedures or Administrative Rules must be clearly written, accessible to the university community, and periodically reviewed.

Procedures

1. Review and Approval Process.

1.1. Development or Revision Requests.

To develop a new University Policy or Procedure, an employee or student may submit a written request to the Office of University Counsel (policies@etsu.edu) or the appropriate Responsible Office. If the request comes to the Office of University Counsel, it will forward the request to the appropriate Responsible Office for review.

To request a revision to an existing policy or procedure, an employee or student contacts the Responsible Official listed in the policy. The Responsible Official is charged with assigning staff to draft the new policy or revise the existing policy. The Responsible Official will notify the Office of University Counsel of the employee who is on their staff who is responsible for drafting and editing the policy, and with whom the Office of University Counsel will coordinate the movement of the policy through the policy process. University Counsel or designee begins monitoring the progression of the policy development or revision and works with the Responsible Official and assigned staff to progress the policy or procedure to completion.

1.2. Drafting.

1.2.1. Drafting Responsibilities.

The Responsible Official designates an individual to draft a new policy or to revise an existing policy. This individual utilizes the [university policy template](#) as posted on the ETSU policies website for the drafting process and consults with the Office of University Counsel throughout the drafting and approval process. The

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Responsible Official or designee includes stakeholders impacted by the policy or procedure in the drafting process.

For policies to be approved by the President, all reviewers must use the edit and track (“track changes”) feature on draft policy documents so that those reviewing the draft policy can readily identify all changes and comments to the draft. The Office of University Counsel may waive this requirement if the policy revision constitutes a substantial rewrite of the policy or procedure. Waivers should be limited to a substantial rewrite and where the use of the edit and track feature would create a document lacking clarity.

If a waiver is authorized, the draft must include comments explaining the differences and similarities with the existing policy.

Microsoft Word’s “track changes” function is not typically used for policies or procedures that go before the Board of Trustees. For substantive revisions to a policy that will be voted on by the Board, the drafter must use the “Strikethrough” function through all language to be deleted and must use the “Underline” function on any added language to indicate the changes being made.

Once the designated staff member(s) has a draft, they send the policy draft to the Office of University Counsel for review.

1.2.2. University Counsel Responsibilities.

The Office of University Counsel is responsible for the movement of policies through the policy process, but not for the substantive content and drafting of policies. University Counsel may designate any University employee to review the policy for clarity and to ensure consistency with other policies and procedures. The Office of University Counsel will also ensure that a legal review of the policy draft is conducted. Once the policy is reviewed jointly by the Responsible Official or designee and the Office of University Counsel, the Office of University Counsel will post the policy for the Comment Period.

1.3. Comment Period.

A Comment Period of 14 consecutive days will open for ETSU employees and students to provide substantive comments on each new policy or a substantive revision to an

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existing policy. The notice of the Comment Period is provided to campus through the weekly emails to campus (bi-weekly during the summer). The President or the President's designee may extend the comment period for extraordinary circumstances. Once a policy is posted for the Comment Period, all Academic Council and University Council members have a responsibility to encourage their respective colleagues and staff to review and comment on the new or revised policy.

Upon completion of the Comment Period, the Office of University Counsel provides the comments to the Responsible Official or designee. Within 30 calendar days of receiving all comments, the Responsible Official or designee evaluates all comments and revises the policy and/or procedure as needed, providing a redline revision of the draft to the Office of University Counsel. The Responsible Official or designee submits the revised draft of the policy and responses to all comments received to the Office of University Counsel, and works with the Office of University Counsel to draft a short joint memorandum summarizing the comments received, responses, revisions made in response to comments, and any remaining issues that need to be addressed.

1.4. Academic Council or University Council Review.

1.4.1. Review.

Academic Council reviews all policies that are specifically academic in nature, including but not limited to policies related to faculty, promotion and tenure, academic freedom, catalogs, curriculum, and research. University Council reviews all other draft policies and procedures.

1.4.2. Recommendation.

The Responsible Official or designee presents the policy to Academic Council or University Council for review. After reviewing the draft, Academic Council or University Council may make one of the following recommendations:

- 1.4.2.1.** Approve the policy as submitted and move it forward to the President or Board of Trustees, as appropriate, for review and approval;
- 1.4.2.2.** Return the policy to the Responsible Official for further work, with instructions on the changes needed; or
- 1.4.2.3.** Reject the policy and procedure.

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1.5. Presidential or Board of Trustees Review and Approval.

The Board delegated its authority with regard to policy making to ETSU's President to establish certain policies and procedures for educational programs and other operations of the University. The President is responsible for the review and final approval of all policies, except those policies the Board retained approval process in the [Delegation of Authority dated March 24, 2017](#). The President or the Board of Trustees may: (1) approve the new or substantively revised policy submitted; (2) request revisions; or (3) reject the policy. Neither the President nor the Board of Trustees needs to approve a Technical Revision of a policy or an update to a procedure.

1.6. Posting to Policies Website.

The President's Office notifies the Office of University Counsel when the President or Board of Trustees approves a new policy or a substantive change to a policy. The Office of University Counsel sends the final approved policy to webservices to post on the policy website. The university community is notified via the minutes in the campus-wide weekly email (bi-weekly during the summer). For Technical Revisions or revisions to procedures, University Counsel or the University Counsel's designee provides an updated PDF to webservices for posting.

2. Time Considerations.

The timing of the review and approval process for new or revised policies rests exclusively with the Board of Trustees or the President. However, both entities should provide sufficient time for: (1) Stakeholders in the university community to provide comments regarding the proposed policy or procedure; and (2) Meeting publication deadline dates of university-issued handbooks or manuals.

3. Technical Revisions.

The Board of Trustees has delegated to the President the authority to enact Technical Revisions, as defined in this policy. Any employee or student may recommend Technical Revisions to the Responsible Official. The Responsible Official or designee provides the Office of University Counsel with a tracked version of the proposed Technical Revisions. The Office of University Counsel reviews the proposed Technical Revisions to determine if the change is technical or substantively alters the policy.

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If there is a disagreement between the Responsible Official and the Office of University Counsel as to whether a revision constitutes a Technical Revision, each party will present their position on the issue to the President, and the issue is evaluated by the President. The President has the final authority on whether the revision constitutes a Technical Revision. The decision of the President is final

If the Office of University Counsel determines that the proposed Technical Revision does not substantively alter the policy, the Office of University Counsel posts the corrected policy on the university policy page. The date of revision will be noted in the policy.

4. Mandated Revision.

4.1. Change in Law or Legal Ruling.

In the event that a state or federal regulation or law is enacted that requires a mandatory change to an ETSU policy to comply with the law, or a court, with jurisdiction over the university, issues a legal ruling to which the university is subject, the procedures in this section should be followed.

Upon notification of the impacting change, the Office of University Counsel completes a legal review and makes a recommendation to the Responsible Official for the policy as to any required changes. The Responsible Official or designee will revise the policy as needed. The Responsible Official and Office of University Counsel draft a joint memo in which the Office of University Counsel summarizes the change in the applicable law and required action by the university and the Responsible Official or designee summarizes the proposed changes. The memo is submitted to the President for approval. Upon receipt of approval from the President, the Office of University Counsel posts the revised policy to the website with the applicable revision date. At the next available University Council or Academic Council meeting, the Office of University Counsel will submit an information item to the appropriate council summarizing the change in law, the affected policy, the revisions, and the affected revisions.

4.2. Governing Body.

If a governing body to which the university is subject (e.g., accreditation authority, NCAA, state procurement agency, research requirements, etc.) changes a rule or regulation that requires a change to university policy, the procedures in this section should be followed.

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Upon notification of the impacting change, the Office of University Counsel meets with the Responsible Official. A joint memo is created summarizing: (1) the university's status with the governing body; (2) the change in regulation; (3) how it impacts current applicable policy, and (4) the proposed revision to the policy. If the revisions can be delayed until the next University Council or Academic Council meeting, then the memo and the proposed revision are submitted to the applicable council for a vote to approve. If approved by the council, then the revisions are sent to the President for approval. Upon approval, the revised policy is posted, noting the revision date. If the revisions must be made before the next available University Council or Academic Council meeting, then the memo and revisions are submitted to the President for approval. Upon receipt of approval from the President, the Office of University Counsel posts the revised policy to the website with the applicable revision date. At the next available University Council or Academic Council meeting, the Office of University Counsel will submit an information item to the appropriate council summarizing the change in law, the affected policy, the revisions, and the affected revisions.

5. Emergency Policies.

5.1. Presidential Authority.

When the President determines that emergency policy action is required, the President may enact new policies, revise existing policies, or suspend existing policies.

When the President takes emergency policy action, the President issues a written memorandum outlining: (1) the reasons emergency action is required; (2) any applicable emergency procedures; (3) the anticipated duration of the emergency policy; and (4) if applicable, any other policies that will be affected by the enactment of the emergency policy.

The President may issue this emergency policy without prior consent or approval of any university unit. Emergency policies do not require a 14-day Comment Period. Once enacted, the Office of University Counsel will publish the emergency policy on the university policy website as soon as practically possible

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5.2. Notification to Campus.

When an emergency policy has been issued, the President must notify Academic Council and University Council at the next available meeting. The Office of University Counsel will submit an update to the campus weekly email related to the policy (bi-weekly during the summer).

5.3. Notification to the Board.

Following issuance of the emergency policy, the President presents the policy to the Board of Trustees at the first available opportunity. After consulting with the President, the Board of Trustees has the authority to affirm, modify or rescind the emergency policy.

5.4. Time Limit.

The emergency policy must be in effect only for the duration of the emergency, not to exceed one year.

6. Unit Policy.

Given the size, complexity, and numerous academic, administrative, and other units of the university, it is necessary for units to develop unit-specific policies, as defined in this policy. Unit Policies and procedures provide additional detail to employees to operate within respective university units efficiently and effectively.

Unit Policies must be consistent with the intent and purpose of University Policies and relevant law. Recommendations for new or revised Unit Policies should be processed through the unit's established procedures for addressing new policies. Department Heads or designees are responsible for ensuring the distribution of new Unit Policies and procedures to all employees in the department. A new Unit Policy that is properly adopted based on individual units' adoption processes is binding on all employees and students within the relevant unit for which it is developed.

7. Policy Review and Maintenance.

Responsible Officials or designee are responsible for reviewing and addressing the policy needs of the respective departments they oversee.

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The Office of University Counsel maintains the policy website or manual as well as a policy archive. The Office of University Counsel coordinates the regular review of university policies.

Whenever possible, a policy is reviewed five (5) fiscal years from the latter of the effective date or the date of the last substantive revision to the policy. The Responsible Official or designee reviews policies to assess whether policies remain: (1) in compliance with applicable laws, regulations, etc.; (2) consistent with other University Policies; (3) current with policy format, personnel, positions, and entity information; and (4) relevant to the needs of the university and its mission.

8. Obsolete Policy.

An employee or student who believes a University Policy is no longer needed may recommend to the Office of University Counsel that the policy is removed.

The Office of University Counsel informs the Responsible Official of the recommendation. The Responsible Official or designee reviews the recommended deletion with the Office of University Counsel. Following a legal review, the Responsible Official or designee presents a written recommendation to Academic Council or University Council that the policy should be deemed obsolete.

The written recommendation includes the reasons the Responsible Official believes the policy is obsolete. Academic Council or University Council approves or denies the recommendation. The Office of University Counsel notified the President of a recommendation to obsolete a policy. If the deletion is approved, the Office of the President notifies the Office of University Counsel.

Upon notification of Presidential approval to obsolete a policy, the Office of University Counsel notifies webservices to remove the policy from the university policy website and notifies the university community in the weekly campus updates.

9. Annual Notification Requirement.

On or before July 1 of every year, the University submits a list of all adopted policies from the previous fiscal year to the chairs of the Tennessee Senate and House Government Operations Committees, including a summary of the policy and the university's justification for adopting a policy instead of promulgating a rule.

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10. Administrative Rulemaking requirement.

When required by law, the University enacts an administrative rule consistent with Chapter 1360-01-02, Filing of Rules pursuant to Title 4, Chapter 5, of the Tennessee Uniform Administrative Procedures Act.

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Applicable Forms and Websites

[ETSU Policies Website](#)

Authority and Revisions

Authority: TCA § 49-8-203, et seq.

Previous Policy: N/A

The ETSU Board of Trustees is charged with policy making pursuant to TCA § 49-8-203, et seq. On March 24, 2017, the Board delegated its authority to ETSU's President to establish certain policies and procedures for educational program and other operations of the University, including this policy. The delegation of authority and required process for revision to this policy can be found on the [Policy Development and Rule Making Policy webpage](#).

To suggest a revision to this policy, please contact the Office of University Counsel. Before a substantive change to the policy section may take effect, the requested changes must be: (1) approved by the responsible office; (2) reviewed by the Office of University Counsel for legal sufficiency; (3) posted for public comment; (4) approved by Academic Council and University Council; and (5) approved by ETSU's President.