

Policy Title: Collection of Accounts Receivable

Policy Type: Finance/Administration

New/revised: Revised

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

Purpose: This policy applies to the collection of accounts (the word "accounts" as used herein shall include notes), including student fees, receivable by all departments of East Tennessee State University. Each department accepting accounts receivable are to establish policies and procedures as required by Section II.

Policy:

- I. General Statement on Accounts Receivable
 - A. Each department shall, to the maximum extent possible, require payment in advance for all services and goods provided by the department, and thereby avoid the creation of accounts receivable.
 - B. The Board policy on Payment of Fees and Enrollment of Students requires (with limited exceptions) that all assessed fees be paid in advance by a student before he or she is considered enrolled for any academic term.
 - C. It is recognized that accounts and notes receivable may be generated from certain programs and activities, including but not limited to student payment plans, student loan programs, family practice or other medical programs, housing utilities, traffic and parking fines, library fines, bad checks, contracts, the rental of property, and any damage, loss or liability to the university by others. Each department, subject to the approval of the University Comptroller, is authorized to require any person to pay a deposit, post a security bond, or provide appropriate insurance to ensure full payment of any potential obligation to the university arising from any program or activity.
 - D. Pursuant to T.C.A. § 28-1-113 there is no time limit on the university's authority to collect receivables unless otherwise expressly provided by statute.
- II. General Collection Procedures
 - A. Each department shall establish a systematic process and procedures for the collection of accounts receivable from all persons, including students and employees of the University. The collection procedures and forms of each department are subject to the approval of the University Comptroller or his or her designee. The University Comptroller will, upon request, assume responsibility of the collection of certain departmental accounts receivable subject to the receipt of appropriate documentation of such obligations.
 - B. Collection efforts should begin no later than thirty (30) days after the occurrence of the obligation or other fixed due date.
 - C. Except as otherwise hereinafter provided, a minimum of three (3) letters of contact or billing requesting payment should be sent by the department at 30-day intervals once

an account becomes delinquent. An account becomes delinquent based on the payment criteria established by the university for the type of debt involved. For debts greater than \$100, the third letter should indicate that the account will be referred to a collection agency if payment is not received with a specified period of time. Sending letters by certified mail is optional.

- D. When the university's established collection efforts for the type of debt have failed to produce payment, these accounts are classified as defaulted. Any defaulted receivable of \$100 or more shall be referred to a collection agency within a reasonable time after the final collection letter is sent if the debtor does not respond. Referral of accounts under \$100 are not required. Except as provided for under Section E employee receivables and Section F student receivables, no additional collection efforts are required for accounts under \$100. See procedures for write-off of accounts receivable.
- E. Employee receivables (including student employees) may result from, among other things, traffic and parking fines, library fines, university services or bad checks. If the procedures in Section II.B. have been met and the debt is still delinquent, the debt can be recouped from the employee's paycheck.
 1. Procedure for withholding
 - a. In order to recoup the amount owed from the employee's paycheck, notice of intent to withhold must be sent to the employee by registered or certified mail, email, or personally delivered.
 - i. The notice should inform the employee of the amount alleged to be owed and should specify that he may elect to pay the debt in full, authorize deductions from his paycheck or, if the employee is terminating, the check for accrued but unused annual leave, or contest the intent to withhold through a university or TUAPA hearing.
 - ii. Subsequent to receiving a pre-deprivation notice of the debt owing, the employee, within 15 calendar days of receipt of such notice, must:
 - a) Pay the debt in full;
 - b) Authorize the university to withhold a designated amount from each subsequent paycheck or, if the employee is terminating, from the accrued but unused annual leave until the debt is paid in full;
 - c) Elect to contest the intent to withhold through an institutional hearing; or,
 - d) Elect to contest the intent to withhold through a contested case hearing held pursuant to T.C.A. § 4-5-301, et seq.
 - b. If the employee elects an institutional hearing, the employee shall appear on behalf of himself but is entitled to be advised by counsel.
 - i. The Chief Financial Officer or his/her representative, or a representative of the department involved in the debt, shall be present to represent the university.
 - ii. The case will be heard before one hearing officer designated to hear all cases on that date.
 - iii. The hearing officer must be an individual who is not so closely connected with the collection of the debt that he/she cannot

render an unbiased and objective decision on the validity of the debt.

- iv. Such hearing should be held within one week of the decision to elect the hearing.
 - v. The hearing officer shall render his/her decision on the validity of the debt. If the debt is ruled valid, the debt shall be deducted from the employee's payroll check beginning at the end of the next appropriate pay period in accordance with deduction schedules.
 - vi. If the employee elects a TUAPA hearing, the Office of University Counsel should be notified immediately.
 - vii. If the employee refuses to pay, authorize deduction, or specify or waive a hearing process, a TUAPA hearing must be initiated.
 - viii. The employee's failure to appear at either an institutional or TUAPA hearing will constitute default, or, if a prima facie case is presented that the debt is owed, it will be deemed valid; the appropriate deductions may then be made.
 - ix. Additionally, if a TUAPA hearing, a Default Order must be issued.
 - x. If the employee does not appeal the Default Order, funds may be deducted as specified.
2. Limitations on Amounts to be Withheld. The deduction from any check shall not exceed the maximum deductible under state garnishment laws.
- a. The maximum amount of disposable earnings of an individual for any work week which is subjected to garnishment may not exceed:
 - i. Twenty-five percent (25%) of his disposable earnings for that week; or
 - ii. Thirty (30) times the federal minimum hourly wage at the time the earnings for any pay period become due and payable, whichever is less.
 - b. In the case of earnings from any pay period other than a week, an equivalent amount shall be in effect.
 - c. These limits are applicable to retirement funds, but are not applicable to checks for accumulated annual leave.
 - d. Additionally, the above limits do not apply to employee overpayments.
3. Retirement Funds. If a former employee is found to owe a debt to the state, retirement funds may be utilized to pay off the amount owing to the extent permitted by Tennessee law.
- a. The same procedural steps outlined in II.E.1. for notice and the opportunity for a hearing must be followed.
 - b. Accumulated retirement contributions of a former employee terminated for any reason and for which he has made application, or monthly benefits of a retired employee are subject to withholding to the extent permitted by Tennessee law.
 - c. A copy of the final order resulting from an institutional or TUAPA hearing, or a signed waiver of hearing and written agreement of the former employee authorizing deductions should be sent to the director

of the retirement system along with a written request to withhold, specifying the reason for the claim and the total amount involved.

4. Recovery of Overpayments to Employees. Unlike cases in which the employee owes the university money, in instances of overpayments to employees there is no obligation to provide a hearing.
 - a. The university is obligated, however, to attempt to recoup the funds. The university should advise the employee in writing of the overpayment and the university's proposed actions to correct the overpayment.
 - b. The method of repayment will depend upon the amount of the overpayment, the time which has elapsed between the overpayment and its discovery, the hardship which immediate repayment might cause the employee because of amount of current salary and personal expenses, the culpability of the employees in not reporting the overpayment, and the longevity as well as the expectation that the employee will remain in state government until the repayment is completed.
 - c. If a current employee receives overpayment, the refund may be made in one of the following ways:
 - i. Repayment by the employee by cash or check; or,
 - ii. Adjustment of deductions to be made automatically from the employee's paycheck, either with a single deduction or a series of deductions made from each paycheck until the full amount is recovered.
 - iii. The amount of partial payments recovered by the latter method should be reasonable and systematic so that full recovery will be completed within the shortest period possible.
 - d. If overpayment is discovered after the employee terminates employment with the state, an account receivable should be established.
 - i. The former employee should be notified of the overpayment, the circumstances of the overpayment and a request that the employee contact the appropriate campus official.
 - ii. If the employee has not received his final paycheck, the appropriate deduction from that check can be made.
 - iii. If the final paycheck has been received, negotiations for reimbursement should be initiated.
 - iv. If repayment cannot be negotiated or collected, the account should be turned over to the collection agency.
 - v. In the event collection is not possible, proper write/off procedures should be followed.
 - e. In instances in which the employee has agreed to systematic deduction(s) from his paycheck(s), written authorization from the employee is encouraged.
- F. Students must pay any past due debts and obligations incurred in prior terms and all known debts and obligations incurred during the current term before being permitted to pre-register for any future terms. An amount owed under the university installment (deferred) payment plan for enrollment fees which is not yet considered due shall not

cause a hold to be placed on the students records. A notice stating the specific amount due should be sent to each student prior to completion of registration. Pursuant to T.C.A. § 49-9-108, no grade reports, certificates of credit, diplomas or transcripts will be issued to any student with any unpaid or delinquent debt or obligation owed to the university unless such debt is secured by notes or other written contracts providing for future payment under federal or state education or student assistance acts. In addition, once a petition for bankruptcy has been filed, all holds should be lifted. The university has no obligation to provide student grade reports, etc., unless specifically requested to do so. Accurate records of all correspondence, telephone calls and personal contacts with borrowers shall be maintained and all receivables should be aged at least annually. The university must comply with record maintenance, safekeeping, and retention regulations for federally-funded loans.

III. Federal Student Loan Program Collections

- A. Collection officers should consult the most recent legal authorities concerning federal loans. These authorities include interpretative materials, issues letters, manuals, Congressional Acts and the Federal Department of Education Regulations. The collection procedures for notes receivable are explained in detail by these authorities and includes but is not limited to the following areas of responsibility:
 - 1. Pre-Loan Counseling
 - 2. Exit Interviews
 - 3. Grace Period Notices
 - 4. Skip Tracing
 - 5. Due Diligence Billings for On-time Borrowers
 - 6. Deferrals and Cancellations
 - 7. Delinquent Loan Billings
 - 8. Default and Acceleration
 - 9. Write Off and Assignment Procedures
 - 10. Billing Loans Not Written Off

IV. Returned Check Collections

- A. For any student who tenders payment of fees by a check that is subsequently dishonored by the bank, and the check is not redeemed within the specified time period, the university has the option to not consider this student enrolled at the university. At the discretion of the university, the student may be considered enrolled and will be assessed the applicable returned check fee, the late registration fee, and will be denied grade reports, transcripts and future registration privileges until such dishonored check is redeemed.
- B. Any person other than a student or employee who tenders a check for payment for goods or services which is subsequently dishonored shall be given the opportunity to redeem the check and pay the amount due in cash or money order within 10 days.
- C. A total of three notices shall be sent for any unpaid check with the third notice being the "Final Notice" before the account is referred to an outside collection agency. Please consult the procedures detailed in Section II A-F of this policy.
- D. A check presented for payment of any goods or services which is subsequently dishonored shall be treated as an accounts receivable. Any transactions that have been processed should be charged back to the departmental account when possible and appropriate.

- E. Receipt of one or more bad checks from any person may result in that person becoming ineligible to make payments by check thereafter, or to have any check cashed by the university. A record of individuals who have written bad checks should be maintained.

V. Rent Collections

The terms of the lease should be consulted in the event of failure by the tenant to timely pay rent. In counties with populations more than 200,000 according to the 1970 federal census, the Tennessee Residential Landlord and Tenant Act (the ACT) applies and provides, at T.C.A. § 66-28-505, that upon noncompliance with the rental agreement, the landlord shall deliver a written notice to the tenant specifying the noncompliance and stating that the rental agreement will terminate upon a date not less than thirty (30) days after receipt of the notice. If the noncompliance is not remedied in fourteen (14) days, the rental agreement shall terminate as provided in the notice. If the tenant remits the rental but subsequently again fails to pay rent within a 6 month period, the rental agreement may be terminated upon at least fourteen (14) days written notice specifying the noncompliance and the date of termination of the rental agreement. In counties where the ACT applies, written notice is required when rent is unpaid unless otherwise specifically waived in a written rental agreement. In counties where the ACT does not apply, it will provide guidance concerning landlord/tenant issues. Generally, the length of the notice period equals the rental period, for example, 30 days notice is required where rent is due monthly. In the event the rent remains unpaid at the end of the month, the university should proceed with an action to evict the tenant. Accrued rents which are unpaid shall be treated as accounts receivable of the university and collection procedures detailed in Section II should be followed.

VI. Collection Agencies

- A. General. The university may contract for collection services through one or more companies.
 - 1. The service should provide for the referral of all types of delinquent accounts and notes from the university to the designated company only after university collection efforts have been exhausted.
 - 2. The terms of the contract and RFP govern all collection actions.
 - 3. Unless otherwise prohibited by law or regulation, any note, contract or lease which may result in accounts receivable to the university should contain a provision pursuant to which the person will be responsible for the costs of collection and reasonable attorneys' fees in the event of default, and should further provide for the assignment of the account or note to the proper agency.
- B. Billing Services. The university may use an outside billing service to collect payments on accounts receivable. The service should be familiar with all provisions of loan programs and provide prompt, clear and accurate bills.
- C. Credit Bureaus. The university may report all loans when made to a credit bureau. The university must obtain the borrower's consent to report loans not in default by including a statement in the promissory note or some other document that is signed by the borrower at the time the loan is made.
- D. Collection Agency. Accounts that are still delinquent 30 days after the final collection letter should be turned over to a collection agency. Receivables less than \$100 are not required to be turned over to a collection agency.

- E. Reporting Requirements. The collection agency should be required to report the status of delinquent loans periodically to the university.
 - F. Revised Repayment Plan. A revised repayment plan agreement should be signed by the borrower if the borrower returns to repayment status.
 - G. Recalling Accounts from Collection Agency. No account should be recalled from a collection agency other than debts eligible for deferment, postponement, cancellation, bankruptcy, death, disability or some other mitigating circumstance (university error, etc.).
 - H. No account should be recalled in order for a borrower to re-enroll or obtain a transcript.
 - I. The borrower should pay the accelerated amount plus collection costs to the collection agency.
- VII. Bankruptcy
- The Bursars Office of East Tennessee State University will designate at university contact for all bankruptcy claims regarding accounts and notes receivables. All bankruptcy claims and debt documentation should be sent to the Bursars Office to be forwarded to the Tennessee State Attorney General's Office. No further action against the debtor should be taken until notice of final discharge is received from the Tennessee State Attorney General's Office.
- VIII. Litigation
- A. After all other attempts at collection have failed with general accounts receivables, the university must authorize litigation of any account of \$500 or more providing that the litigation costs do not exceed the amount which can be recovered. Generally, the collection services contract will provide for litigation where appropriate.
 - B. If a federal loan cannot be litigated for any of the following reasons, it should be assigned to the U.S. Department of Education: (1) Borrower has no assets (2) Address Unknown (SKIP) (3) Debtor is incarcerated (4) Debtor is on Public Assistance, (5) Unable to serve borrower with court papers, (6) Litigation is in process and debtor skips, (7) Expected cost of litigation exceeds amount to be recovered from borrower.

6/9/2017 – approved by the Board of Trustees.