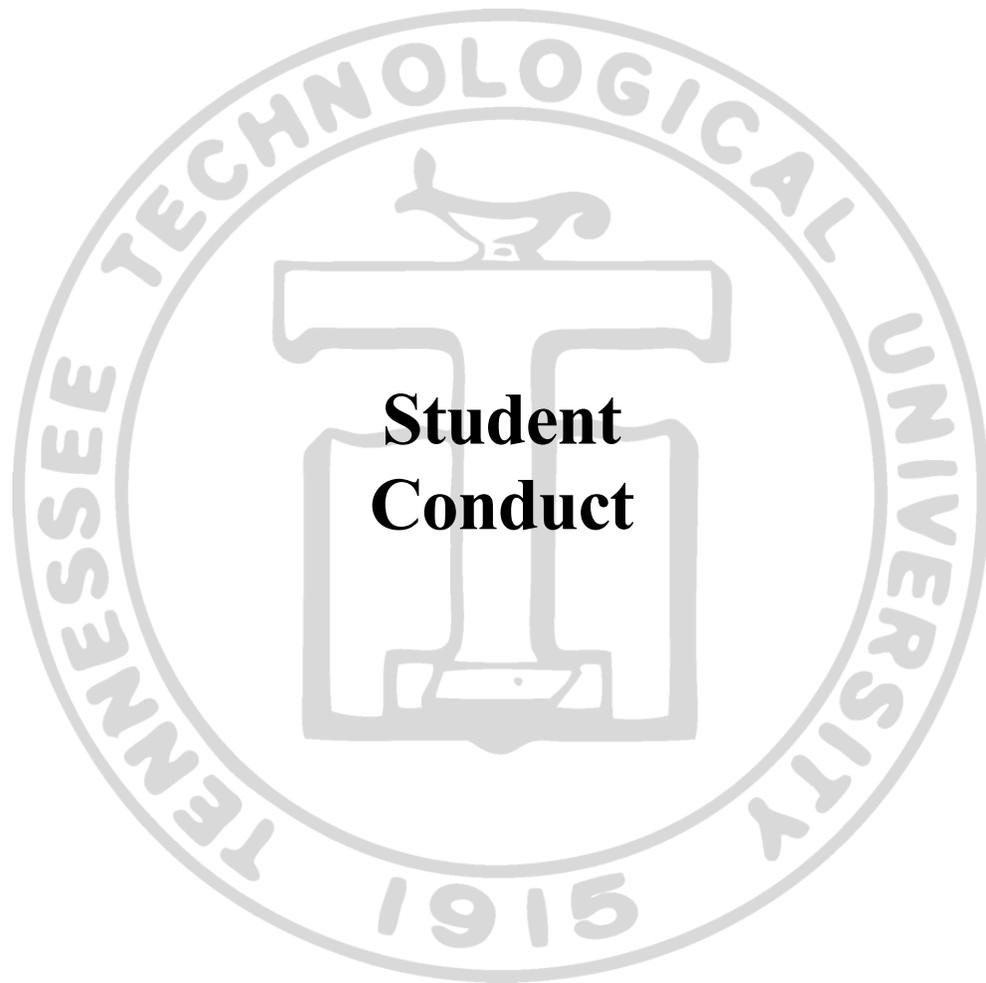


# **Tennessee Technological University**

## **Policy No. 302**



Effective Date: July 1, 2017

**Policy No:** 302

**Policy Name:** Student Conduct

**Date Revised:** August 14, 2020

## **I. Purpose**

The purpose of this policy is to describe standards of conduct and adjudication processes for student disciplinary matters.

## **II. Review**

This policy will be reviewed every four years or whenever circumstances require review, whichever is earlier, by the Dean of Students with recommendations for revision presented to the Administrative Council, University Assembly, and the Board of Trustees.

## **III. Scope**

**A.** This policy applies to Student or Registered Student Organization prohibited conduct on and off Tennessee Tech Property. In the case of prohibited conduct that occurs off Tennessee Tech Property, Tennessee Tech will take into account whether the prohibited conduct adversely affects the interests of Tennessee Tech, including, but not limited to, prohibited conduct that:

1. Occurs in connection with a Tennessee Tech Activity, including, but not limited to, a study abroad program, clinical, internship, service learning placement, or similar program or,
2. Involves another member of the Tennessee Tech community or,
3. Poses a credible, serious threat to the health and safety of the Tennessee Tech community or Tennessee Tech Property.

**B.** Tennessee Tech will take into consideration the following standards when deciding whether misconduct is associated with a Registered Student Organization:

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

2. The prohibited conduct took place during the course of an activity paid for by the organization or paid by members of the organization to support the activity or conduct in question;
  3. The prohibited conduct occurred on property owned, controlled, rented, leased, or used by the organization or any of its members for an organizational event;
  4. The prohibited conduct was related to initiation, admission into, affiliation with, or as a condition for continued membership in the organization;
  5. One (1) or more officers of the organization had prior knowledge or reasonably should have known the prohibited conduct would likely take place.
- C. This policy does not apply to academic misconduct.
- D. This policy does not apply to matters that fall within the scope of Title IX of the Education Amendments of 1972.

#### **IV. Definitions**

- A. Student – any individual who is admitted, enrolled, or registered for credit courses at Tennessee Tech or who may no longer be enrolled or registered for credit courses, but engaged in prohibited conduct while the individual was a Student at Tennessee Tech. For the purposes of this policy, “admitted” means in attendance at Tennessee Tech on either the first day of classes, or on the first day residence halls are open, or the first day of the student orientation, advising, and registration program, whichever is earlier.
- B. Registered Student Organization (RSO) – any organization comprised primarily of currently enrolled Students that have successfully completed the registration process and otherwise complied with TTU Policy 315 (Student Organizations).
- C. Tennessee Tech Property –all land, buildings, facilities, grounds, structures, or any other property, including, but not limited to, movable objects, owned, leased, used, maintained, or operated by Tennessee Tech. For purposes of this policy, Tennessee Tech Property includes all streets, alleys, sidewalks, and public ways abutting such property. Tennessee Tech Property also includes computers and network systems owned, maintained, or controlled by Tennessee Tech or funded by Tennessee Tech.

- D. Tennessee Tech Activity – any activity on or off Tennessee Tech Property that is initiated, aided, authorized, sponsored, or supervised by Tennessee Tech.
- E. University Official – an employee or agent of Tennessee Tech, including, but not limited to, university police, faculty members, and staff acting in the performance of his/her duties, as well as Student employees (e.g., event staff, resident assistants, graduate or teaching assistants, etc.).

## V. General Provisions

- A. Each Student or RSO shall be responsible for his/her/its conduct from the time of admission to Tennessee Tech through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms.
- B. A Student or RSO is responsible for his/her/its guests or visitors and may be held accountable for the behavior of his/her/its guests or visitors on Tennessee Tech Property or in the handling or use of Tennessee Tech Property.
- C. Any Student that chooses to take a leave of absence or withdraw from Tennessee Tech during any academic period prior to graduation with a pending disciplinary matter will be subject to a disciplinary hold placed on the Student's account preventing reenrollment until resolution of the conduct in question.

## VI. Prohibited Conduct

Prohibited conduct includes but is not limited to the following:

- A. Harm to Others: Causing physical harm to any person; endangering the health, safety, or welfare of any person; engaging in conduct that causes a reasonable person to fear harm to his/her health, safety, or welfare; or making an oral or written statement that an objectively reasonable person hearing or reading the statement would interpret as a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals;
- B. Engaging in oral or written speech that is obscene; is defamatory; consists of fighting words; or is directed to inciting or producing imminent lawless action and is likely to incite or produce such action;

- C.** Any conduct that falls within the terms of Tennessee Code Annotated Sections 39-17-308 (Harassment) or 39-17-315 (Stalking) or “student-on-student harassment,” which means unwelcome conduct directed toward a person that is discriminatory on a basis prohibited by federal, state, or local law, and that is so severe, pervasive, or objectively offensive that it effectively bars the victim’s access to educational opportunity or benefit;
- D.** Discrimination: Any conduct that falls within the current terms of TTU Policy 006 (Nondiscrimination), TTU Policy 141 (Discrimination and Harassment), or similar policies;
- E.** Hazing: Any conduct that falls within Tennessee Code Annotated Section 49-7-123(a)(1), including, but not limited to, an intentional or reckless act on or off Tennessee Tech Property by one (1) Student acting alone or with others that is directed against any other Student, that endangers the mental or physical health or safety of that Student or that induces or coerces a Student to endanger the Student’s mental or physical health or safety;
- F.** Retaliation: Interfering with any aspect of a disciplinary matter or disciplinary hearing, including, but not limited to threatening or intimidating a complainant or witnesses or attempting to do the same;
- G.** Disruptive Behavior: Any individual or group behavior that unreasonably disrupts the academic environment (e.g. interferes with teaching, classroom operations, research, etc.) or unreasonably interferes with operations, events, or programs on Tennessee Tech Property or during a Tennessee Tech Activity;
- H.** Obstruction of or Interference with Activities on Tennessee Tech Property or Facilities: Any substantial interference with or substantial obstruction of any Tennessee Tech program, event, or facility including the following:
  - 1.** Any unauthorized occupancy of facilities owned or controlled by Tennessee Tech or blockage of access to or from such facilities,
  - 2.** Interference with the right of any Tennessee Tech member or other authorized person to gain access to any activity, program, event, or facilities sponsored or controlled by Tennessee Tech,
  - 3.** Any obstruction or delay of a Tennessee Tech police officer, public safety officer, security officer, firefighter, EMT, or any University Official,
  - 4.** Participation in a demonstration that substantially impedes Tennessee Tech operations;  
or

5. Obstruction of the free flow of pedestrian or vehicular traffic on Tennessee Tech Property or at a Tennessee Tech Activity.
  - I. Failure to Comply: Refusing or ignoring directions of a University Official acting in the performance of his/her duties;
  - J. Falsification: Providing information that is materially false to, or withholding necessary information from, any University Official acting in the performance of his/her duties;
  - K. Fraud: Deception, forgery, or alteration including, but not limited to, the unauthorized use of Tennessee Tech documents, records, identification, computers, parking permits, identity theft, or any other similar actions prohibited by law;
  - L. Theft: Unauthorized possession of Tennessee Tech Property or personal property of a member of the Tennessee Tech community;
  - M. Misuse or Damage of Property: Any act of misuse, vandalism, malicious or unwarranted damage or destruction, defacing, disfiguring or unauthorized use of property belonging to Tennessee Tech or a member of the Tennessee Tech community including, but not limited to, any personal property, fire alarms, fire equipment, elevators, telephones, Tennessee Tech keys, library materials and/or safety devices;
  - N. Trespassing or Unauthorized Entry: Unauthorized access or attempting to gain access to any Tennessee Tech Property;
  - O. Weapons: Possession or carrying, whether openly or concealed, with the intent to go armed, any firearm, explosive, explosive weapon, bowie knife, hawk bill knife, ice pick, dagger, slingshot, leaded cane, switchblade knife, blackjack, knuckles, or any other weapon of like kind, not used solely for instructional or school-sanctioned ceremonial purposes, in any Tennessee Tech building or bus, campus, grounds, recreation area, athletic field, or any other property owned, operated, or while in use by Tennessee Tech in accordance with TTU Policy 422 (Weapons on Tennessee Tech Property). No Student shall use a weapon or instrument to simulate a weapon in acts that endanger or threaten any person;
  - P. Hazardous Materials: Possession, ignition, or detonation of explosives, fireworks, flammable materials, ammunition, gasoline, or other hazardous liquids, chemicals or hazardous materials, and any other material or item of like kind representing a potential danger to the Tennessee Tech community;

- Q. Substance Abuse:** The unlawful manufacture, distribution, possession, use or abuse of any controlled substance, illegal drug or alcohol on Tennessee Tech Property or as part of any activity sponsored by Tennessee Tech in violation of TTU Policy 172 (Alcohol and Drugs);
- R. Paraphernalia:** The use or possession of equipment, products, or materials that are used or intended for use in the unlawful manufacture, growth, use, or distribution of any drug or controlled substance. This offense includes the violation of any local ordinance, state, or federal law concerning the unlawful possession of drug paraphernalia;
- S. Parking or Traffic Violations:** In addition to the penalties described in TTU Policy 415 (Parking and Traffic Enforcement) and elsewhere in this policy, the possession or use of a motor vehicle on Tennessee Tech Property may be limited or revoked for any of the following:
1. Possession or use of alcoholic beverages or drugs while operating a vehicle;
  2. Irresponsible operation of a vehicle;
  3. Leaving the scene of an accident;
  4. Failure to report an accident involving personal injury or property damage;
  5. Excessive violations of policies to include excessive parking citations;
  6. Falsifying vehicle registration or gaining such registration under false pretense; or
  7. Possession, use, or sale of fraudulent parking permits.
- T. Violation of Information Technology Acceptable Use Policy:** Violation of any provision related to Tennessee Tech information technology facilities and resources as defined in TTU Policy 801 (Information Technology Acceptable Use);
- U. Unauthorized Use of Personal Recording Devices:** Use of electronic or other devices to make a photographic, audio, or video record of any person without his/her prior knowledge or consent in a violation of TTU Policy 180 (Personal Recording Devices);
- V. Invasion of Privacy:** Making, or causing to be made, unauthorized video/audio recordings or photographic images of a person in a location in which that person has a reasonable

expectation of privacy, without the prior effective consent of the individual, or in the case of a minor, without the prior effective consent of the minor's parent or guardian. This includes, but is not limited to, taking video or photographic images in shower/locker rooms, residence hall rooms, and restrooms, as well as any storing, sharing, and/or distributing of such unauthorized recordings/images by any means;

**W.** Violation of Student Housing Policy: Violation of any provision outlined in TTU Policy 305 (Student Housing);

**X.** Gambling: Unlawful gambling in any form;

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

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

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

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

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

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

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

**AA.** Attempting to Violate the Student Conduct Policy and/or;

**BB.** Aiding/Abetting a Violation: Any attempt to commit any of the offenses identified as prohibited conduct, or the aiding/abetting of the commission of any of the offenses listed as such. An attempt to commit an offense is defined as the intention to commit the

offense coupled with the taking of some action toward its commission. Being present during the planning or commission of any offense listed under this section will be considered as aiding and abetting. Students who anticipate or observe an offense must remove themselves from the situation and are required to report the offense to Tennessee Tech;

**CC.** Violation of Policies: Any violation of the general policies of Tennessee Tech as published in Tennessee Tech publications including, but not limited to, Tennessee Tech's Policy Central web site;

**DD.** Violation of State or Federal Laws: Any violation of state or federal laws, rules, regulations, etc. proscribing conduct or establishing offenses; and

**EE.** Violation of Imposed Disciplinary Sanctions: Violation of a disciplinary sanction officially imposed during a Tennessee Tech hearing proceeding.

## **VII. Disciplinary Sanctions**

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

- A.** Informal Warning: An oral or written warning to the Student or RSO found responsible for a violation of this policy when the circumstances and severity of actions do not warrant the development of an official Student conduct record;
- B.** Official Warning: A written notice to the Student or RSO found responsible for a violation. The warning will serve as official notification that continuation or repetition of specified conduct will be cause for further disciplinary action;
- C.** No Contact Order: An order of no contact with any individuals who are complainants, victims, or witnesses in the student conduct process. This includes, but is not limited to, verbal, written, electronic, cellular, physical or social contact, or allowing others to make any similar contacts on a Student's behalf. An order of no contact can also be issued as an interim measure prior to the completion of the disciplinary process;

- D. Restitution:** A measure intended to compensate for the loss, damage, or injury caused by the Student or an RSO. This action may take the form of appropriate service, monetary compensation, or material replacement;
- E. Restriction of Privileges:** A restriction upon a Student or RSO's privileges for a period of time. These restrictions may include, but are not limited to denial of the following:
1. The ability to represent Tennessee Tech at any event;
  2. Use of Tennessee Tech facilities;
  3. Parking privileges;
  4. Participate in, be elected or appointed as a member or officer of Student Government or any RSO; or
  5. Application for use of Tennessee Tech funds;
- F. Educational Action:** A measure intended to educate the Student or members of the RSO on the responsibilities to refrain from prohibited conduct and learn from the violation. Educational actions include, but are not limited to:
1. Attendance at educational activities or substance education workshops;
  2. Completion of a prescribed number of community service hours;
  3. Participation in a counseling assessment; or
  4. Attendance at community education classes;
- G. Parental or Legal Guardian Notification:** Pursuant to Tennessee Code Annotated Section 49-7-146, Tennessee Tech is required to notify a parent or legal guardian of a Student under age twenty-one (21) if the Student "has committed a disciplinary violation with respect to the use or possession of alcohol, a controlled substance, or a controlled substance analogue that is a violation of any federal, state, or local law, or any rule or policy of [Tennessee Tech], except as prohibited by the Federal Education Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g)." Tennessee Tech will provide such notice if:

1. The Student admits responsibility for engaging in the prohibited conduct; or
2. There is a final finding of responsibility pursuant to the disciplinary procedures;

**H. Disciplinary Probation:** Continued enrollment of a Student or recognition of an RSO on probation may be conditioned upon adherence to this policy. Any Student or RSO placed on probation will be notified in writing of the terms and length of the probation. Probation may include restrictions of privileges or any other appropriate conditions. Any conduct in further violation of this policy while on probationary status or the failure to comply with the terms of the probationary period may result in the imposition of further disciplinary action up to and including expulsion or withdrawal of recognition;

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

**J. Interim Measures:** The Dean of Students or designee may impose temporary measures prior to the beginning of a formal student conduct process. If Tennessee Tech imposes an interim measure, the Student or RSO may contest the measure following the procedures in Section IX. Section E. 6. (Procedures Related to Interim Measures and Interim Suspensions). Interim measures may become permanent depending on the outcome of the formal disciplinary hearing. Interim measures may include, but are not limited to:

1. No contact orders;
2. Removal from or reassignment of housing;
3. Removal from or reassignment of on campus work study and work assignments;
4. Removal from or reassignment of a specific class or academic activity;
5. Restriction of access to specified buildings or Tennessee Tech Property;
6. Restriction of privileges; or
7. Other types of temporary measures;

**K. Interim Suspension:**

1. Interim suspension is the immediate removal of a Student from Tennessee Tech Property, including but not limited to, facilities, programs, privileges, classes, and premises pending a formal disciplinary hearing.
  2. The Dean of Students or designee may impose an interim suspension if, after an individualized assessment, the Dean of Students or designee determines that the Student's behavior poses a significant risk to the health or safety of others that cannot be eliminated by other interim measures.
  3. The Dean of Students or designee may also impose an interim suspension when a Student is determined to constitute an immediate threat to Tennessee Tech Property or a substantial disruption to classroom and/or Tennessee Tech operations.
  4. A Student placed on interim suspension status must obtain advance permission from the Dean of Students or designee to be present on Tennessee Tech Property. The Dean of Students or designee will grant such permission only in cases where the Student has identified a legitimately necessary reason for his/her presence on campus.
  5. If Tennessee Tech imposes an interim suspension, the Student may contest the matter following the procedures in Section IX. Section E. 6. (Procedures Related to Interim Measure and Interim Suspensions).
- L.** Revocation of Registered Student Organization Status: A designated period of time in which an RSO is not recognized by Tennessee Tech and does not receive designated privileges as defined by TTU Policy 315 (Student Organizations);
- M.** Suspension of Housing Contract: The separation of a Student or members of an RSO from facilities maintained by Residential Life for a temporary or definite period of time, after which the Student or RSO is eligible to return or may be conditionally allowed to return. Subsequent policy violations may result in cancellation of housing contract(s);
- N.** Cancellation of Housing Contract: A permanent separation of the Student or RSO from facilities maintained by Residential Life. A Student or RSO dismissed from these facilities is not eligible for readmission into any Residential Life facilities maintained by Tennessee Tech;
- O.** Suspension: The separation of a Student or RSO from Tennessee Tech for a specified period of time. Suspension may be accompanied by special conditions for readmission.

All Students suspended from Tennessee Tech will be issued a no trespass directive barring them from Tennessee Tech Property and all Tennessee Tech Activities. A suspended Student must submit a written request to the Dean of Students or designee at least three (3) business days, absent good cause, in advance to request permission to be present on Tennessee Tech Property or at a Tennessee Tech Activity. This request must specifically identify the nature of the official business that the suspended Student wishes to conduct as well as the locations that the Student wishes to visit;

- P.** Expulsion: A permanent separation from Tennessee Tech. The imposition of this sanction is a permanent bar to the Student's admission to, or an RSO's recognition at, Tennessee Tech. Any Student that receives this sanction will be issued a no trespass directive barring him/her from Tennessee Tech Property and all Tennessee Tech Activities;
- Q.** Withholding Degree: The awarding of a degree may be withheld until all disciplinary processes are complete and all sanctions, if any, are satisfactorily completed;
- R.** Revocation of Degree: Revocation of a degree in cases when a Student has engaged in serious misconduct while enrolled, but not discovered until after graduation;
- S.** Revocation of Admission: Revocation of admission when a person previously admitted to Tennessee Tech has engaged in serious misconduct prior to the first day of classes, or on the first day residence halls are open, or the first day of the student orientation, advising, and registration program, whichever is earlier;
- T.** Any alternate sanction deemed necessary and appropriate to address the prohibited conduct.

### **VIII. Disciplinary Holds on Records**

- A.** Tennessee Tech may place a hold on a Student's record when the Student has:
  - 1.** Withdrawn from Tennessee Tech and a disciplinary meeting and/or proceeding is pending;
  - 2.** Not responded to the Dean of Students Office's request for a meeting or a hearing; or
  - 3.** Been suspended or expelled.

- B. A disciplinary hold may remain on a student's record until final resolution of a disciplinary meeting and/or disciplinary proceeding.
- C. Tennessee Tech will not confer a degree when a Student has a pending disciplinary meeting and/or disciplinary proceeding.

## **IX. Disciplinary Procedures**

### **A. Responsibility for Administration**

1. The Dean of Students' Office is responsible for matters that are within the scope of this policy. The Provost's Office is responsible for matters that fall within the scope of TTU Policy 217 (Student Academic Misconduct). In situations where the conduct could fall within the scope of TTU Policy 302 and TTU Policy 217, the two Offices will confer, decide which policy to apply to the matter, and advise the Student in writing of their decision.
2. Complaints related to discrimination and harassment will be investigated in accordance with TTU Policy 141 (Discrimination and Harassment). If Tennessee Tech determines that a Student has engaged in impermissible discrimination or harassment, the Student will be subject to the disciplinary procedures outlined in this policy unless superseded by another policy.
3. Other than the matters listed above in this Section A, reports of acts and incidents involving Students or RSOs should be referred to the Dean of Students Office for investigation.

### **B. Notice and Due Process Rights Related to Preliminary Meetings**

1. A Student or RSO accused of any violation of this policy will be given written notice of the alleged violation. Tennessee Tech will deliver this notice by sending an email to the Student's or RSO's official Tennessee Tech email account. The notice will be effective on the date Tennessee Tech sends the email notification to the Student's or RSO's official Tennessee Tech email account.
2. Tennessee Tech will send the preliminary meeting notification letter at least forty-eight (48) hours prior to the preliminary meeting, absent good cause.
3. The preliminary meeting notification letter will include, at a minimum:

- a. The time, place, and date of the preliminary meeting;
  - b. A written statement of the alleged violation and description of the alleged behavior including time, date and place of occurrence if such information is available;
  - c. Notice of the right to be accompanied by an advisor of choice, including an attorney, provided the Student or RSO consents to sign a release of necessary education records to the advisor;
  - d. Notice that the advisor may not speak on behalf of the Student or RSO in the disciplinary meeting;
  - e. Notice of the right to address any information that Tennessee Tech is relying on as a basis for the preliminary meeting.
4. Upon receipt of the preliminary meeting notification letter, the Student or RSO must contact the Dean of Students' Office within forty-eight (48) hours to schedule a preliminary meeting. Failure to do so will result in a disciplinary hold placed on the Student's account or in the case of an RSO, suspension of privileges.

### C. Preliminary Meeting

1. During the preliminary meeting with the Dean of Students, the Student or RSO will have the opportunity to contest the alleged violation and present information.
2. The Student or RSO has the right to be accompanied by an advisor of choice, provided the Student or RSO consents to the release of necessary education records to the advisor. The advisor, however, may not speak on behalf of the Student or RSO in the preliminary meeting.
3. The Dean of Students may interview potential witnesses or victims necessary to conduct a thorough investigation of the alleged violation.
4. Following the preliminary meeting and investigation of the complaint, the Dean of Students will determine if sufficient information exists for the disciplinary process to continue.

- a. If the Dean of Students concludes a violation did not occur, the conduct matter will be closed.
- b. If the Dean of Students determines there is sufficient information to proceed with the disciplinary process, the Student or RSO will have a hearing regarding the alleged violation.
- c. If the Dean of Students determines the alleged misconduct does not warrant consideration of suspension, expulsion, or revocation of degree or credential of a Student or revocation of registration of an RSO, the Student or RSO will have a hearing with the Dean of Students following the procedures in Section IX.E.4.

**D. Hearing Options in Cases of Possible Suspension, Expulsion, or Revocation of Degree or RSO Registration**

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

- 1. Contest the alleged violation(s) under the Uniform Administrative Procedures Act (UAPA) in accordance with provisions outlined in the Uniform Administrative Procedures Act, Tennessee Code Annotated Section 4-5-301 et seq. and related rules; or,
- 2. Waive a hearing pursuant to the UAPA and choose a hearing before the Dean of Students; or
- 3. Waive a UAPA hearing and choose a hearing before the Judicial Council.

**E. Notice and Due Process Rights Related to Disciplinary Proceedings**

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

to the Student's or RSO's official Tennessee Tech email account.

- 2.** For proceedings that could result in suspension, expulsion, or revocation of degree or credential of a Student or revocation of registration of an RSO, or that involve allegations of sexual misconduct as defined by the Student Due Process Protection Act and subject to this policy, Tennessee Tech will send a notification letter at least seventy-two (72) hours prior to the disciplinary proceeding.
  
- 3.** The notification letter will include, at a minimum:
  - a.** The time, place, and date of the disciplinary proceeding;
  
  - b.** The names of witnesses Tennessee Tech expects to present at the disciplinary proceeding and the names of witnesses Tennessee Tech may present if the need arises;
  
  - c.** An explanation of the Student's or RSO's right to request a copy of the investigative file, which will be redacted as required by federal and state law;
  
  - d.** An explanation of the Student's or RSO's right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that Tennessee Tech has in its possession, custody, or control and may use to support claims or defenses, unless use would be solely for impeachment. All such documents will be redacted as required by federal and state law.
  
  - e.** A written statement of the alleged violation and description of the alleged behavior including time, date, and place of occurrence if such information is available;
  
  - f.** Notice of the right to present his/her/its case to the appropriate disciplinary authority;
  
  - g.** Notice of the right to be accompanied by an advisor of choice, including an attorney, provided the Student or RSO consents to sign a release of necessary education records to the advisor;
  
  - h.** Notice that the advisor may not speak on behalf of the Student or RSO in the disciplinary meeting;

- i.** Notice of the right to call witnesses who can speak on his/her/its behalf; and
- j.** Notice of the right to address any information that is used by Tennessee Tech in a disciplinary proceeding;

**4.** Hearings before the Dean of Students

- a.** The hearing shall be conducted consistent with the following Student or RSO rights:
  - i.** The right to receive notices described in Section IX. prior to the hearing;
  - ii.** The right to have the case heard based only on the alleged violation of the prohibited conduct specified in the written notice;
  - iii.** The right to be accompanied by an advisor of choice, provided the Student or RSO consents to sign a release of necessary education records. The advisor, however, may not speak on behalf of the Student in the hearing. An advisor may address questions of procedure to the Dean of Students to the extent that the questions do not interfere with the orderly proceeding of the hearing and request a recess to confer in private with the Student or RSO.
  - iv.** The right to speak on his/her/its behalf, to call witnesses and to question all witnesses, to present evidence, and to challenge the admissibility of evidence; and
  - v.** The right to speak or remain silent in a hearing.
- b.** Formal rules of evidence shall not be applicable. The Dean of Students may exclude evidence which, in his/her sole judgment, is immaterial, irrelevant, unduly repetitious, or unduly prejudicial, etc.
- c.** The Dean of Students shall determine responsibility using the preponderance of the evidence standard of proof unless otherwise required by federal or state law, rule, regulation, or Tennessee Tech policies.

- d.** The Dean of Students shall issue a written decision that includes his/her findings and conclusions within three (3) business days after the conclusion of the hearing and all evidence is submitted.
- e.** The Student or RSO will be advised in writing of the decision and all sanctions imposed as a result of the disciplinary hearing via Tennessee Tech email account.
- f.** Any sanction imposed as a result of a hearing before the Dean of Students will be effective immediately upon notification of the Student or RSO.

## **5. Hearings before the Judicial Council**

- a.** The Judicial Council is comprised of six (6) faculty members, two (2) administrators, and six (6) Students. The Dean of Students serves as an ex-officio member. Faculty members of the Judicial Council are appointed for a two (2) year term by the Tennessee Tech president. Student members of the Judicial Council are appointed for a one (1) year term by the president of the Student Government Association.
- b.** The Chairperson will be elected by the Judicial Council membership on an annual basis.
- c.** A minimum of seven (7) members of the Judicial Council are required to hear a disciplinary case, composed of at least three (3) Students and four (4) faculty members unless otherwise agreed by the parties.
- d.** The Dean of Students will train and advise all members of the Judicial Council regarding Tennessee Tech hearing procedures on an annual basis or as necessary.
- e.** The hearing shall be conducted consistent with the following Student or RSO rights:
  - i.** The right to receive notices described in Section IX prior to the hearing.
  - ii.** The right to have the case heard based only on the alleged violation of the prohibited conduct specified in the written notice;

- iii.** The right to be accompanied by an advisor of choice, provided the Student or RSO consents to the release of necessary education records to the advisor. The advisor, however, may not speak on behalf of the Student or RSO in the hearing. An advisor may address questions of procedure to the Dean of Students to the extent that the questions do not interfere with the orderly proceeding of the hearing and request a recess to confer in private with the Student or RSO.
- iv.** The right to speak on his/her/its behalf, to call witnesses and to question all witnesses, to present evidence, to challenge the admissibility of evidence; and
- v.** The right to remain silent in a hearing; and
- vi.** The right to challenge the seating of any Judicial Council member for bias, prejudice, interest, or any other good cause. The dismissal of a challenged hearing board member will be determined at the discretion of the Judicial Council chairperson. If the chairperson is challenged, he/she may be excused with a majority vote of the Judicial Council.
- f.** All hearings shall be closed unless the respondent and the complainant both elect in writing to have an open hearing.
- g.** Formal rules of evidence shall not be applicable. The Judicial Council may exclude evidence which, in its judgment, is immaterial, irrelevant, unduly repetitious, or unduly prejudicial, etc.
- h.** The Judicial Council shall determine responsibility using the preponderance of the evidence standard of proof unless otherwise required by federal or state law, rule, regulation, or Tennessee Tech policies.
- i.** The Judicial Council shall issue a written decision that includes its findings and conclusions within three (3) business days after the conclusion of the hearing and all evidence is submitted.
- j.** The Student or RSO will be advised in writing of the decision and all sanctions imposed as a result of the disciplinary hearing via Tennessee Tech

email account.

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

## **6. Procedures Related to Interim Measures and Interim Suspensions**

- a.** When the Dean of Students determines that interim measures or an interim suspension are required for the health and safety of the Tennessee Tech community and/or Property, the Student or RSO will be given an opportunity for an informal hearing with the Dean of Students to contest the interim measure.
- b.** The informal hearing will be held within five (5) calendar days, absent good cause.
- c.** The information presented at the information hearing will be limited to that which is relevant to the basis asserted for imposition of the interim measures; and
- d.** The Student or RSO will be entitled to formal hearing in accordance with the procedures described in Section IX before a permanent measure is imposed.

## **X. Appeals**

- A.** A Student or RSO may appeal a sanction imposed by the Dean of Students or Judicial Council following the procedures in this section.
- B.** The Student Conduct Appeal Committee will hear all appeals. The Student Conduct Appeal Committee is comprised of one (1) faculty member, one (1) administrator, and one (1) Student. A pool of eligible committee members will be identified by the Dean of Students annually to ensure quorum can be achieved throughout the year.
- C.** The Student or RSO must file a written appeal with the Dean of Students within ten (10) calendar days from the date of the decision letter, absent good cause.
- D.** The bases for an appeal are as follows:
  - 1.** New information, not available at the time of the original hearing, has become available and would substantially alter the outcome of the hearing;

2. Tennessee Tech failed to conduct the disciplinary process in accordance with its procedures in such a way as to disadvantage the Student or RSO; or
  3. The sanction is disproportionate to the violation.
- E.** The Student Conduct Appeal Committee will consider the appeal based on the record and statements submitted by the Student or RSO and the Dean of Students. The Student Conduct Appeal Committee may request the Student or RSO and the Dean of Students appear before the Student Conduct Appeal Committee to clarify any questions regarding the appeal record or statements.
- F.** The Student Conduct Appeal Committee will make its decision within ten (10) business days of receipt of all relevant information. This period may be extended in circumstances where it is not possible to establish a quorum (e.g., holidays, breaks, etc.).
- G.** The Student Conduct Appeal Committee may take the following action(s) upon consideration of the merit of the appeal:
1. Affirm the original decision;
  2. Reverse the original decision;
  3. Reduce the sanction prescribed in the original decision; and/or
  4. Remand the matter to the original hearing body for reconsideration.
- H.** The standard of proof required to overturn a finding of violation shall be preponderance of the evidence and the Student or RSO bears the burden of proof.
- I.** A Student or RSO may file a written appeal the Student Conduct Appeal Committee's decision to the Vice President for Student Affairs. The Student or RSO must file a written appeal with the Vice President for Student Affairs office within ten (10) business days of the date of the decision letter. The appeal must state the reasons why the Student or RSO believes the decision should be overturned. After consideration of the appeal, the record, and any other relevant information, the Vice President for Student Affairs will issue a written decision within five (5) business days of receipt of the appeal and all relevant material.

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

#### **XI. Conflicts of Interest**

Consistent with the Student Due Process Protection Act, Tennessee Code Annotated Section 49-7-1704, student disciplinary proceedings must include protection for respondents and complainants analogous to, and no less protective than the conflict of interest provisions of Tennessee Code Annotated Section 4-5-303.

#### **XII. Application of Policy to Prospective Students**

- A.** A prospective student's admission to Tennessee Tech may be rescinded for pre-attendance conduct that is prohibited by this policy.
- B.** A prospective student may appeal Tennessee Tech's admission decision by providing a written statement with supporting documentation to the Vice President of Student Affairs within 15 calendar days, absent good cause, of receipt of that decision. The Vice President of Student Affairs will issue a written decision within 30 calendar days, absent good cause, after the student has provided all supporting documentation. The decision of the Vice President is final.

#### **XIII. Interpretation**

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

#### **XIV. Citation of Authority for Policy**

Tennessee Tech Rule 0240-09-01; T.C.A. § 49-8-203(a)(1)(D)

Approved by:

Administrative Council: September 4, 2019

University Assembly: November 20, 2019

Board of Trustees: December 5, 2019; June 23, 2020

Approved by: President on August 14, 2020, pursuant to Policy 101, Section VII.A.

Received by:

Administrative Council:

University Assembly: