

## G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Labor and Workforce Development

DIVISION: Bureau of Workers' Compensation

SUBJECT: Inspection and Copies of Public Records

STATUTORY AUTHORITY: Tennessee Code Annotated, Section PC 712 (2018) requires state governmental entities to promulgate rules, rather than adopt policies, to establish a process for making requests to inspect or receive copies of public records.

EFFECTIVE DATES: October 8, 2019 to June 30, 2020

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: These rulemaking hearing rules convert from policy to rule the public records request process of the Bureau of Workers' Compensation.

## Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

## PUBLIC COMMENTS AND RESPONSES

Tennessee Coalition for Open Government made the following comments:

Comment: We suggest requiring residency of Tennessee only when the request would mean a large amount of staff time for research or redaction or is unusual in some other way. Further, in the interest of ensuring a free flow of information about government affairs, we suggest waiving any residency requirement for news journalists who are reporting on public affairs.

When you do require residency -- and we ask that you don't in all instances -- but when you do, we ask you to allow residents to affirm their residency through a check box on the public records request form or in an email or letter, or verbally. If someone affirms their residency in one of these ways, only ask for proof of residence, such as a driver's license, if there is plausible reason to think the person is not a resident.

We suggest that on the public records response form that you eliminate the denial option that says, "No proof of Tennessee citizenship was presented with your request," and that you do not use lack of identification documents as a reason to deny a public records request, except under those reasonable circumstances when there's a plausible reason to believe someone is not a resident after they have said that they were.

In sum, getting rid of the requirement that you prove your Tennessee residency with the documents would reduce bureaucracy, improve customer service, save the government time, and improve compliance with the spirit in the letter of the law, and, importantly, promote a friendly and accessible culture in a government agency committed to transparency to citizens.

Response: The bureau agrees in part with the comment. T.C.A Section 10-7-503 (a) (2) (A) provides: "All state, county and municipal records shall, at all times during business hours, which for public hospitals shall be during the business hours of their administrative offices, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law" (emphasis added). To comply with the changes recommended above, this statute would need to be amended to allow for noncitizens to obtain copies. However, the bureau has made a change from "shall" to "may" regarding the proof of Tennessee citizenship in a public record request.

Comment: We think not allowing photography of public records is in direct conflict with the law and is an unreasonable restriction of access to public records. Tennessee Code Annotated 10-7-506 covers this. It says, "In all the cases where any person has the right to inspect any such public records, such person shall have the right to take extracts or make copies thereof and to make photographs, photostats of the same, while such records are in the possession, custody, and control of the lawful custodian thereof, or such custodian's authorized deputy, provided that the lawful custodian of such records shall have the right to adopt and enforce reasonable rules governing the making of such extracts, copies, photographs, or photostats.

Additionally, several states have already addressed this issue. They have correctly recognized that prohibiting someone from taking a photo or making their own copy of a record in a way that does not threaten the integrity of the record is bad public policy. Many also recognize that such restrictive policies conflict with their state laws that call for the fullest possible public access to public records, as does Tennessee law, which specifically allows a resident to take photographs of public records. Kentucky, Virginia, Georgia, Maine, Iowa, Florida, Washington, Texas, Arizona, and Louisiana are just some states that allow photography and use of personal equipment to make copies of nonexempt public records. If there are restrictions, they are narrow and limited to when there is a credible threat of damage or tearing of the record. In sum, we have heard of no reason for prohibiting photography. Someone doesn't even have to touch a record to take picture or handle it any more than they would handle it by simply looking through the record. With no explanation as why photography would be prohibited, how can a rule that appears to be in direct conflict with the law that says a person has the right to make photographs of public records, how could that be considered reasonable? So we ask that you change your policy to allow photography of public records.

Response: The bureau agrees with the comment and has made the requested change.

Comment: We also have questions about the \$10 research fee, which we find unusual compared with other State agencies, and which is not considered a reasonable fee under the schedule of reasonable charges that has been developed by the Office of Open Records Counsel. The Office of Open Records Counsel suggests that if you decide to charge fees that are not in their schedule, that an explanation as to why it's necessary be included. The policy does allow for labor fees after the first hour, and we just suggest that that be clarified to make it clear that the labor fees would only be charged in accordance with that schedule of reasonable charges outlined by the Office of Open Records Counsel, which goes to charging, based on the hourly rate of the person fulfilling the records request. Also, a waiver may be proper if there is a public interest involved.

Response: The bureau agrees with the comment. The rules have been amended to provide for a waiver at the discretion of the administrator if the public interest is involved or as otherwise deemed appropriate by the administrator. Also, the bureau has adopted the most current version of the "Schedule of Reasonable Charges" issued by the Office of Open Records Counsel.

### **Regulatory Flexibility Addendum**

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rulemaking process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

1. The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule: The amended rules should not affect small employers that fall under the Tennessee Workers' Compensation Laws, which would be employers with at least five employees, or for those in the construction industry at least one employee. There should be no additional costs associated with these rule changes.
2. The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record: There is no additional record keeping requirement or administrative cost associated with these rule changes.
3. A statement of the probable effect on impacted small businesses and consumers: These rules should not have a negative impact on consumers or small businesses.
4. A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business: There are no less burdensome methods to achieve the purposes and objectives of these rules.
5. Comparison of the proposed rule with any federal or state counterparts: None.
6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule: Exempting small businesses could frustrate the small business owners' access to the services provided by the Bureau of Workers' Compensation and timely medical treatment for injured workers, which would be counter-productive.

### **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

These proposed rules will have little, if any, impact on local governments.

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These new rules convert from policy to rule the public records request process of the Bureau of Workers' Compensation.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

PC 712(2018) requires state governmental entities to promulgate rules, rather than adopt policies, to establish a process for making requests to inspect or receive copies of public records,

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Workers' compensation insurance carriers and employers, including self-insured employers, and employees will be affected by the adoption or rejection of these rules.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The overall effect will have little fiscal impact upon state or local government.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Troy Haley, Director of Administrative Legal Services

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Troy Haley, Director of Administrative Legal Services

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees:

Tennessee Bureau of Workers' Compensation  
220 French Landing Drive, Floor 1-B  
Nashville, TN 37243  
(615) 532-0179  
troy.haley@tn.gov

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None

**Department of State**  
**Division of Publications**  
 312 Rosa L. Parks, 8th Floor Snodgrass/TN Tower  
 Nashville, TN 37243  
 Phone: 615.741.2650  
 Email: publications.information@tn.gov

**For Department of State Use Only**

Sequence Number: 07-08-19  
 Rule ID(s): 9214  
 File Date: 7/10/19  
 Effective Date: 10/8/19

# Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

<b>Agency/Board/Commission:</b>	Tennessee Department of Labor and Workforce Development
<b>Division:</b>	Bureau of Workers' Compensation
<b>Contact Person:</b>	Troy Haley
<b>Address:</b>	220 French Landing Drive 1-B, Nashville, TN 37243
<b>Phone:</b>	615-532-0179
<b>Email:</b>	troy.haley@tn.gov

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0800-02-29	Inspection and Copies of Public Records
Rule Number	Rule Title
0800-02-29-.01	Purpose and Scope
0800-02-29-.02	Definitions
0800-02-29-.03	Requesting Access to Public Records
0800-02-29-.04	Responding to Public Records Requests
0800-02-29-.05	Inspection of Records
0800-02-29-.06	Copies of Records
0800-02-29-.07	Fees and Charges and Procedures for Billing and Payment
0800-02-29-.08	Exemptions
0800-02-29-.09	Miscellaneous Records

Chapter 0800-02-29  
Inspection and Copies of Public Records  
New Rules

0800-02-29-.01 Purpose and Scope

(1) Pursuant to Tenn. Code Ann. § 10-7-503(g), the following rules regarding public records for the Bureau of Workers' Compensation are adopted to provide economical and efficient access to public records as provided under the Tennessee Public Records Act ("TPRA") in Tenn. Code Ann. § 10-7-501, et seq.

(2) The TPRA provides that all state, county and municipal records shall, at all times during business hours, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law. See Tenn. Code Ann. § 10-7-503(a)(2)(A). Accordingly, the public records of the Bureau of Workers' Compensation are presumed to be open for inspection unless otherwise provided by law. See Rule 0800-02-29-.08 below for exemptions.

(3) Designated personnel of the Bureau of Workers' Compensation shall timely and efficiently provide access and assistance to persons properly requesting to inspect or receive copies of public records. No provisions of these rules shall be used to hinder access to open public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the Bureau of Workers' Compensation shall be protected as provided by current law. Questions regarding public record requests should be addressed to the Records Custodian for the Bureau of Workers' Compensation.

Authority: T.C.A. §§ 10-7-501, 10-7-503.

0800-02-29-.02 Definitions

(1) "Administrator" means the chief administrative officer of the Bureau of Workers' Compensation or the Administrator's designee.

(2) "Bureau" means the State of Tennessee, Bureau of Workers' Compensation.

(3) "Office of Open Records Counsel" or "OORC" means the Office of Open Records Counsel, Tennessee Comptroller of the Treasury.

(4) "Public Records" or "Records" means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency provided under the Tennessee Public Records Act ("TPRA") in Tenn. Code Ann. § 10-7-501, et seq. See Tenn. Code Ann. § 10-7-503(a)(1)(A).

(5) "Records Custodian" means the individual or individuals designated by the Bureau lawfully responsible for the direct custody and care of a public record. See Tenn. Code Ann. § 10-7-503(a)(1)(C). The records custodian is not necessarily the original preparer or receiver of the record.

(6) "Requestor" means a citizen of Tennessee seeking access to a public record, whether it is for inspection or duplication.

(7) "Tennessee Public Records Act" or "TPRA" means the State law codified in T.C.A. § 10-7-501, et seq., regarding access to public records.

(8) "Workers' Compensation Law" means Tennessee Code Annotated Title 50, Chapter 6, as currently enacted by the Tennessee General Assembly, specifically including any future enactments by the Tennessee General Assembly involving amendments, deletions, additions, repeals, or any other modification, in any form, of the Workers' Compensation Law.

Authority: T.C.A. §§ 10-7-501, 10-7-503.

0800-02-29-.03 Requesting Access to Public Records

- (1) Public record requests shall be made to the Records Custodian or his/her designee in order to ensure public record requests are routed to the appropriate records custodian and fulfilled in a timely manner.
- (2) Public record requests for copies, or requests for inspection and copies, shall be made in writing to Records Custodian, 220 French Landing Drive, 1-B, Nashville, TN 37243, PH 800-332-2667 or [wc.records@tn.gov](mailto:wc.records@tn.gov).
- (3) Proof of Tennessee citizenship by presentation of a valid Tennessee driver's license or other government-issued photo ID may be required as a condition to inspect or receive copies of public records.
- (4) Public notices, meeting documents, and other similar records are posted and readily available online at [www.tn.gov/workforce/injuries-at-work](http://www.tn.gov/workforce/injuries-at-work) and <https://www.tn.gov/workforce/events.html>.

Authority: T.C.A. § 10-7-503.

0800-02-29-.04 Responding to Public Records Requests

- (1) The Records Custodian shall review public record requests and make an initial determination of the following:
  - (a) If the requestor provided evidence of Tennessee citizenship;
  - (b) If the records requested are described with sufficient specificity to identify them; and
  - (c) If the Bureau of Workers' Compensation is the custodian of the records.
- (2) The Records Custodian shall acknowledge receipt of the request and may take any of the following appropriate action(s):
  - (a) Advise the requestor of these Rules regarding:
    1. Proof of Tennessee citizenship;
    2. Form(s) required for copies;
    3. Fees; and
    4. Aggregation of multiple or frequent requests.
  - (b) If the request is denied, the Records Custodian shall provide a notice and include the appropriate grounds for denial which may include but shall not be limited to:
    1. The requestor is not, or has not presented evidence of being, a Tennessee citizen.
    2. The request lacks specificity.
    3. The TPRA or other law exempts the record from disclosure (absent any required signed authorization, subpoena or court order issued by a state or federal court).
    4. The Bureau of Workers' Compensation is not the custodian of the requested records.
    5. The records do not exist.
  - (c) Contact the requestor to see if the request can be narrowed.
  - (d) Forward the records request to the appropriate personnel who have access to the requested information in the Bureau of Workers' Compensation.
  - (e) If requested records are in the custody of a different governmental entity, and the Records Custodian knows the correct governmental entity, advise the requestor of the correct governmental entity for that entity.

(f) Upon receiving a valid public records request, a records custodian shall promptly make requested public records available in accordance with T.C.A. § 10-7-503. If the records custodian is uncertain that an applicable exemption applies, the custodian may consult with the Bureau's Attorney or the OORC.

(3) If not practicable to timely provide requested records then a records custodian shall notify the requester that additional time will be necessary.

(4) If a records custodian denies a public record request, he or she shall deny the request in writing as provided herein.

(5) If a records custodian reasonably determines production of records should be segmented because the records request is for a large volume of records, or additional time is necessary to prepare the records for access, the records custodian shall notify the requestor that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable. If appropriate, the records custodian should contact the requestor to see if the request can be narrowed.

(6) Redaction: If a record contains confidential information or information that is not open for public inspection, the records custodian shall prepare a redacted copy prior to providing access. If questions arise concerning redaction, the records custodian shall coordinate with counsel or other appropriate parties regarding review and redaction of records. The records custodian may also consult with the OORC or with the Office of Attorney General and Reporter.

Authority: T.C.A. §10-7-503.

#### 0800-02-29-.05 Inspection of Records

(1) There shall be no charge for inspection of open public records.

(2) The location for inspection of records within the offices of the Bureau of Workers' Compensation should be determined by the records custodian.

(3) The records custodian may require an appointment for inspection and shall be present during the inspection process.

Authority: T.C.A. § 10-7-503.

#### 0800-02-29-.06 Copies of Records

(1) A records custodian shall respond to a public record request for copies in the most economic and efficient manner practicable.

(2) Copies will be available for pickup at a location specified by the records custodian or may be delivered to the mailing address specified by the requester.

(3) A requestor will be allowed to make copies of records with personal equipment. Photographs of records are permitted.

Authority: T.C.A. § 10-7-503.

#### 0800-02-29-.07 Fees and Charges and Procedures for Billing and Payment

(1) Fees and charges for copies of public records should not be used to hinder access to the inspection of public records.

(2) Pursuant to Tenn. Code Ann. § 10-7-503(a)(7)(C)(i), upon a request for copies of Public Records, the Bureau shall assess fees for copying and labor based on the most current version of the "Schedule of Reasonable Charges" issued by the Office of Open Records Counsel, available at <http://www.comptroller.tn.gov/openrecords/>.

(3) Payments of fees for records shall be made by credit card, check or money order payable to the State of Tennessee, Bureau of Workers' Compensation. Payment in cash will not be accepted. Payment is due upon receipt of the invoice for the requested material. Requestors will not be entitled to receive additional records until all payments for records previously provided have been received by the Bureau.

(4) Payment in advance may be required when costs or an outstanding balance exceed \$100.00.

(5) In addition to the copy fees described in paragraph (2) above, labor charges for the time, in hours at the hourly rate of the records custodian, to produce copies of records shall be imposed whenever the time exceeds one (1) hour.

(6) If the copies of the requested records are delivered by mail, the costs of standard delivery, including postage, shall be added to the copy charge. Any charges for non-standard delivery shall be borne by the requesting party.

(7) Fees may be waived at the discretion of the administrator of the bureau. Requests for waivers must be presented prior to the fulfillment of the request to the administrator of the Bureau of Workers' Compensation, who is authorized to determine if such waiver is in the best interest of the bureau and for the public good.

Authority: T.C.A. § 10-7-503.

0800-02-29-.08 Exemptions

(1) The following records are exempted from the open record rule:

(a) First Reports of Injury, pursuant to § 50-3-702(b), unless the Bureau has a properly executed authorization.

(b) Workers' compensation medical records, pursuant to §50-6-131, shall remain confidential and shall not be considered to be public records.

(c) Information contained in workers' compensation insurance policies, pursuant to §50-6-421, "shall be deemed confidential and shall not constitute a public record" except for the following information which can be disclosed as a public record:

1. Employer name and business address;

2. Workers' Compensation insurance carrier name and business address; and

3. Workers' Compensation insurance policy number, policy effective date, policy expiration date, policy cancellation date, and policy reinstatement date.

0800-02-29-.09 Miscellaneous Records

(1) Mediation Records

(a) The Bureau adopts Tennessee Supreme Court Rule 31 pertaining to confidentiality of all information created or obtained during mediation proceedings except as otherwise required by law.

(b) Mediation records consists of all documents and information presented to the Bureau, during the course of mediation, relating to the employees' wages, medical condition, and any other information pertinent to the resolution of disputed issues pursuant to Tenn. Code Ann. § 50-6-236(b)(3).

(c) Requests for public records following mediation shall be made to the Record Custodian; however, during the course of mediation, a party may contact the assigned mediator to obtain those records necessary to facilitate a resolution of the disputed issues, including a copy of the Petition for Benefit Determination, the Request for Mediation, Request for Assistance, or Request for Benefit Review Conference.

(d) The following mediation records are not public records:

1. Confidential position statements, handwritten notes, and other materials or information expressly meant for a mediator and which the submitting party has not expressly consented to be divulged to the other party and;

2. Medical records and claim forms specifically excluded from the public record by law.

(2) Court of Workers' Compensation Claims and Workers' Compensation Appeals Board Records

(a) The Bureau adopts Tennessee Supreme Court Rule 34 pertaining to judicial records filed in the Court of Workers' Compensation Claims and the Workers' Compensation Appeals Board:

(b) The public has a statutory right to inspect public records maintained by agencies of state government. Accordingly, the public has the right to inspect public records maintained by the clerk of the Court of Workers' Compensation Claims and Appeals Board unless the record has been submitted under seal or is the subject of a protective order. Requests to inspect public records maintained by the clerk of the Court of Workers' Compensation Claims and Appeals Board are, however, subject to reasonable requirements and restrictions intended to preserve the integrity of the record, the parties' right to the record for the purpose of preparing their appellate papers, and the efficient operation of the appellate courts.

(c) For the purposes of these guidelines, a "record" includes any record defined as a "public record" in Tenn. Code Ann. § 10-7-301(6)(1992) that has not been submitted under seal or that is not the subject of a protective order.

(d) The following judicial records are not public records:

1. Unfiled drafts of judicial orders and opinions;

2. Written or electronic conference records, notes, memoranda, or other documents of a similar nature prepared by judges or judges staff as part of the judicial decision-making process unless filed as part of the court record;

3. Copies, other than the original, of motions, petitions, briefs, and other similar documents filed with the clerk of the Court of Workers' Compensation Claims and Appeals Board that have been furnished to individual appellate judges for their personal use;

4. Written or electronic conference records, notes, memoranda, reports, or other documents of a similar nature prepared by a judge or judge's staff on behalf of or at the direction of the court or judge as part of the judicial decision-making process unless filed as part of the court record;

5. All internal case management information except for information concerning the composition of panels assigned to consider a particular case;

6. Information maintained by individual judges with regard to their recusal from particular appeals unless the information is filed as part of the court record or unless it is subject to disclosure pursuant to Tenn. Code Ann. §§ 8-50-501, 8-50-506 (1993 & Supp. 1998) or Tenn. S. Ct. R. 10;

7. Documents protected from disclosure by order or rule of court; and

8. Any other record the disclosure of which would frustrate or interfere with the judicial function of the Court of Workers' Compensation Claims or Appeals Board.

(3) Uninsured Employers Fund/Misclassification Fund Records

(a) The bureau will release the file to a named employer or its attorney, upon request, for review of the materials in which the Administrator or Designee based a determination.

(b) With a proper authorization to release the information, an employer under investigation may inspect or obtain a copy of its file.

Authority: T.C.A. §§ 10-7-503, 50-3-702, 50-6-131, 50-6-421, 50-6-236, 8-50-501, 8-50-506.

\* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

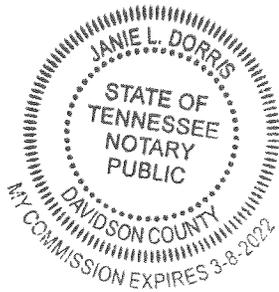
I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Bureau of Workers' Compensation on 4/22/19 and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on July 3, 2018.

Rulemaking Hearing Conducted on August 30, 2018.

Date: April 22, 2019  
Signature: Abbie Hudgens  
Name of Officer: Abbie Hudgens  
Title of Officer: Administrator, Bureau of Workers' Compensation



Subscribed and sworn to before me on: 4/22/19  
Notary Public Signature: Janie L. Dorris  
My commission expires on: 3/8/22

Agency/Board/Commission: Department of Labor & Workforce Development  
Bureau of Workers' Compensation

Rule Chapter Number(s): 0800-02-29

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III  
Herbert H. Slatery III  
Attorney General and Reporter  
6/10/2019  
Date

**Department of State Use Only**

Filed with the Department of State on: 7/10/19  
Effective on: 10/8/19  
Tre Hargett  
Secretary of State

## G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Board of Education

SUBJECT: Court-Ordered Day Treatment Facilities

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 49-3-308

EFFECTIVE DATES: October 29, 2019 through June 30, 2020

FISCAL IMPACT: No fiscal impact beyond the impact included in the fiscal note for the authorization legislation, Chapter 810 of the Public Acts of the 110<sup>th</sup> General Assembly.

STAFF RULE ABSTRACT: This proposed rule outlines the basic educational services LEAs are required to provide and the calculation of funds to be transferred from an LEA to a court-ordered day treatment facility for any student from the LEA who is admitted to the facility.

## **Regulatory Flexibility Addendum**

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

This rule does not affect small businesses.

## **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule does not have a financial impact on local governments beyond the impact included in the fiscal note for the authorizing legislation, SB 1803/Public Chapter 810 of the 110<sup>th</sup> General Assembly.

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This proposed rule outlines the basic educational services LEAS are required to provide and the calculation of funds to be transferred from an LEA to a court-ordered day treatment facility for any student from the LEA who is admitted to the facility.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. § 49-3-308 (Public Chapter 810, 110<sup>th</sup> General Assembly) requires the State Board of Education to promulgate rules for the determination of funding for court-ordered day treatment facilities.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The Tennessee Department of Education and State Board of Education are directly affected by this rule and both urge adoption. Local Education Agencies and Category I special purpose schools are also directly affected by this rule. No LEAs or special purpose schools have contacted the State Board to urge adoption or rejection of this rule.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

N/A

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

No fiscal impact beyond the impact included in the fiscal note for the authorizing legislation, SB 1803/Public Chapter 810 of the 110<sup>th</sup> General Assembly.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Angie Sanders  
[Angela.C.Sanders@tn.gov](mailto:Angela.C.Sanders@tn.gov)

Nathan James  
[Nathan.James@tn.gov](mailto:Nathan.James@tn.gov)

Elizabeth Fiveash  
[Elizabeth.Fiveash@tn.gov](mailto:Elizabeth.Fiveash@tn.gov)

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Angie Sanders  
[Angela.C.Sanders@tn.gov](mailto:Angela.C.Sanders@tn.gov)

Nathan James  
[Nathan.James@tn.gov](mailto:Nathan.James@tn.gov)

Elizabeth Fiveash  
[Elizabeth.Fiveash@tn.gov](mailto:Elizabeth.Fiveash@tn.gov)

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Angie Sanders  
710 James Robertson Parkway, 1<sup>st</sup> Floor  
Nashville, TN 27243  
(615) 253-5707  
[Angela.C.Sanders@tn.gov](mailto:Angela.C.Sanders@tn.gov)

Nathan James  
710 James Robertson Parkway, 1<sup>st</sup> Floor  
Nashville, TN 27243  
(615) 532-3528  
[Nathan.James@tn.gov](mailto:Nathan.James@tn.gov)

Elizabeth Fiveash  
710 James Robertson Parkway, 9<sup>th</sup> Floor  
Nashville, TN 27243  
(615) 253-1960  
[Elizabeth.Fiveash@tn.gov](mailto:Elizabeth.Fiveash@tn.gov)

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A

**Department of State  
Division of Publications**

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Sequence Number: 07-25-19  
Rule ID(s): 9222  
File Date: 7/31/19  
Effective Date: 10/29/19

## Proposed Rule(s) Filing Form

*Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.*

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

<b>Agency/Board/Commission:</b>	State Board of Education
<b>Division:</b>	
<b>Contact Person:</b>	Angie Sanders
<b>Address:</b>	1 <sup>st</sup> Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN
<b>Zip:</b>	37243
<b>Phone:</b>	615-253-5707
<b>Email:</b>	Angela.C.Sanders@tn.gov

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0520-01-15	Court-Ordered Day Treatment Facilities
Rule Number	Rule Title
0520-01-15-.01	Scope of Rules
0520-01-15-.02	Definitions
0520-01-15-.03	Allocation of Funds
0520-01-15-.04	Basic Educational Services
0520-01-15-.05	Calculation of Funds

**RULES OF  
THE STATE BOARD OF EDUCATION**

**CHAPTER 0520-01-15  
COURT-ORDERED DAY TREATMENT FACILITIES**

**TABLE OF CONTENTS**

<u>0520-01-15-.01</u>	<u>Scope of Rules</u>
<u>0520-01-15-.02</u>	<u>Definitions</u>
<u>0520-01-15-.03</u>	<u>Allocation of Funds</u>
<u>0520-01-15-.04</u>	<u>Basic Educational Services</u>
<u>0520-01-15-.05</u>	<u>Calculation of Funds</u>

**0520-01-15-.01 SCOPE OF RULES.**

The purpose of these rules is to effectuate the funding of educational services to students in court-ordered day treatment facilities, as required by T.C.A. § Title 49, Chapter 3, Part 3.

**Authority:** *T.C.A. § 49-3-308. Administrative History: Original rule filed.*

**0520-01-15-.02 DEFINITIONS.**

- (1) "Facility" or "Court-Ordered Day Treatment Facility" means a facility as defined in T.C.A. § 49-3-308(a).
- (2) "LEA" means a Local Education Agency.
- (3) "Student" means a child enrolled in a Tennessee public school, grades kindergarten through grade 12 (K-12) admitted to the facility as described in T.C.A. § 49-3-308(b).
- (4) "Department" means Tennessee Department of Education.

**Authority:** *T.C.A. § 49-3-308. Administrative History: Original rule filed.*

**0520-01-15-.03 ALLOCATION OF FUNDS.**

- (1) An LEA shall allocate funding to a facility for the student's length of stay; provided, that:
  - (a) The student admitted to the facility was enrolled in an LEA in the academic year immediately preceding admission to the facility and is enrolled at the time of admittance;
  - (b) The student is admitted to the facility under a signed, written order of a qualified juvenile judge or magistrate of a juvenile court in this state, such order being based upon the juvenile judge or magistrate of a juvenile court's assessment that admittance is in the best interest of the student and the community; and
  - (c) The student is not in the custody of the Department of Children's Services.
- (2) An LEA may require a juvenile court order including the student's name, the dates of admission, and the signature of the juvenile judge or the magistrate of the juvenile court to be submitted to the LEA prior to disbursement of funds to the facility.

**Authority:** *T.C.A. § 49-3-308. Administrative History: Original rule filed.*

**0520-01-15-.04 BASIC EDUCATIONAL SERVICES.**

- (1) Facilities shall consult with a student's LEA on how the facility may best provide basic educational services in, at a minimum, English Language Arts and Mathematics for the student.
- (2) The student's LEA may provide special education instruction and services to the student directly or through an agreement with the facility. With both options, IDEA requires both general and special education teachers to be "teachers of the child." At the facility, those positions may be filled by qualified general and special education teachers; however, an LEA representative must continue to fulfill his or her responsibilities on the student's Individualized Education Program (IEP) team.

**Authority:** *T.C.A. § 49-3-308. Administrative History: Original rule filed.*

**0520-01-15-.05 CALCULATION OF FUNDS**

- (1) The LEA shall allocate funding to the facility in an amount equal to the per pupil state and local BEP funds received by the LEA on a prorated daily basis for the student's length of stay, provided that the student meets the requirements of this Rule.
- (2) The daily rates shall be calculated by the Department each school year.
- (3) The Department shall calculate the daily rate of funds to be transferred from the LEA to the facility as follows:
  - (a) Applicable state and local funds received by the LEA in the prior fiscal year divided by the Average Daily Membership (ADM) from the prior fiscal year to equal the per pupil state and local funding;
  - (b) The per pupil state and local funding is then divided by the 180 day school year to equal the total daily rate.
- (4) The facility shall be eligible to receive funds based on the LEA's school calendar and only for days in which the student is served during the regular school year.
- (5) The funding specified in this chapter shall be in addition to funds allocated pursuant to federal law and regulation, including, but not limited to, Title I and ESEA funds.

**Authority:** *T.C.A. § 49-3-308. Administrative History: Original rule filed.*

\* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Nick Darnell	X				
Mike Edwards	X				
Bob Eby	X				
Gordon Ferguson	X				
Elissa Kim	X				
Lillian Hartgrove	X				
Wendy Tucker	X				
Darrell Cobbins	X				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the State Board of Education on 5/31/2019 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 6/20/19

Signature: [Handwritten Signature]

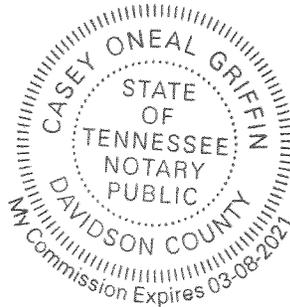
Name of Officer: Angela Sanders

Title of Officer: General Counsel

Subscribed and sworn to before me on: 6/20/19

Notary Public Signature: [Handwritten Signature]

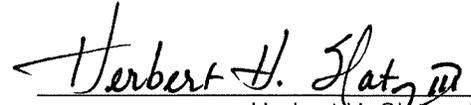
My commission expires on: 3-8-21



Agency/Board/Commission: State Board of Education

Rule Chapter Number(s): 0520-01-15

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

  
Herbert H. Slattery III  
Attorney General and Reporter  
7/24/2019  
Date

**Department of State Use Only**

Filed with the Department of State on: 7/31/19

Effective on: 10/29/19

  
Tre Hargett  
Secretary of State

2019 JUL 31 PM 12:06  
STATE OF TENNESSEE  
DEPARTMENT OF REVENUE

## G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Board of Social Worker Licensure

SUBJECT: General Rules and Regulations

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 63-1-125 and 4-5-210

EFFECTIVE DATES: October 27, 2019 through June 30, 2020

FISCAL IMPACT: None

STAFF RULE ABSTRACT: This rulemaking hearing rule amends Rule 1365-01-.09(1)(c) by adding a new subparagraph to include a suicide prevention training requirement, adding requirements for when a licensee (both existing and new) must or may obtain suicide prevention training, and describing how licensees can apply the hours of training towards the existing continuing education schedule.

The amendments to Rule 1365-01-.10(1) specify which edition of the code of ethics the Board is adopting.

### **Public Hearing Comments**

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

There were no comments, either written or oral.

## Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

- (1) **The extent to which the rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules.**

These rules do not overlap, duplicate, or conflict with other federal, state, and local government rules.

- (2) **Clarity, conciseness, and lack of ambiguity in the rule or rules.**

These rules are established with clarity, conciseness, and lack of ambiguity.

- (3) **The establishment of flexible compliance and/or reporting requirements for small businesses.**

These rules do not establish any new reporting requirements.

- (4) **The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.**

These rules do not establish any new reporting requirements.

- (5) **The consolidation or simplification of compliance or reporting requirements for small businesses.**

These rules do not establish any new reporting requirements.

- (6) **The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.**

These rules do not establish performance standards for small businesses as opposed to design or operational standards required for the proposed rule.

- (7) **The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.**

These rules do not create unnecessary barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

## STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

**Name of Board, Committee or Council:** Board of Social Worker Licensure

**Rulemaking hearing date:** 04/25/19

- 1. Type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:**

These rules affect licensees who are licensed through the Board of Social Worker Licensure as well as future applicants. The impact of these rules should be cost-neutral as licensees are already required to obtain continuing education hours. The amendment to ethics simply incorporates a specific edition to comply with Public Chapter 215.

- 2. Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:**

These rules should have a minimal impact on recordkeeping, reporting, or other administrative costs.

- 3. Statement of the probable effect on impacted small businesses and consumers:**

These rules should not impact businesses or consumers.

- 4. Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:**

There are no less burdensome, less intrusive or less costly alternative methods of achieving the purpose and or objectives of these rule amendments.

- 5. Comparison of the proposed rule with any federal or state counterparts:**

**Federal:** None.

**State:** All other boards which adopt outside ethics or other practice guides are required to list the specific edition in rule. Additionally, other boards offering counseling services are required to address suicide prevention training.

- 6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**

These rule amendments do not provide for exemptions for small businesses.

## **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed rule amendments should not have a financial impact on local governments.

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The amendments to Rule 1365-01-.09(1)(c) add a new subparagraph to include a suicide prevention training requirement, add requirements for when a licensee (both existing and new) must or may obtain suicide prevention training, and describe how licensees can apply the hours of training towards the existing continuing education schedule.

The amendments to Rule 1365-01-.10(1) specify which edition of the code of ethics the Board is adopting.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. § 63-1-125 and T.C.A. § 4-5-210.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

These rules affect licensees who are licensed through the Board of Social Worker Licensure as well as future applicants.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These rules should not impact revenues or expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Nathaniel Flinchbaugh, Assistant General Counsel, Department of Health.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Nathaniel Flinchbaugh, Assistant General Counsel, Department of Health.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Department of Health, Office of General Counsel, 665 Mainstream Drive, Nashville, 37243, (615)741-1611, Nathaniel.Flinchbaugh@tn.gov.

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

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Sequence Number: 07-23-19  
Rule ID(s): 9221  
File Date: 7/29/19  
Effective Date: 10/27/19

# Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).*

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

<b>Agency/Board/Commission:</b>	Board of Social Worker Licensure
<b>Division:</b>	
<b>Contact Person:</b>	Nathaniel Flinchbaugh, Assistant General Counsel
<b>Address:</b>	665 Mainstream Drive, Nashville, Tennessee
<b>Zip:</b>	37243
<b>Phone:</b>	(615) 741-1611
<b>Email:</b>	Nathaniel.Flinchbaugh@tn.gov

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1365-01	General Rules and Regulations
Rule Number	Rule Title
1365-01-.09	Continuing Education
1365-01-.10	Standards of Conduct

(Rule 1365-01-.08, continued)

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-23-101, 63-23-103, 63-23-104, 63-23-105, 63-23-108, 63-23-109, 63-23-110 and Chapter 1016 of the Public Acts of 2008, §1. **Administrative History:** Original rule filed October 31, 1990; effective December 15, 1990. Repeal and new rule filed April 6, 1994; effective June 20, 1994. Amendment filed January 31, 2000; effective April 15, 2000. Amendment filed March 9, 2001; effective May 23, 2001. Amendment filed September 4, 2003; effective November 18, 2003. Emergency rule filed February 2, 2010; effective through August 1, 2010. Amendment repealing and replacing rule filed April 29, 2010; effective July 29, 2010.

#### 1365-01-.09 CONTINUING EDUCATION.

- (1) Basic Requirements - Each social worker registered with the board is required to complete continuing education pursuant to Continuing Education paragraphs two (2) through four (4) during each calendar year.
  - (a) For licensed baccalaureate social workers and licensed master's social worker applicants, successful completion of the education requirements, pursuant to rule 1365-01-.04, shall be considered sufficient preparatory education to be substituted for the required hours of continuing education for the remainder of the calendar year in which the education requirements were completed.
  - (b) Those persons who hold an active L.B.S.W., L.M.S.W., L.A.P.S.W. and/or L.C.S.W. authorization to practice must separately satisfy the continuing education requirements for each license they wish to renew with no duplication between the four.
  - (c) Suicide Prevention Training required under the "Kenneth and Madge Tullis, MD. Suicide Prevention Training Act."
    1. Current Licensees – Beginning January 1, 2020, all persons who hold an active L.B.S.W., L.M.S.W., L.A.P.S.W., or L.C.S.W must complete a minimum two (2) hour Board approved training program relative to suicide prevention at least once every four (4) years.
    2. New Licensees – An applicant applying for initial licensure on or after January 1, 2020 is not required to complete a training program on suicide prevention for two (2) years after the date of initial licensure if the applicant can demonstrate successful completion of a two (2) hour academic training program that meets criteria established by the Board and that was completed no more than two (2) years prior to the application for initial licensure.
    3. Hours Earned – The continuing education hours earned through the training program under Part 1 and Part 2 of this subparagraph count toward meeting the continuing education requirements listed in subparagraphs (2)(a), (3)(a), and (4)(a) of this rule.
- (2) Requirements for licensed baccalaureate social worker.
  - (a) Each licensee shall obtain nine (9) continuing education clock hours relative to social work during each calendar year.
  - (b) Four (4) of the nine (9) hours shall be in social work.
  - (c) Three (3) of the nine (9) hours shall be in professional ethics.
  - (d) Two (2) of the nine (9) hours shall be in either social work or professional ethics.

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(Rule 1365-01-.09, continued)

- (e) Those licensees who hold more than one (1) category of licensure to practice social work must separately satisfy the continuing education requirements for each level of licensure.
- (3) Requirements for licensed master's social worker.
- (a) Each licensee shall obtain twelve (12) continuing education clock hours relative to social work during each calendar year.
  - (b) Seven (7) of the twelve (12) hours shall be in social work.
  - (c) Three (3) of the twelve (12) hours shall be in professional ethics.
  - (d) Two (2) of the twelve (12) hours shall be in either social work or professional ethics.
  - (e) Those licensees who hold more than one (1) category of licensure to practice social work must separately satisfy the continuing education requirements for each level of licensure.
- (4) Requirements for licensed advanced practice social worker and licensed clinical social worker.
- (a) Each licensee shall obtain fifteen (15) continuing education clock hours relative to social work during each calendar year.
  - (b) Ten (10) of the fifteen (15) hours shall be in social work.
  - (c) Three (3) of the fifteen (15) hours shall be in professional ethics.
  - (d) Two (2) of the fifteen (15) hours shall be in either social work or professional ethics.
  - (e) Those licensees who hold more than one (1) category of licensure to practice social work must separately satisfy the continuing education requirements for each level of licensure.
- (5) Social Work Continuing Education is considered to be those preplanned/formalized activities with written learning objectives that are directed at developing and enhancing an individual's awareness of professional ethics and an individual's social work knowledge base and service delivery skills in the applicable areas of social work planning, administration, education, research or direct service with individuals, couples, families, and groups.
- (a) These activities may include short academic courses, courses audited at accredited colleges and universities, workshops, seminars, conferences, and lectures oriented toward enhancement of professional ethics awareness and of social work practice, values, skills and knowledge for the purpose of accomplishing specific written learning objectives.
  - (b) Multi-Media courses may be taken for continuing education credit. Multi-media learning activities must have specific learning objectives, be presented by a qualified presenter, have a method to verify completion of the learning experience and include the issuance of verification of the completion of the continuing education.
    - 1. Multi-Media courses may include courses utilizing:
      - (i) the internet;

(Rule 1365-01-.09, continued)

- (ii) closed circuit television;
  - (iii) satellite broadcasts;
  - (iv) correspondence courses;
  - (v) videotapes;
  - (vi) CD-ROM;
  - (vii) DVD;
  - (viii) teleconferencing;
  - (ix) videoconferencing; and/or
  - (x) distance learning.
2. A maximum of two-thirds ( $\frac{2}{3}$ ) of a licensee's credit hours may be granted for multi-media courses during each calendar year.
- (6) Clock Hour - A clock hour represents actual time in continuing education activity. (Providers who measure continuing education activities in "continuing education units" shall define CEU in clock hours.)
- (7) Acceptable Social Work Continuing Education
- (a) Acceptable continuing education shall consist of seminars, workshops, or mini-courses oriented to the awareness of professional ethics and to the enhancement of social work practice, values, skills, and knowledge for the purpose of accomplishing specific written learning objectives.
    - 1. Cross-disciplinary offerings from medicine, law, administration, education and the behavioral sciences are acceptable, if they are clearly related to the awareness of professional ethics and to the enhancement of social work practices, values, skills, and knowledge.
    - 2. In-service training can be provided by the employer using presenters from the staff or from outside agencies.
    - 3. Attendance at educational events sponsored by national, state, regional, or local professional associations in the field or events related to the practice of the profession for which a nationally or regionally accredited institution of higher education grants CEU's is acceptable. Providers who measure continuing education activities in "continuing education units" (CEU's) shall define CEU in clock hours.
  - (b) Master or doctoral level social work courses or social work related courses such as mental health, administration, health and social research, psychology, sociology, human growth and development, child and family development, counseling and guidance taken for credit or audited from a nationally or regionally accredited institution of higher education. Baccalaureate level social work courses or social work related courses such as mental health, administration, health and social research, psychology, sociology, human growth and development, child and family development, counseling and guidance taken for credit or audited from a nationally or regionally accredited institution of higher education are acceptable for licensed baccalaureate social workers.

(Rule 1365-01-.09, continued)

- (c) Presentation for the first time of an academic social work course, in-service training workshop or seminar, or other professional seminar.
  - (d) Preparation for the first time of a professional social work paper published in a recognized professional journal or given for the first time at a statewide or national professional meeting.
- (8) Documentation
- (a) Each licensee registered with the board must retain proof of attendance and completion of all continuing education requirements. This documentation must be retained for a period of four (4) years from the end of the calendar year in which the continuing education was acquired. This documentation must be produced for inspection and verification if requested in writing by the board during its verification process. The board will not maintain continuing education files.
  - (b) The board will conduct a random audit of selected individual records to assure that the continuing education requirements have been met. An individual's records may be audited during consecutive renewal periods.
  - (c) If audited, the individual must, within fifteen (15) working days of a request from the board, provide evidence that is satisfactory to the Board of compliance with this rule. Such evidence may include, but not be limited to, one (1) or more of the following:
    - 1. Certificates verifying the individual's attendance at continuing education programs described in these Rules.
    - 2. An individual submitting a program as evidence of attendance at a continuing education event will also be required to submit two or more of the following for each program submitted: original registration receipt, signed program canceled check (front and back), hotel bill, name badge, or an original letter on official stationery signed by a professional associate who attended.
    - 3. An original letter on official institution stationery from the instructor of the graduate level course verifying that the course was completed and listing the number of credit hours of attendance completed by the individual.
    - 4. Official transcript verifying credit hours earned. One academic credit hour is equivalent to 15 clock hours for the purpose of licensure renewal. Credit for auditing will be for the actual clock hours in attendance, not to exceed the academic credit.
    - 5. Written documentation of training that is kept by the social worker's employer. When submitting evidence of continuing education, the documentation must include employer's name, address and phone number along with the individual's name as registered with the board, certificate/license number and social security number, course name and clock hours of attendance. The licensee must sign the form, as well as his supervisor or employer, certifying that the program was monitored and the social worker was in attendance at all of the sessions listed.
    - 6. A copy of the course syllabus and verification that the course, workshop or seminar was presented may be used as documentation. A maximum of five (5) clock hours will be allowed for preparation and presentation during each renewal period.

(Rule 1365-01-.09, continued)

- (d) If a person submits documentation for training that is not clearly identifiable as appropriate continuing education, the board will request a written description of the training and how it applies to the individual's employment as a social worker. If the board determines that the training cannot be considered appropriate continuing education, the individual will be given 60 days to replace the hours not allowed. Those hours will be considered replacement hours and cannot be counted during the next renewal period.
- (e) Continuing education credit will not be allowed for the following:
  - 1. The licensee's regular work activities, administrative staff meetings, case staffing/reporting, etc.
  - 2. Membership, holding office in, or participation on boards or committees, business meetings of professional organizations, or banquet speeches.
  - 3. Independent unstructured or self-structured learning.
  - 4. Training specifically related to policies and procedures of an agency may not be counted.
  - 5. Non-social work content courses.
- (9) The board does not pre-approve continuing education programs. It is the licensee's responsibility, using his or her professional judgment and utilizing the guidelines provided within these rules, to determine whether or not the programs are applicable and appropriate to his professional development and meet the standards specified in these rules.
- (10) Continuing Education for Reactivation or Reinstatement of Retired, Revoked, or Expired License.
  - (a) Reactivation of a retired license.
    - 1. An individual whose license has been retired for one year or less will be required to fulfill continuing education requirements as outlined in this rule as a prerequisite to reinstatement. Those hours will be considered replacement hours and cannot be counted during the next renewal period.
    - 2. Any individual requesting reactivation of a license which has been retired more than one year must submit along with the reactivation request, verification which indicates the attendance and completion of nine (9) hours of continuing education if the individual is a L.B.S.W.; twelve (12) hours of continuing education if the individual is a L.M.S.W.; and fifteen (15) hours of continuing education if the individual is a L.C.S.W. or L.A.P.S.W., which must have been begun and successfully completed within twelve (12) months immediately preceding the date of requested reinstatement. The continuing education hours completed to reinstate a retired license shall not be credited toward the continuing education hours required to be completed by the end of the renewal cycle following reinstatement.
    - 3. The board, upon receipt of a written request and explanation, may waive the continuing education for reactivation of a retired license in emergency situations.
  - (b) Reactivation of a Revoked License - No person whose license has been revoked for failure to comply with continuing education may be reactivated without complying with these requirements. Continuing education requirements will accumulate at the same

(Rule 1365-01-.09, continued)

rate as for those licenses which are active. A license which has been revoked for non-compliance with the continuing education requirement shall also be subject to the late renewal fee pursuant to Rule 1365-01-.05.

- (c) Reinstatement of an Expired License – No person whose license has expired may be reinstated without submitting evidence of continuing education. The continuing education hours documented at the time of reinstatement must equal the hours required, had the license remained in an active status.
- (d) Continuing education hours obtained as a prerequisite for reactivating or reinstating a license may not be counted toward the calendar year requirement for the year in which reactivation or reinstatement is requested.

(11) Waiver of Continuing Education

- (a) The board may grant a waiver to any licensee of the need to certify attendance and completion of the required hours of continuing education, if it can be shown to the board that the failure to comply was not attributable to or was beyond the physical capabilities of the individual, i.e., disability, residence abroad, military service, or other reasonable cause. Such requests for waiver must be accompanied by written documentation acceptable to the board.
- (b) Waivers will be considered only on an individual basis and may be requested by submitting the following items to the board administrative office.
  - 1. A written request for a waiver which specifies what requirement is sought to be waived and includes a written, signed explanation of the reasons for the request,
  - 2. Any documentation which supports the reason for the waiver requested or which may be subsequently requested by the board.
- (c) A waiver approved by the board is effective for only the period for which the waiver of the continuing education requirement is sought, unless otherwise specified in writing by the board.

(12) Violations

- (a) Any licensee who falsely certifies attendance and completion of the required hours of continuing education requirements, or who does not or cannot adequately substantiate completed continuing education hours with the required documentation, may be subject to disciplinary action.
- (b) Prior to the institution of any disciplinary proceedings, a letter shall be issued to the last known address of the individual stating the facts or conduct which warrants the intended action.
- (c) The licensee has thirty (30) days from the date of notification to show compliance with all lawful requirements for the retention of the license.
- (d) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (12) (b) above may be subject to disciplinary action.
- (e) Continuing education hours obtained as a result of compliance with the terms of a Board Order in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any calendar year.

(Rule 1365-01-.09, continued)

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-1-107, ~~63-1-125~~, 63-23-101, 63-23-104, 63-23-105, 63-23-106, 63-23-108, 63-23-110 and Chapter 1016 of the Public Acts of 2008, §1. **Administrative History:** Original rule filed April 6, 1994; effective June 20, 1994. Amendment filed January 31, 2000; effective April 15, 2000. Amendment filed March 9, 2001; effective May 23, 2001. Amendment filed August 16, 2002; effective October 30, 2002. Emergency rule filed February 2, 2010; effective through August 1, 2010. Amendment repealing and replacing rule filed April 30, 2010; effective July 29, 2010.

**1365-01-.10 STANDARDS OF CONDUCT.**

- (1) ~~Code of Ethics — All licensees shall comply with the code of ethics adopted by the National Association of Social Workers, 750 First Street, NE, Suite 700, Washington, DC 20002-4241, except to the extent it conflicts with the laws of the State of Tennessee or the rules of the Board. If the code of ethics conflicts with state law or rules, the state law or rules govern the matter. Violation of the code of ethics or state law or rules may subject a licensee to disciplinary action.~~
- (1) Code of Ethics — All licensees shall comply with the code of ethics adopted by the National Association of Social Workers (NASW), approved by the 1996 NASW Delegate Assembly and revised by the 2017 NASW Delegate Assembly, except to the extent it conflicts with the laws of the State of Tennessee or the rules of the Board. If the code of ethics conflicts with state law or rules, the state law or rules govern the matter. Violation of the code of ethics or state law or rules may subject a licensee to disciplinary action. A copy of the Code of Ethics may be found here: <https://www.tn.gov/health/health-program-areas/health-professional-boards/sw-board/sw-board/statutes-and-rules.html>.
- (2) Each applicant or licensee is responsible for being familiar with and following the code of ethics.
- (3) Unethical conduct shall include, but not be limited to, the following:
- (a) Knowingly circulating untrue, fraudulent, misleading, or deceptive advertising;
  - (b) Engaging in sexual activities with current or former clients;
  - (c) Becoming addicted to the habitual use of intoxicating liquors, narcotics, or other stimulants so as to incapacitate a licensee from the performance of his or her professional obligations and duties;
  - (d) Disclosing confidential information;
  - (e) Failing to inform clients about the limits of client-social worker confidentiality;
  - (f) Denying a client's reasonable request for access to any social worker records concerning the client;
  - (g) Failing to obtain the informed consent of clients before taping, recording, or permitting third parties to observe their activities;
  - (h) Failing to inform clients when a conflict of interest exists between the licensee and the client as well as between the licensee's employer and the client;
  - (i) Failing to inform clients as to the purpose and nature of an evaluation, research, treatment, educational, or training procedure and to inform the clients that they must participate freely and voluntarily;

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(Rule 1365-01-.10, continued)

- (j) Failing to terminate a client relationship when services are no longer required or requested or when it is reasonably clear that the relationship is not benefiting the client;
  - (k) Failing to make every effort to avoid dual relationships with clients and/or relationships that might impair the licensee's independent professional judgment and impair the quality of services provided to each client;
  - (l) Entering into a relationship with a client that increases the risk of exploitation for the client to the licensee's advantage;
  - (m) Failing to assist clients in finding needed services;
  - (n) Providing unnecessary or unwanted services;
  - (o) Failing to notify clients when the licensee anticipates terminating services. The licensee shall notify the client promptly and accommodate the transfer, referral, or continuation of services relative to the client's needs and preferences;
  - (p) Setting fees that are unreasonable and not commensurate with the service performed; and
  - (q) Engaging in the division of fees or agreeing to split or divide the fee received for professional services with any person for bringing or referring a client.
- (4) Release of Records – Upon receiving a written request from the client or the client's authorized representative, a licensee shall provide the client or the client's authorized representative a complete copy of the client's record or summary of such records maintained by the licensee; it shall be the licensee's option as to whether copies of the client records or a summary of the records will be given to the client or authorized representative.
- (5) Advertising.
- (a) Affirmative Duties.
    - 1. Licensees shall engage in the following conduct while advertising in the course of the practice of social work:
      - (i) Make reasonable efforts to advance the welfare and best interests of the client;
      - (ii) Not discriminate against a client based on age, gender, sexual orientation, race, color, national origin, religion, diagnosis, disability, political affiliation or social or economic status;
      - (iii) Inform the client of the costs of the services before providing services;
      - (iv) Include the corporation, partnership or individual name, address, and telephone number of the licensees named in the advertisement;
      - (v) Upon request, a licensee shall disclose that he or she gave compensation or anything of value to a representative of the press, radio, television, or any communication medium in anticipation of or in return for any advertisement that was not initiated by the licensee; and

(Rule 1365-01-.10, continued)

- (vi) The licensee partner or officer of a firm or entity shall remove all references in firm or individual advertisements of another licensee who has left the firm or entity within thirty (30) days of the licensee's departure.

(b) Prohibited Activities.

1. Licensees shall not engage in the following forms of advertisement in the practice of social work:
  - (i) Making claims that the services performed, personnel employed, or office equipment used are professionally superior to that which is ordinarily performed, employed, or used or that conveys the message that one (1) licensee or certificate holder is better than another when superiority of services, personnel, or equipment cannot be substantiated;
  - (ii) Making false or misleading claims about their degree;
  - (iii) Promoting professional services that the licensee knows or should know are beyond the licensee's scope of practice;
  - (iv) Using communication techniques that intimidate, exert undue pressure or undue influence over a client or prospective client;
  - (v) Appealing to a client or prospective client's anxiety in an excessive or unfair manner;
  - (vi) Using unverifiable personal testimonials attesting to the quality or competency of the services provided by the licensee;
  - (vii) Utilizing statistical data or other information based on past performances to indicate the results of future services creating an unjustified expectation about the results that the licensee can achieve;
  - (viii) Communicating personal identifiable facts, data, or information about a client without first obtaining the client's consent;
  - (ix) Misrepresenting a material fact. For the purposes of this rule, a "material fact" is any fact which an ordinary, reasonable, and prudent person would need to know to reply upon in order to make an informed decision;
  - (x) Stating or implying that certain licensees provide certain services when such services are performed by another licensee;
  - (xi) Directly or indirectly offering, giving, receiving, or agreeing to receive any fee or other consideration to or from a third party for the referral of a client in connection with the performance of professional services;
  - (xii) Making false, deceptive, misleading, or fraudulent statements relative to fees.

(c) Responsibility for Advertising and Records.

1. The licensee who is named in the advertisement is responsible for the form and content of the advertisement.

(Rule 1365-01-.10, continued)

2. The licensee who is a principal partner or officer of the firm or entity identified in the advertisement is jointly and severally responsible for the form and content of the advertisement.
3. Each licensee shall retain every advertisement communicated by the licensee to the print, television, radio, web-based, social, or other equivalent media, or any other form of advertising for two (2) years from the last date of the broadcast or publication and shall make the advertisements available for review upon the request of the Board office or its designee.
4. Each licensee shall also retain any and all information that would substantiate the truthfulness of any assertion, omission or representation of material fact contained in the advertisement.

**Authority:** T.C.A. §§4-5-202, 4-5-204, ~~4-5-210~~, 63-2-101, 63-23-101, 63-23-102, 63-23-103, 63-23-108, 63-23-109, 63-23-110 and Chapter 1016 of the Public Acts of 2008, §1. **Administrative History:** Original rule filed April 6, 1994; effective June 20, 1994. Amendment filed November 4, 2002; effective January 18, 2003. Amendment filed July 22, 2003; effective October 5, 2003. Amendment filed March 14, 2006; effective May 28, 2006. Amendment filed July 3, 2007; effective September 16, 2007. Emergency rule filed February 2, 2010; effective through August 1, 2010. Amendment repealing and replacing rule filed April 29, 2010; effective July 29, 2010.

**1365-01-.11 CLINICAL EXPERIENCE.**

Clinical experience includes, but is not limited to:

- (1) The professional application of social work knowledge, values, and skills for the treatment and prevention of psychosocial dysfunction, disability, or impairment, including emotional and mental disorders;
- (2) Interventions directed to interpersonal interactions, intrapsychic dynamics, life-support, and management issues; and
- (3) Assessment, diagnosis, and treatment involving the psychotherapy process based on counseling, client-centered advocacy, consultation, and evaluation of the professional application of social work knowledge values, and skills.

**Authority:** T.C.A. §§4-5-202, 63-23-101, 63-23-104, 63-23-105, 63-23-106, 63-23-108, 63-23-110 and Chapter 1016 of the Public Acts of 2008, §1. **Administrative History:** Original rule filed April 6, 1994; effective June 20, 1994. Emergency rule filed February 2, 2010; effective through August 1, 2010. Amendment repealing and replacing rule filed April 30, 2010; effective July 29, 2010.

**1365-01-.12 DISCIPLINARY ACTIONS AND CIVIL PENALTIES.**

- (1) Actions - Upon a finding by the Board that any provision of the Tennessee Social Worker Practice Act or the rules promulgated pursuant thereto has been violated, the Board may impose any of the following actions separately or in any combination deemed appropriate to the offense:
  - (a) Denial of an application for licensure.
  - (b) "Letter of warning." This is a written action. It is informal and advisory in nature and does not constitute a formal disciplinary action.
  - (c) "Formal reprimand." This is a written action. It is a formal disciplinary action.

\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Jennifer L. Williams	X				
Tara L. Watson	X				
Vacant					
Robert Zylstra	X				
Kimberly Mallory				X	
Ann-Marie C. Jones	X				
Rachel Horton	X				
Kenya S. Anderson	X				
Kenneth J. White	X				
Billie Jo (Nesler) Olivas	X				
Karen Armstrong				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Social Worker Licensure (board/commission/ other authority) on 04/25/19 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

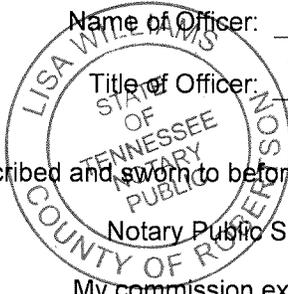
Notice of Rulemaking Hearing filed with the Department of State on: 01/09/19 (mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). 04/25/19 (mm/dd/yy)

Date: 6/17/2019

Signature: Nathaniel D. Flinchbaugh

Name of Officer: Nathaniel Flinchbaugh  
 Assistant General Counsel  
 Department of Health



Subscribed and sworn to before me on: June 17, 2019

Notary Public Signature: Lisa Williams

My commission expires on: December 22, 2021

Agency/Board/Commission: Board of Social Worker Licensure

Rule Chapter Number(s): 1365-01

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III

Herbert H. Slatery III  
 Attorney General and Reporter

7/24/2019  
 Date

Filed with the Department of State on: 7/29/19

Effective on: 10/27/19

*Tre Hargett*

Tre Hargett  
Secretary of State

2019 JUL 29 PM 3:27  
SECRET

## G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Tennessee Higher Education Commission (THEC)

DIVISION: Higher Education

SUBJECT: Access to Public Records

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 10-7-503(g)

EFFECTIVE DATES: October 15, 2019 through June 30, 2020

FISCAL IMPACT: THEC estimates that there will be neither an increase nor a decrease in state government revenues and expenditures as a result of this rule. THEC's rules allow for a waiver of any costs or fees for copies of public records whenever there is a determination that it is in the best interest of the public.

STAFF RULE ABSTRACT: This rulemaking hearing rule outlines the procedures and rules relating to access to public records, which is required by Tennessee Code Annotated, Section 10-7-503(g)(2).

There were no public comments to the above-described rule.

Attached hereto are the responses to public comments.

## **Regulatory Flexibility Addendum**

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

This rule is not projected to affect small business.

## **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule is not projected to have an impact on local governments.

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Rule 1540-01-11 outlines the procedures and rules relating to access to public records, which is required by Tenn. Code Ann. § 10-7-503(g)(2).

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Tenn. Code Ann. § 10-7-503(g) requires agencies to promulgate rules pertaining to access to public records.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Members of the public who submit requests for THEC's public records will be most affected by the rule.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no opinions of the attorney general and reporter or any judicial ruling that directly relates to these proposed rules.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

THEC estimates that there will be neither an increase nor a decrease in state government revenues and expenditures as a result of this rule. THEC's rules allow for a waiver of any costs or fees for copies of public records whenever there is a determination that it is in the best interest of the public.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Brett Gipson, Deputy General Counsel and Shauna Jennings, Associate General Counsel

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Brett Gipson, Deputy General Counsel and Shauna Jennings, Associate General Counsel

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Brett Gipson, Deputy General Counsel  
Tennessee Higher Education Commission  
Suite 1900, Parkway Towers  
Nashville, TN 37243  
615.253.5335  
Brett.Gipson@tn.gov

Shauna Jennings, Associate General Counsel  
Tennessee Higher Education Commission  
Suite 1900, Parkway Towers

Nashville, TN 37243  
615.253.7462  
Shauna.Jennings@tn.gov

(l) Any additional information relevant to the rule proposed for continuation that the committee requests.

There have been no requests for additional information received to-date.

**Department of State  
Division of Publications**

312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower  
Nashville, TN 37243  
Phone: 615-741-2650  
Email: [publications.information@tn.gov](mailto:publications.information@tn.gov)

**For Department of State Use Only**

Sequence Number: 07-14-19  
Rule ID(s): 9218  
File Date: 7/17/19  
Effective Date: 10/15/19

# Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).*

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

**Agency/Board/Commission:** Tennessee Higher Education Commission  
**Division:** Higher Education  
**Contact Person:** Shauna Jennings, Associate General Counsel  
**Address:** Suite 1900, Parkway Towers, 404 James Robertson Parkway, Nashville, TN  
**Zip:** 37243  
**Phone:** 615.253.7462  
**Email:** [shauna.jennings@tn.gov](mailto:shauna.jennings@tn.gov)

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1540-01-11	Access to Public Records
Rule Number	Rule Title
1540-01-11-.01	Purpose and Scope
1540-01-11-.02	Definitions
1540-01-11-.03	Requesting Access to Public Records
1540-01-11-.04	Responding to Public Records Requests
1540-01-11-.05	Inspection or Copies of Records
1540-01-11-.06	Charges, Payment, and Waivers
1540-01-11-.07	Aggregation of Frequent and Multiple Requests

NEW RULES  
RULES  
OF  
TENNESSEE HIGHER EDUCATION COMMISSION

CHAPTER 1540-01-11  
ACCESS TO PUBLIC RECORDS

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1540-01-11-.02 Definitions	1540-01-11-.06 Charges, Payment, and Waivers
1540-01-11-.03 Requesting Access to Public Records	1540-01-11-.07 Aggregation of Frequent and Multiple Requests
1540-01-11-.04 Responding to Public Records Requests	

1540-01-11-.01 PURPOSE AND SCOPE.

- (1) The purpose of these rules is to establish procedures regarding public records requests received by the Tennessee Higher Education Commission, and to provide economical and efficient access to Public Records subject to the Tennessee Public Records Act or "TPRA" in Tennessee Code Annotated § 10-7-501, et seq.

Authority: T.C.A. §§ 10-7-503 and 10-7-506.

1540-01-11-.02 DEFINITIONS.

- (1) "Commission" means the Tennessee Higher Education Commission.
- (2) "Office of Open Records Counsel" or "OORC" means the State of Tennessee Office of Open Records Counsel, established pursuant to T.C.A. § 8-4-601 et. seq., or any successor office or entity.
- (3) "Public Records" means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency, not otherwise protected by law or exempt from disclosure under the Tennessee Public Records Act.
- (4) "Public Records Request Coordinator" or "PRRC" means any individual within the Tennessee Higher Education Commission whose role it is to ensure public records requests are routed to the appropriate Records Custodian and are fulfilled in accordance with Tennessee Public Records Act.
- (5) "Records Custodian" means any office, official, or employee of the Tennessee Higher Education Commission lawfully responsible for the direct custody and care of a public record. The Records Custodian is not necessarily the original preparer or receiver of the record.
- (6) "Requestor" is a person seeking access to a public record, whether it is for inspection or duplication.
- (7) "TPRA" is the Tennessee Public Records Act in T.C.A. § 10-7-501, et seq.

Authority: T.C.A. §§ 10-7-503 and 10-7-506.

1540-01-11-.03 REQUESTING ACCESS TO PUBLIC RECORDS.

- (1) The Commission shall provide access to its Public Records to any citizen of Tennessee.

- (2) A Requestor may request access to Public Records maintained and received by the Commission by making a request in person, by telephone, mail, or email. All public record requests should be directed to the Commission's PRRC. Any employee of the Commission who receives what they believe may be a public records request, formal or informal, shall immediately notify the PRRC.
- (3) Requests for inspection are not required to be made in writing. Requests for inspection may be made in-person at the Commission's office, by telephone, or in writing by mail or email. Email requests shall be sent to THEC.TSAC.PublicRecords@tn.gov.
- (4) A Requestor shall make a request for copies of Public Records in writing to the PRRC using the Commission's Public Records Request Form, which can be found on the Commission's website. The request for copies may be submitted by mail to the attention of the PRRC at the Commission's current mailing address, or by email to THEC.TSAC.PublicRecords@tn.gov.
- (5) Any request for inspection or copying of a Public Record shall be sufficiently detailed to enable the Commission to identify the specific records for inspection or copying.
- (6) A Requestor may assert Tennessee citizenship by presenting valid government-issued photo identification that includes the Requestor's address. The PRRC may waive the requirement of having the Requestor present government-issued photo identification if the Requestor has previously provided proof of Tennessee citizenship or the Requestor provides other reliable evidence of Tennessee citizenship.
- (7) The designated PRRC is the Commission's Deputy General Counsel, and may be reached at the Commission's offices of record in Nashville or THEC.TSAC.PublicRecords@tn.gov.

Authority: T.C.A. §§ 10-7-503 and 10-7-506.

#### RULE 1540-01-11-04 RESPONDING TO PUBLIC RECORDS REQUESTS.

- (1) Upon receipt of a public records request, the PRRC shall review the request, consult with the appropriate Records Custodian as needed, and make an initial determination of the following:
  - (a) If the Requestor provided sufficient evidence of Tennessee citizenship pursuant to Rule 1540-01-11-03(6);
  - (b) If the records requested are described with sufficient specificity to identify them; and
  - (c) If the Commission is the custodian of the Public Records.
- (2) The PRRC shall acknowledge receipt of the request and take any of the following appropriate action(s):
  - (a) Advise the Requestor of these Rules regarding:
    1. Requirement of proof of Tennessee citizenship;
    2. Form(s) required for copies;
    3. Fees, labor thresholds, and waivers, if applicable; and
    4. Aggregation of multiple or frequent requests.
  - (b) Denial of the request as outlined in Rule 1540-01-11-04(3);
  - (c) If appropriate, contact the Requestor to determine if the request can be clarified.
  - (d) Upon acknowledgement of receipt of the request, immediately forward the records request to the Records Custodian.

- (3) If appropriate, the Commission will deny the request in writing using the Commission's Public Records Request Response form, providing the ground for denial which may include, but shall not be limited to:
  - (a) The Requestor is not a Tennessee citizen;
  - (b) The request lacks sufficient specificity, in which case the PRRC shall offer to assist in clarification;
  - (c) The record request is exempt from disclosure under the TPRA. The PRRC shall provide the applicable exemption in the written denial.
  - (d) The Commission is not the custodian of the requested records. If the requested records are in the custody of a different governmental entity, and the PRRC knows the correct governmental entity, the PRRC will advise the Requestor of the correct governmental entity;
  - (e) The record(s) requested do not exist.
- (4) The PRRC shall coordinate with the appropriate Records Custodian to promptly make public records available in accordance with T.C.A. § 10-7-503. If not practicable to promptly provide the requested records or the records need to be segmented because of the large volume of records to be provided, then the PRRC, or Records Custodian as designee, shall, within seven (7) business days from the receipt of the request, send the Requestor a completed Public Records Request Form notifying them of such, and that a records production schedule will be provided as expeditiously as practicable. Any segmentation of records must be authorized by the PRRC or the Commission's General Counsel's Office.
- (5) If a Public Record contains information not subject to disclosure under the TPRA, the Commission shall prepare a redacted copy of the Public Record prior to providing access. Whenever a redacted record is provided, the Commission shall provide the Requestor with the basis for redaction. Any redaction must be authorized by the PRRC or the Commission's General Counsel's office.
- (6) If the PRRC or Records Custodian discovers records responsive to a records request were inadvertently omitted, the PRRC, or Records Custodian as designee, will contact the Requestor concerning the omission and produce the records as quickly as practicable.
- (7) The Records Custodian shall provide the requested records to the PRRC once compiled. The PRRC will coordinate delivery of the records to the Requestor for pickup, by mail to the Requestor's home address or other acceptable address within Tennessee, or by electronic delivery to an email provided by the Requestor.

Authority: T.C.A. §§ 10-7-503 and 10-7-506.

#### 1540-01-11-.05 INSPECTION OF PUBLIC RECORDS.

- (1) There shall be no charge for inspection of open public records.
- (2) The location for inspection of public records within the Commission's offices should be determined by either the PRRC or the Records Custodian.
- (3) Public records may be inspected during regular business hours. Under reasonable circumstances, the PRRC or a Records Custodian may require an appointment for inspection or may require inspection of records at an alternate location.

Authority: T.C.A. §§ 10-7-503 and 10-7-506.

#### 1540-01-11-.06 CHARGES, PAYMENT, AND WAIVERS.

- (1) The Commission shall not use fees or charges for copies of public records to hinder citizen access to public records. The Commission shall make reasonable efforts to provide copies of requested records in a manner that will minimize or eliminate cost to the Commission and the Requestor. The Commission's schedule of fees and charges shall not exceed the amounts authorized by the OORC Schedule of Reasonable Charges and shall be published on the Commission's website.
- (2) The PRRC or Records Custodian shall provide Requestor with an itemized estimate of charges prior to producing copies of records and may require pre-payment of such charges before producing requested records. Payment is to be made by personal check or money order, payable to the Tennessee Higher Education Commission, and presented to the Records Custodian or PRRC.
- (3) If an outside vendor is used to duplicate records, the actual costs assessed by the vendor will be added to any other applicable charges incurred by the Commission.
- (4) The Commission may waive or reduce any part of the fees calculated under these rules upon a written determination that such waiver or reduction would be in the best interests of the public.

Authority: T.C.A. §§ 10-7-503 and 10-7-506.

#### 1540-01-11-.07 AGGREGATION OF FREQUENT AND MULTIPLE REQUESTS.

- (1) The Commission may aggregate record requests when more than four (4) requests are received within a calendar month from either a single individual or a group of individuals deemed to be working in concert.
- (2) If aggregating, the level at which records requests will be aggregated is the agency-level, encompassing all divisions of the Commission.
- (3) The PRRC is responsible for making the determination a group of individuals are working in concert. The PRRC or Records Custodian must inform the individuals that they have been deemed to be working in concert and that they have the right to appeal the decision to the OORC.
- (4) Routinely released and readily accessible records excluded from aggregation include, but are not limited to, any record regularly maintained by the Commission in electronic format that does not require redaction or other modification and can be delivered to the Requestor via electronic means.

Authority: T.C.A. §§ 10-7-503 and 10-7-506.

\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

<b>Commission Member</b>	<b>Aye</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>	<b>Signature (if required)</b>
Evan Cope, Chair, Murfreesboro - Middle Tennessee	X				
Dr. Nancy Dishner, Johnson City - East Tennessee	X				
Jimmy Johnston, Gallatin - Middle Tennessee	X				
Pam Koban, Nashville - Middle Tennessee	X				
Mintha Roach, Knoxville - East Tennessee				X	
Vernon Stafford, Jr., Memphis - West Tennessee	X				
Frank L. Watson, Jr., Memphis - West Tennessee	X				
A C Wharton, Jr., Secretary, Memphis - West Tennessee	X				
Tre Hargett, Secretary of State	X				
Justin P. Wilson, State Comptroller	X				
David H. Lillard, Jr., State Treasurer				X	
Cara Sulyok, Voting Ex- Officio, Student Member- University of Tennessee, Knoxville	X				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Higher Education Commission on 05/17/2019, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 6/14/19

Signature: [Handwritten Signature]

Name of Officer: Mike Krause

Title of Officer: Executive Director



Subscribed and sworn to before me on: 06/14/19

Notary Public Signature: [Handwritten Signature]

My commission expires on: 08/04/2020

Agency/Board/Commission: THEC

Rule Chapter Number(s): 1540-01-11

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

2019 JUL 17 PM 12:00  
SECRETARY OF STATE  
PUBLIC OFFICE

[Handwritten Signature]  
Herbert H. Slatery III  
Attorney General and Reporter

7/5/2019  
Date

Department of State Use Only



Filed with the Department of State on: 7/17/19

Effective on: 10/15/19

[Handwritten Signature]  
Tre Hargett  
Secretary of State

**Public Hearing Comments**

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

## G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Tennessee Student Assistance Corporation (TSAC)

DIVISION: Higher Education

SUBJECT: Access to Public Records

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 10-7-503(g)

EFFECTIVE DATES: October 15, 2019 through June 30, 2020

FISCAL IMPACT: TSAC estimates that there will be neither an increase nor a decrease in state government revenues and expenditures as a result of this rule. TSAC's rules allow for a waiver of any costs or fees for copies of public records whenever there is a determination that it is in the best interest of the public.

STAFF RULE ABSTRACT: This rulemaking hearing rule outlines the procedures and rules relating to access to public records, which is required by Tennessee Code Annotated, Section 10-7-503(g)(2).

**Public Hearing Comments**

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

There were no public comments to the above-described rule.

Attached hereto are the responses to public comments.

## **Regulatory Flexibility Addendum**

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

This rule is not projected to affect small business.

## **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule is not projected to have an impact on local governments.

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Rule 1640-01-30 outlines the procedures and rules relating to access to public records, which is required by Tenn. Code Ann. § 10-7-503(g)(2).

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Tenn. Code Ann. § 10-7-503(g) requires agencies to promulgate rules pertaining to access to public records.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Members of the public who submit requests for TSAC's public records will be most affected by the rule.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no opinions of the attorney general and reporter or any judicial ruling that directly relates to these proposed rules.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

TSAC estimates that there will be neither an increase nor a decrease in state government revenues and expenditures as a result of this rule. TSAC's rules allow for a waiver of any costs or fees for copies of public records whenever there is a determination that it is in the best interest of the public.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Brett Gipson, Deputy General Counsel and Shauna Jennings, Associate General Counsel

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Brett Gipson, Deputy General Counsel and Shauna Jennings, Associate General Counsel

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Brett Gipson, Deputy General Counsel  
Tennessee Higher Education Commission  
Suite 1900, Parkway Towers  
Nashville, TN 37243  
615.253.5335  
Brett.Gipson@tn.gov

Shauna Jennings, Associate General Counsel  
Tennessee Higher Education Commission  
Suite 1900, Parkway Towers

Nashville, TN 37243  
615.253.7462  
Shauna.Jennings@tn.gov

(l) Any additional information relevant to the rule proposed for continuation that the committee requests.

There have been no requests for additional information received to-date.

**Department of State  
Division of Publications**

312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower  
Nashville, TN 37243  
Phone: 615-741-2650  
Email: [publications.information@tn.gov](mailto:publications.information@tn.gov)

**For Department of State Use Only**

Sequence Number: 07-13-19  
Rule ID(s): 9217  
File Date: 7/17/19  
Effective Date: 10/15/19

# Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).*

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

**Agency/Board/Commission:** Tennessee Student Assistance Corporation  
**Division:** Higher Education  
**Contact Person:** Shauna Jennings, Associate General Counsel  
**Address:** Suite 1900, Parkway Towers, 404 James Robertson Parkway, Nashville, TN  
**Zip:** 37243  
**Phone:** 615.253.7462  
**Email:** [shauna.jennings@tn.gov](mailto:shauna.jennings@tn.gov)

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1640-01-30	Access to Public Records
Rule Number	Rule Title
1640-01-30-.01	Purpose and Scope
1640-01-30-.02	Definitions
1640-01-30-.03	Requesting Access to Public Records
1640-01-30-.04	Responding to Public Records Requests
1640-01-30-.05	Inspection or Copies of Records
1640-01-30-.06	Charges, Payment, and Waivers
1640-01-30-.07	Aggregation of Frequent and Multiple Requests

NEW RULES  
RULES  
OF  
TENNESSEE STUDENT ASSISTANCE CORPORATION

CHAPTER 1640-01-30  
ACCESS TO PUBLIC RECORDS

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1640-01-30-.01 Purpose and Scope	1640-01-30-.05 Inspection Public Records
1640-01-30-.02 Definitions	1640-01-30-.06 Charges, Payment, and Waivers
1640-01-30-.03 Requesting Access to Public Records	1640-01-30-.07 Aggregation of Frequent and Multiple Requests
1640-01-30-.04 Responding to Public Records Requests	

1640-01-30-.01 PURPOSE AND SCOPE.

- (1) The purpose of these rules is to establish procedures regarding public records requests received by the Tennessee Student Assistance Corporation, and to provide economical and efficient access to Public Records subject to the Tennessee Public Records Act or "TPRA" in Tennessee Code Annotated § 10-7-501, et seq.

Authority: T.C.A. §§ 10-7-503 and 10-7-506.

1640-01-30-.02 DEFINITIONS.

- (1) "TSAC" means the Tennessee Student Assistance Corporation.
- (2) "Office of Open Records Counsel" or "OORC" means the State of Tennessee Office of Open Records Counsel, established pursuant to T.C.A. § 8-4-601 et. seq., or any successor office or entity.
- (3) "Public Records" means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency, not otherwise protected by law or exempt from disclosure under the Tennessee Public Records Act.
- (4) "Public Records Request Coordinator" or "PRRC" means any individual within the Tennessee Student Assistance Corporation whose role it is to ensure public records requests are routed to the appropriate Records Custodian and are fulfilled in accordance with Tennessee Public Records Act.
- (5) "Records Custodian" means any office, official, or employee of the Tennessee Student Assistance Corporation lawfully responsible for the direct custody and care of a public record. The Records Custodian is not necessarily the original preparer or receiver of the record.
- (6) "Requestor" is a person seeking access to a public record, whether it is for inspection or duplication.
- (7) "TPRA" is the Tennessee Public Records Act in T.C.A. § 10-7-501, et seq.

Authority: T.C.A. §§ 10-7-503 and 10-7-506.

1640-01-30-.03 REQUESTING ACCESS TO PUBLIC RECORDS.

- (1) TSAC shall provide access to its Public Records to any citizen of Tennessee.

- (2) A Requestor may request access to Public Records maintained and received by TSAC by making a request in person, by telephone, mail, or email. All public record requests should be directed to TSAC's PRRC. Any employee of TSAC who receives what they believe may be a public records request, formal or informal, shall immediately notify the PRRC.
- (3) Requests for inspection are not required to be made in writing. Requests for inspection may be made in-person at TSAC's office, by telephone, or in writing by mail or email. Email requests shall be sent to THEC.TSAC.PublicRecords@tn.gov.
- (4) A Requestor shall make a request for copies of Public Records in writing to the PRRC using TSAC's Public Records Request Form, which can be found on TSAC's website. The request for copies may be submitted by mail to the attention of the PRRC at TSAC's current mailing address, or by email to THEC.TSAC.PublicRecords@tn.gov.
- (5) Any request for inspection or copying of a Public Record shall be sufficiently detailed to enable TSAC to identify the specific records for inspection or copying.
- (6) A Requestor may assert Tennessee citizenship by presenting valid government-issued photo identification that includes the Requestor's address. The PRRC may waive the requirement of having the Requestor present government-issued photo identification if the Requestor has previously provided proof of Tennessee citizenship or the Requestor provides other reliable evidence of Tennessee citizenship.
- (7) The designated PRRC is TSAC's Deputy General Counsel, and may be reached at TSAC's offices of record in Nashville or THEC.TSAC.PublicRecords@tn.gov.

Authority: T.C.A. §§ 10-7-503 and 10-7-506.

#### RULE 1640-01-30-.04 RESPONDING TO PUBLIC RECORDS REQUESTS.

- (1) Upon receipt of a public records request, the PRRC shall review the request, consult with the appropriate Records Custodian as needed, and make an initial determination of the following:
  - (a) If the Requestor provided sufficient evidence of Tennessee citizenship pursuant to Rule 1640-01-30-.03(6);
  - (b) If the records requested are described with sufficient specificity to identify them; and
  - (c) If TSAC is the custodian of the Public Records.
- (2) The PRRC shall acknowledge receipt of the request and take any of the following appropriate action(s):
  - (a) Advise the Requestor of these Rules regarding:
    1. Requirement of proof of Tennessee citizenship;
    2. Form(s) required for copies;
    3. Fees, labor thresholds, and waivers, if applicable; and
    4. Aggregation of multiple or frequent requests.
  - (b) Denial of the request as outlined in Rule 1640-01-11-.04(3);
  - (c) If appropriate, contact the Requestor to determine if the request can be clarified.
  - (d) Upon acknowledgement of receipt of the request, immediately forward the records request to the Records Custodian.

- (3) If appropriate, TSAC will deny the request in writing using TSAC's Public Records Request Response form, providing the ground for denial which may include, but shall not be limited to:
  - (a) The Requestor is not a Tennessee citizen;
  - (b) The request lacks sufficient specificity, in which case the PRRC shall offer to assist in clarification;
  - (c) The record request is exempt from disclosure under the TPRA. The PRRC shall provide the applicable exemption in the written denial.
  - (d) TSAC is not the custodian of the requested records. If the requested records are in the custody of a different governmental entity, and the PRRC knows the correct governmental entity, the PRRC will advise the Requestor of the correct governmental entity;
  - (e) The record(s) requested do not exist.
- (4) The PRRC shall coordinate with the appropriate Records Custodian to promptly make public records available in accordance with T.C.A. § 10-7-503. If not practicable to promptly provide the requested records or the records need to be segmented because of the large volume of records to be provided, then the PRRC, or Records Custodian as designee, shall, within seven (7) business days from the receipt of the request, send the Requestor a completed Public Records Request Form notifying them of such, and that a records production schedule will be provided as expeditiously as practicable. Any segmentation of records must be authorized by the PRRC or TSAC's General Counsel's Office.
- (5) If a Public Record contains information not subject to disclosure under the TPRA, TSAC shall prepare a redacted copy of the Public Record prior to providing access. Whenever a redacted record is provided, TSAC shall provide the Requestor with the basis for redaction. Any redaction must be authorized by the PRRC or TSAC's General Counsel's office.
- (6) If the PRRC or Records Custodian discovers records responsive to a records request were inadvertently omitted, the PRRC, or Records Custodian as designee, will contact the Requestor concerning the omission and produce the records as quickly as practicable.
- (7) The Records Custodian shall provide the requested records to the PRRC once compiled. The PRRC will coordinate delivery of the records to the Requestor for pickup, by mail to the Requestor's home address or other acceptable address within Tennessee, or by electronic delivery to an email provided by the Requestor.

Authority: T.C.A. §§ 10-7-503 and 10-7-506.

#### 1640-01-30-.05 INSPECTION OF PUBLIC RECORDS.

- (1) There shall be no charge for inspection of open public records.
- (2) The location for inspection of public records within TSAC's offices should be determined by either the PRRC or the Records Custodian.
- (3) Public records may be inspected during regular business hours. Under reasonable circumstances, the PRRC or a Records Custodian may require an appointment for inspection or may require inspection of records at an alternate location.

Authority: T.C.A. §§ 10-7-503 and 10-7-506.

#### 1640-01-30-.06 CHARGES, PAYMENT, AND WAIVERS.

- (1) TSAC shall not use fees or charges for copies of public records to hinder citizen access to public records. TSAC shall make reasonable efforts to provide copies of requested records in a manner that will minimize or eliminate cost to TSAC and the Requestor. TSAC's schedule of fees and charges shall not exceed the amounts authorized by the OORC Schedule of Reasonable Charges and shall be published on TSAC's website.
- (2) The PRRC or Records Custodian shall provide Requestor with an itemized estimate of charges prior to producing copies of records and may require pre-payment of such charges before producing requested records. Payment is to be made by personal check or money order, payable to the Tennessee Student Assistance Corporation, and presented to the Records Custodian or PRRC.
- (3) If an outside vendor is used to duplicate records, the actual costs assessed by the vendor will be added to any other applicable charges incurred by TSAC.
- (4) TSAC may waive or reduce any part of the fees calculated under these rules upon a written determination that such waiver or reduction would be in the best interests of the public.

Authority: T.C.A. §§ 10-7-503 and 10-7-506.

#### 1640-01-30-.07 AGGREGATION OF FREQUENT AND MULTIPLE REQUESTS.

- (1) TSAC may aggregate record requests when more than four (4) requests are received within a calendar month from either a single individual or a group of individuals deemed to be working in concert.
- (2) If aggregating, the level at which records requests will be aggregated is the agency-level, encompassing all divisions of TSAC.
- (3) The PRRC is responsible for making the determination a group of individuals are working in concert. The PRRC or Records Custodian must inform the individuals that they have been deemed to be working in concert and that they have the right to appeal the decision to the OORC.
- (4) Routinely released and readily accessible records excluded from aggregation include, but are not limited to, any record regularly maintained by TSAC in electronic format that does not require redaction or other modification and can be delivered to the Requestor via electronic means.

Authority: T.C.A. §§ 10-7-503 and 10-7-506.

\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

<b>Board Member</b>	<b>Aye</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>	<b>Signature (if required)</b>
Governor Bill Lee, by Tony Nicknejad	X				
Dr. Claude Presnell	X				
Comptroller Justin Wilson, by Kristen Podesta	X				
State Treasurer David H. Lillard, Jr.	X				
Commissioner of Finance and Administration Stuart C. McWhorter, by Greg Turner	X				
Penny Schwinn				X	
University of Tennessee President Randy Boyd, by Randy Schulte	X				
Tennessee Board of Regents Chancellor Flora Tydings, By Linda Martin	X				
Cyrus Vatandoost	X				
John Smarrelli	X				
Tiffany Summer	X				
Tom Hughes	X				
Sharon Hayes	X				
Keri McInnis	X				
Sabrina Washington				X	
Charles Layne				X	

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Student Assistance Corporation Board of Directors on 06/05/2019, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.



Date: 6/14/19

Signature: [Handwritten Signature]

Name of Officer: Mike Krause

Title of Officer: Executive Director

Subscribed and sworn to before me on: 06/14/19

Notary Public Signature: [Handwritten Signature]

My commission expires on: 08/04/2020

Agency/Board/Commission: TSAC

Rule Chapter Number(s): 1640-01-0330

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

[Handwritten Signature]

Herbert H. Slatery III  
Attorney General and Reporter

7/5/2019

Date

**Department of State Use Only**

Filed with the Department of State on: 7/17/19

Effective on: 10/15/19

[Handwritten Signature]

Tre Hargett  
Secretary of State

RECEIVED  
2019 JUL 17 PM 12:29  
SECRETARY OF STATE  
PHOTOGRAPHY

## G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Department of Health, Health Services Administration

DIVISION: Communicable and Environmental Disease Services

SUBJECT: Policy for Preventing Transmission of Certain Sexually Transmitted Disease (Human Immunodeficiency Virus (HIV) and Hepatitis B Virus (HBV) To Patients Through Medical and Dental Procedures

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 68-1-101, 68-1-103, 68-1-106, 68-10-101, 68-10-109, 68-10-112, 68-10-113, 68-10-114, and 68-29-107

EFFECTIVE DATES: 10/1/2019 through 6/30/2020

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: The current rule requires hospitals to convene panels, in consultation with the Chief Medical Officer, to determine whether an individual HealthCare Worker who is or may be infected with HIV, or Hepatitis B may continue to work in that setting. It also makes reference to "universal precautions" a term which has become outdated. The repealer portion of the proposed rules eliminates the requirement for hospital panels and the involvement of the Chief Medical Officer, but would leave intact the requirement that Health Care Workers exercise certain precautions (now referred to as "Standard" precautions) to prevent the spread of disease. The rules would also add Hepatitis C to the list of diseases which call for standard precautions.

## Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

**(1) The extent to which the rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules.**

The proposed rules do not overlap, duplicate, or conflict with other federal, state, and local governmental rules.

**(2) Clarity, conciseness, and lack of ambiguity in the rule or rules.**

The proposed rules are clear, concise, and free of ambiguity.

**(3) The establishment of flexible compliance and/or reporting requirements for small businesses.**

The proposed rule amendments do not impose any compliance and/or reporting requirements.

**(4) The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.**

The proposed rule amendments do not impose any schedules or deadlines for compliance and/or reporting requirements.

**(5) The consolidation or simplification of compliance or reporting requirements for small businesses.**

The proposed rule amendments do not consolidate or simplify compliance or reporting requirements for small businesses.

**(6) The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.**

The proposed rule amendments do not establish performance standards for small business as opposed to design or operation standards required for the proposed rules.

**(7) The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.**

The proposed rule amendments do not create entry barriers or other impacts which may stifle entrepreneurial activity, curb innovation, or increase costs.

## STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

**Name of Board, Committee or Council:** None; Department of Health, Division of Health Services Administration, Office of Communicable Disease Control

- 1. Type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:**

None.

- 2. Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:**

None.

- 3. Statement of the probable effect on impacted small businesses and consumers:**

None.

- 4. Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:**

None.

- 5. Comparison of the proposed rule with any federal or state counterparts:**

**Federal:** No comparable rule identified.

**State:** No comparable rule identified.

- 6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**

Not applicable.

## **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

These rule amendments should have no impact on local government.

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The current rule requires hospitals to convene panels, in consultation with the Chief Medical Officer, to determine whether an individual HealthCare Worker who is or may be infected with HIV, or Hep B may continue to work in that setting. It also makes reference to "universal precautions" a term which has become outdated. The repealer portion of the proposed rules eliminates the requirement for hospital panels and the involvement of the Chief Medical Officer, but would leave intact the requirement that Health Care Workers exercise certain precautions (now referred to as "Standard" precautions) to prevent the spread of disease. The rules would also add Hepatitis C to the list of diseases which call for standard precautions.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Tennessee Code Annotated §§ 68-1-101, 68-1-103, 68-1-106, 68-10-101, 68-10-109, 68-10-112, 68-10-113, 68-10-114, and 68-29-107 and the guidelines published by the Healthcare Infection Control Practices Advisory Committee of the U.S. Centers for Disease Control and Prevention (CDC).

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Health Care Providers and Health Care Workers in Tennessee as well as Chief Medical Officer of the Tennessee Department of Health. Persons and entities affected by these changes should support adoption of the rule because all changes are intended to streamline and update precautions.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These amendments should not result in any increase or decrease in state or local government revenues or expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Rachel Appelt, Sr. Assistant General Counsel, Department of Health

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Rachel Appelt, Sr. Assistant General Counsel, Department of Health

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel, Department of Health, 710 James Robertson Parkway, 5th Floor, Nashville, TN, (615) 532-7924, Rachel.Appelt@tn.gov.

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

**Department of State  
Division of Publications**

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Nashville, TN 37243  
Phone: 615-741-2650  
Email: [publications.information@tn.gov](mailto:publications.information@tn.gov)

**For Department of State Use Only**

Sequence Number: 07-05-19  
Rule ID(s): 9213  
File Date: 7/3/19  
Effective Date: 10/1/19

## Proposed Rule(s) Filing Form

*Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.*

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

<b>Agency/Board/Commission:</b>	Department of Health, Health Services Administration
<b>Division:</b>	Communicable and Environmental Disease Services
<b>Contact Person:</b>	Rachel Appelt, Sr. Assistant General Counsel
<b>Address:</b>	710 James Robertson Parkway, 5th Floor, Nashville, TN
<b>Zip:</b>	37243
<b>Phone:</b>	(615) 532-7924
<b>Email:</b>	Rachel.Appelt@tn.gov

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1200-14-03	Policy For Preventing Transmission of Certain Sexually Transmitted Disease (Human Immunodeficiency Virus (HIV) and Hepatitis B Virus (HBV)) To Patients Through Medical and Dental Procedures
Rule Number	Rule Title
1200-14-03-.01	Purpose and Background
1200-14-03-.02	Definitions
1200-14-03-.03	Administration and Implementation of the Policy

**RULES  
OF  
TENNESSEE DEPARTMENT OF HEALTH  
BUREAU OF HEALTH SERVICES ADMINISTRATION  
DIVISION OF COMMUNICABLE DISEASE CONTROL**

**CHAPTER 1200-14-3**

**~~POLICY FOR PREVENTING TRANSMISSION OF CERTAIN SEXUALLY TRANSMITTED DISEASE  
(HUMAN IMMUNODEFICIENCY VIRUS (HIV) AND HEPATITIS B VIRUS (HBV)) TO PATIENTS  
THROUGH MEDICAL AND DENTAL PROCEDURES~~**

**POLICY FOR PREVENTING TRANSMISSION OF CERTAIN SEXUALLY TRANSMITTED DISEASE  
(HUMAN IMMUNODEFICIENCY VIRUS (HIV), HEPATITIS B VIRUS (HBV) AND HEPATITIS C  
VIRUS (HCV)) TO PATIENTS THROUGH MEDICAL AND DENTAL PROCEDURES.**

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**TABLE OF CONTENTS**

1200-14-3-.01 Purpose and Background	1200-14-3-.03 Administration and Implementation of the Policy
1200-14-3-.02 Definitions	

**1200-14-3-.01 PURPOSE AND BACKGROUND.**

~~The proper application of infection control principles will minimize any risk of transmission of Human Immunodeficiency Virus (HIV) or Hepatitis B Virus (HBV) from health care worker (HCW) to patient, patient to HCW or patient to patient. HIV or HBV infection alone does not justify or support limiting a HCW's professional duties. The current assessment of the risk that infected HCWs will transmit HIV to patients during invasive procedures does not justify mandatory testing of HCWs. Limitations, if any, should be determined on a case-by-case basis after consideration of the factors that influence transmission risk including inability and/or unwillingness to comply with infection control standards and/or functional impairments which interfere with the job performance of the HCW.~~

The proper application of infection control principles will minimize any risk of transmission of Human Immunodeficiency Virus (HIV), Hepatitis B Virus (HBV) or Hepatitis C Virus (HCV) from health care worker (HCW) to patient, patient to HCW or patient to patient. HIV, HBV or HCV infection alone does not justify or support limiting a HCW's professional duties. Limitations, if any, should be determined on a case-by-case basis after consideration of the factors that influence transmission risk including inability and/or unwillingness to comply with infection control standards and/or functional impairments which interfere with the job performance of the HCW.

~~*Authority: T.C.A. §§ 4-5-204, 63-1-120(8), 63-1-136, 63-6-219, 68-1-101, 103 & 106, 68-10-101, 109, 112, 113 and 114, 68-29-107, and Public Law 102-141, section 633.*~~

~~*Authority: T.C.A. §§ 68-1-101, 68-1-103, 68-1-106, 68-10-101, 68-10-109, 68-10-112, 68-10-113, 68-10-114, and 68-29-107.*~~

~~*Administrative History: Original rule filed August 20, 1993; effective November 3, 1993.*~~

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**1200-14-3-.02 DEFINITIONS.** For the purpose of these regulations, the terms used herein are defined as follows:

- ~~(1) CHIEF MEDICAL OFFICER — the state health officer, or his designee, appointed by the Commissioner of Health who is responsible for and advises the Commissioner and Department on all matters of state health policy, including public health. For the purposes of these rules, in a vacancy in the office of the Chief Medical Officer, such officer's functions and duties set out herein these rules shall be assumed by the Medical Director of the Department's AIDS Program.~~
- ~~(2) COMMISSIONER — the Commissioner of Health or his designee.~~

POLICY FOR PREVENTING TRANSMISSION OF CERTAIN SEXUALLY  
CHAPTER TRANSMITTED DISEASE (HUMAN IMMUNODEFICIENCY VIRUS  
(HIV) AND HEPATITIS B VIRUS (HBV) ) TO PATIENTS THROUGH MEDICAL  
AND DENTAL PROCEDURES

CHAPTER 1200-14-3

(Rule 1200-14-3-.01, continued)

~~(1)(2)~~ HEALTH CARE WORKER (HCW) - Any person whose activities involve contact with patients or with blood or other body fluids, in a health care setting, including persons licensed to practice the healing arts or any branch thereof, ill this state pursuant to the provisions of Title 63 of the Tennessee Code Annotated, and students and trainees.

~~(4)~~ HOSPITAL HIV HBV CONFIDENTIAL EXPERT REVIEW PANEL (HOSPITAL HIV HBV REVIEW PANEL) - A Tennessee hospital committee, appointed by the hospital Chief of Staff, composed and functioning in accordance with the guidelines of the American Hospital Association and the provisions of Tennessee Code Annotated §63-6-219. Legislative policy declaration - Medical Review Committees - Immunity of members - Confidentiality of records - Short title, which is convened with the purpose of establishing practice standards, on a case-by-case basis, for any HIV or HBV-infected HCW, employed at or practicing their profession in the hospital, at the HCW's request. The committee is composed of the HCW's personal physician, an infectious disease specialist, a health professional with expertise in the procedures performed by the infected HCW, and the Chief Medical Officer of the State of Tennessee.

The hospital Chief of Staff may appoint such additional members as the Chief of Staff deems necessary or appropriate.

~~(5)~~ TENNESSEE DEPARTMENT OF HEALTH HIV HBV CONFIDENTIAL EXPERT REVIEW PANEL (TDH HIV HBV REVIEW PANEL) - A Tennessee Department of Health committee, appointed by the Chief Medical Officer of the State, which is convened with the purpose of establishing practice standards for any HIV or HBV-infected HCW. The committee is composed of the HCW's personal physician, an infectious disease specialist, a health professional with expertise in the procedures performed by the infected HCW, the Tennessee Department of Health Regional Medical Officer or Regional Dental Officer, the Medical Director of the Department's AIDS Program and the Chief Medical Officer of the State of Tennessee. The Chief Medical Officer may appoint such additional members as he deems necessary or appropriate.

~~(6)~~ UNIVERSAL PRECAUTIONS - An approach to infection control according to which all human blood and certain human body fluids are to be treated as if known to be infectious for HIV, HBV, and/or other blood-borne pathogens. In order to prevent the transmission of blood-borne infections, Universal Precautions requires the blanket implementation of infection control procedures, including, in regard to the use and disposal of needles and other sharp instruments, appropriate care and proper utilization of handwashing and protective barriers. Guidelines for Universal Precautions are published by the Centers for Disease Control and Prevention (CDC) and can be found in CDC Recommendations for prevention of HIV transmission in health care settings MMWR 1987; 36 (suppl no 2S) 1-18s, and CDC Update Universal precautions for prevention of transmission of human immunodeficiency virus, hepatitis B virus, and other bloodborne pathogens in health care settings MMWR 1988; 37 pp 377-82, 387-8, or more current updates.

(2) Standard Precautions - An approach to infection control according to which all human blood and certain human body fluids are to be treated as if known to be infectious for HIV, HBV, HCV and/or other blood-borne pathogens. Standard Precautions are also intended to protect patients by ensuring that healthcare personnel do not carry infectious agents to patients on their hands or via equipment used during patient care.

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(a) In order to prevent the transmission of blood-borne infections, Standard Precautions requires the blanket implementation of infection control procedures, including in regard to the use and disposal of needles and other sharp instruments, and appropriate care and proper utilization of handwashing and protective barriers. Guidelines for Standard Precautions are published by the Centers for Disease Control and Prevention (CDC) and

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July, 2001 (Revised)

POLICY FOR PREVENTING TRANSMISSION OF CERTAIN SEXUALLY  
CHAPTER TRANSMITTED DISEASE (HUMAN IMMUNODEFICIENCY VIRUS  
(HIV) AND HEPATITIS B VIRUS (HBV) ) TO PATIENTS THROUGH MEDICAL  
AND DENTAL PROCEDURES

CHAPTER 1200-14-3

(Rule 1200-14-3-.02, continued)

can be found in The Healthcare Infection Control Practices Advisory Committee 2007  
Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in  
Health Care Settings. Am J Infect Control. 2007 Dec;35(10 Suppl 2):S65-164.  
<https://doi.org/10.1016/j.ajic.2007.10.007>.

- (b) Standard Precautions combine the major features of Universal Precautions (UP)780, 896\*  
and Body Substance Isolation (BSI)640 and are based on the principle that all blood,  
body fluids, secretions, excretions except sweat, nonintact skin, and mucous membranes  
may contain transmissible infectious agents. Standard Precautions include a group of  
infection prevention practices that apply to all patients, regardless of suspected or  
confirmed infection status, in any setting in which healthcare is delivered. These include:  
hand hygiene; use of gloves, gown, mask, eye protection, or face shield, depending on  
the anticipated exposure; and safe injection practices. Also, equipment or items in the  
patient environment likely to have been contaminated with infectious body fluids must be  
handled in a manner to prevent transmission of infectious agents (e.g., wear gloves for  
direct contact, contain heavily soiled equipment, properly clean and disinfect or sterilize  
reusable equipment before use on another patient).

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Authority: T.C.A. §§ 4-5-204, 63-1-120(8), 63-1-136, 63-6-219, 68-1-101, 103 and 106, 68-10-101, 109, 112, 113  
and 114, 68-29-107, and Public Law 102-141, section 633.

Authority: T.C.A. §§ 68-1-101, 68-1-103, 68-1-106, 68-10-101, 68-10-109, 68-10-112, 68-10-113, 68-10-114, and  
68-29-107.

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Administrative History: Original rule filed August 20, 1993; effective November 3, 1993.

**1200-14-3-.03 ADMINISTRATION AND IMPLEMENTATION OF THE POLICY.**

- ~~(1) All HCW's shall adhere to Universal Precautions in the provision of health care services. HCWs must comply with current guidelines for disinfection and sterilization of reusable devices used in medical and dental procedures. All HCW's shall receive periodic training in infection control procedures, including Universal Precautions.~~
- (1) All HCW's shall adhere to Standard Precautions in the provision of health care services. HCWs must comply with current guidelines for disinfection and sterilization of reusable devices used in medical and dental procedures. All HCW's shall receive periodic training in infection control procedures, including Standard Precautions.
- ~~(2) All HCW's are encouraged to undergo personal assessments to determine their need for HIV and HBV testing. These assessments should include consideration of known high-risk behavior as well as risks associated with health care related occupational exposure. If they are at risk, HCW's should determine their HIV and HBV status in order to protect and improve their health and to receive appropriate counseling. The decision to be tested for HIV or HBV is the responsibility of the individual HCW.~~
- (2) All HCW's are encouraged to undergo personal assessments to determine their need for HIV, HBV and HCV testing. These assessments should include consideration of known high-risk behavior as well as risks associated with health care related occupational exposure. If they are at risk, HCW's should determine their HIV, HBV and HCV status in order to protect and improve their health and to receive appropriate counseling. The decision to be tested for HIV, HBV or HCV is the responsibility of the individual HCW.

July, 2001 (Revised)

POLICY FOR PREVENTING TRANSMISSION OF CERTAIN SEXUALLY  
CHAPTER TRANSMITTED DISEASE (HUMAN IMMUNODEFICIENCY VIRUS  
(HIV) AND HEPATITIS B VIRUS (HBV) ) TO PATIENTS THROUGH MEDICAL  
AND DENTAL PROCEDURES

CHAPTER 1200-14-3

(Rule 1200-14-3-.02, continued)

- (3) ~~The Chief Medical Officer of the State of Tennessee will, at the request of an HIV or HBV infected HCW, convene an expert review panel to provide advice and give guidelines for assuring patient safety in the provision of the HCW's health care services.~~
- (4) ~~The Chief Medical Officer of the State of Tennessee may, at the request of an HIV or HBV infected HCW, allow a Tennessee licensed hospital to convene a hospital based HOSPITAL HIV HBV REVIEW PANEL to provide advice and give guidelines for assuring patient safety in the provision of the HCW's health care services in lieu of presenting the matter to the TDH HIV HBV REVIEW PANEL. All records and information held by the hospital for review by this panel relating to known or suspected cases of infection with HIV or HBV in any HCW are strictly confidential, shall not be released or made public by the Department or the hospital or the HOSPITAL HIV HBV REVIEW PANEL upon subpoena, court order, discovery, search warrant or otherwise, except as may be authorized under T.C.A. §§10-7-504(a), 63-6-219 or 68-10-113.~~
- (5) ~~The review panel may recommend modification of procedures, notification of patients, or monitoring of restrictions if the panel determines that a significant risk of transmission to patients may exist. The recommendations of the review panel will be set out in a written agreement and, if agreed to by the HCW, such agreement will be evidenced by the HCW's signature. Willful or knowing or repeated rejection or violation of the panel's recommendations by the HCW, or inability to follow the panel's recommendations because of mental or physical disease or defect, shall be reported to the Tennessee Department of Health, Division of Health Related Boards or the Tennessee Board of Pharmacy for evaluation, and as indicated by the evaluation, for appropriate disciplinary action.~~
  - (a) ~~If the infected HCW is dissatisfied with the recommendation of the HOSPITAL HIV HBV REVIEW PANEL, the HCW may appeal to the TDH HIV HBV REVIEW PANEL for a de novo evaluation.~~
  - (b) ~~If the infected HCW is dissatisfied with the recommendation of the TDH HIV HBV REVIEW, the HCW may request a contested case hearing, in the manner provided by the terms of the Tennessee Uniform Administrative Procedures Act (UAPA), Title 4, Chapter 5 of the Tennessee Code Annotated.~~
- (6) ~~In determining the advisability of voluntary HIV or HBV testing and in evaluating the medical practices of an infected HCW, the expert review panel and/or the individual HCW should refer to the current disease control guidelines established by the CDC and disease control standards recognized by the national professional medical organizations. In addition, the panel should refer to the following:~~
  - (a) ~~Many procedures pose negligible risk to the patient of exposure to infection through the HCW's blood when performed using standard infection control techniques, including Universal Precautions. Examples of these procedures include physical examinations; blood pressure checks; eye examinations; phlebotomy; administration of intramuscular, intradermal or subcutaneous injections (i.e., vaccinations); needle biopsies, needle aspirations or lumbar punctures; angiographic procedures; vaginal, oral or rectal exams; endoscopic and bronchoscopic procedures; and insertion and maintenance of peripheral and central intravascular lines, nasogastric tubes, endotracheal tubes, rectal tubes or urinary catheters. Even if a HCW were to sustain an injury while performing these procedures, it is highly unlikely that the patient would be exposed to the HCW's blood. Thus, no restrictions on performance of these procedures are necessary provided that standard infection control practices are used.~~
  - (b) ~~Those HCWs for whom HB vaccine is recommended by the ACIP or OSHA should receive the HB vaccine. HCWs who perform surgical or obstetrical procedures that involve surgical entry into tissues, cavities or organs, or who perform dental procedures involving manipulation,~~

July, 2001 (Revised)

(Rule 1200-14-3-.03, continued)

~~cutting or removal of oral or perioral tissues, including tooth structure, and who do not have serologic evidence of immunity to HBV resulting from vaccination or previous infection are encouraged to voluntarily ascertain their HBsAg status. If they are HBsAg positive, they should also know their HBeAg status. HCWs who have tested positive for HBeAg should seek counsel from the expert review panel before continuing to perform these procedures.~~

- ~~(c) Those HCWs for whom HIV counseling and testing has been previously recommended by the Public Health Service (PHS), due to occupational or non-occupational exposure to HIV, are encouraged to voluntarily ascertain their HIV antibody status. HCWs, (1) who are infected with HIV, and (2) who perform surgical or obstetrical procedures that involve entry into tissues, cavities, or organs, or who perform dental procedures involving manipulation, cutting, or removal of oral or perioral tissues, including tooth structure, should not continue to perform those procedures until they have sought counsel from the expert review panel.~~
- ~~(d) Among the items the review panel should consider, on an individual basis, in evaluating an HBeAg or HIV seropositive HCW are the following:~~
- ~~1. Whether the HCW performs procedures in which injury could result in contamination of a patient's body cavity, subcutaneous tissues, or mucous membranes by the HCW's blood (e.g., procedures in which hands may be in contact with sharp instruments, objects, or sharp tissues inside a patient's body cavity, particularly when the hands are not completely visible);~~
  - ~~2. Factors affecting the performance of procedures by the individual HCW (e.g., techniques used, skill and experience, and compliance with recommended infection control practices); and,~~
  - ~~3. The medical condition of the HCW (e.g., the presence of physical conditions or mental impairment that may interfere with the HCW's ability to perform these procedures safely).~~
- ~~(e) Depending upon its individualized evaluation, the panel should determine whether or under what circumstances the HCW may continue to perform or be restricted from performing procedures. In some circumstances, the panel may recommend modification and monitoring of procedures performed by the HCW to decrease the risk.~~
- ~~1. If the panel determines that this HCW's performance of all or certain procedures poses a significant risk of infection to patients, and such significant risk cannot be eliminated by reasonable accommodation, then the HCW should be restricted from performing such procedures.~~
  - ~~2. If the panel determines that the HCW's performance does not pose a significant risk for infection of patients during the procedures within HCW's scope of practice, then no restrictions are indicated. Hence, notification of the patient regarding HCW's infection status prior to the performance of such procedures is not necessary.~~
- ~~(7) HCWs whose practices are modified because of their HBV or HIV infection status should, whenever possible, be provided opportunities to continue appropriate patient care activities. Career counseling and job retraining should be encouraged to promote the continued use of the HCW's talents, knowledge and skills. HCWs whose practices are modified because of HBV infection should be reevaluated periodically to determine whether their HBeAg status changes due to resolution of infection, or as a result of treatment.~~

July, 2001 (Revised)

POLICY FOR PREVENTING TRANSMISSION OF CERTAIN  
SEXUALLY TRANSMITTED DISEASE (HUMAN  
IMMUNODEFICIENCY VIRUS (HIV) AND HEPATITIS B VIRUS (HBV))  
TO PATIENTS THROUGH MEDICAL AND DENTAL PROCEDURES  
(Rule 1200-14-3-.03, continued)

CHAPTER 1200-14-3

*Authority:* ~~T.C.A. §§ 4-5-204, 63-1-120(8), 63-1-136, 63-6-219, 68-1-101, 103 and 106, 68-10-101, 109, 112, 113 and 114, 68-29-107, and Public Law 102-141, section 633.~~

*Authority:* T.C.A. §§ 68-1-101, 68-1-103, 68-1-106, 68-10-101, 68-10-109, 68-10-112, 68-10-113, 68-10-114, and 68-29-107.

*Administrative History:* Original rule filed August 20, 1993; effective November 3, 1993.

July, 2001 (Revised)

\*If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on 04/11/2019 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

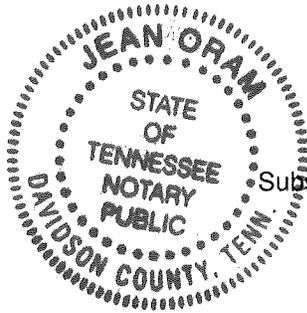
Date: 06/06/2019

Signature: Rachel Appelt

Name of Officer: Rachel Appelt

Sr. Assistant General Counsel

Title of Officer: Department of Health



Subscribed and sworn to before me on: 6-6-19

Notary Public Signature: Jean Oram

My commission expires on: 1-3-2022

Agency/Board/Commission: Department of Health, Health Services Administration, Communicable and Environmental Disease Services

Rule Chapter Number(s): 1200-14-03

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slattery III

Herbert H. Slattery III  
Attorney General and Reporter

6/19/2019 Date

**Department of State Use Only**

2019 JUL -3 PM 2:50  
 SECRETARY OF STATE  
 TREV HARGETT

Filed with the Department of State on: 7/3/19

Effective on: 10/1/19

Tre Hargett

Tre Hargett  
Secretary of State

## G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Department of Health, Health Services Administration

DIVISION: Communicable and Environmental Disease Services

SUBJECT: Communicable and Environmental Diseases

STATUTORY AUTHORITY: Tennessee Code Annotated, Section

EFFECTIVE DATES: 10/13/2019 through 06/30/2020

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: The amendments update immunization requirements to include the Tennessee Immunization Registry. The Registry replaces "SIIS" or "Tennessee Web Immunization System" in the current rules as an electronic method for generating a Certificate of Immunization. These amendments also remove the requirement for immunization against varicella for any child entering 7th grade pursuant to CDC guidelines.

**Public Hearing Comments**

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

There were no comments received, either written or oral.

## Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

- (1) **The extent to which the rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules.**

The proposed rules do not overlap, duplicate, or conflict with other federal, state, and local governmental rules.

- (2) **Clarity, conciseness, and lack of ambiguity in the rule or rules.**

The proposed rules are clear, concise, and free of ambiguity.

- (3) **The establishment of flexible compliance and/or reporting requirements for small businesses.**

The proposed rule amendments do not impose any compliance and/or reporting requirements.

- (4) **The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.**

The proposed rule amendments do not impose any schedules or deadlines for compliance and/or reporting requirements.

- (5) **The consolidation or simplification of compliance or reporting requirements for small businesses.**

The proposed rule amendments do not consolidate or simplify compliance or reporting requirements for small businesses.

- (6) **The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.**

The proposed rule amendments do not establish performance standards for small business as opposed to design or operation standards required for the proposed rules.

- (7) **The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.**

The proposed rule amendments do not create entry barriers or other impacts which may stifle entrepreneurial activity, curb innovation, or increase costs.

**STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES**

**Name of Board, Committee or Council:** None

**Rulemaking hearing date:** April 1, 2019

- 1. Type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:**

None.

- 2. Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:**

None.

- 3. Statement of the probable effect on impacted small businesses and consumers:**

None.

- 4. Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:**

None.

- 5. Comparison of the proposed rule with any federal or state counterparts:**

**Federal:** No comparable rule identified.

**State:** No comparable rule identified.

- 6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**

Not applicable.

## **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

These rule amendments should have no impact on local government.

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The amendments update immunization requirements to include the Tennessee Immunization Registry. The Registry replaces "SIIS" or "Tennessee Web Immunization System" in the current rules as an electronic method for generating a Certificate of Immunization.

These amendments also remove the requirement for immunization against varicella for any child entering 7th grade pursuant to CDC guidelines.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

None.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Anyone who generates or receives a completed Certificate of Immunization, and specifically, schools that enroll 7<sup>th</sup> graders. Persons and entities affected by these changes should support adoption of the rules because all changes are intended to update protocol for electronically generating a Certificate, and to update requirements for school immunizations per CDC guidelines.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These results should not result in any increase or decrease in state or local government revenues or expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Rachel Appelt, Sr. Assistant General Counsel, Department of Health.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Rachel Appelt, Sr. Assistant General Counsel, Department of Health.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel, Department of Health, 710 James Robertson Parkway, 5th Floor, Nashville, TN, (615) 532-7924, Rachel.Appelt@tn.gov.

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

**Department of State  
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**For Department of State Use Only**

Sequence Number: 07-09-19  
Rule ID(s): 9215  
File Date: 7/15/19  
Effective Date: 10/13/19

## Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).*

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

<b>Agency/Board/Commission:</b>	Department of Health, Health Services Administration
<b>Division:</b>	Communicable and Environmental Disease Services
<b>Contact Person:</b>	Rachel Appelt, Sr. Assistant General Counsel
<b>Address:</b>	710 James Robertson Parkway, 5th Floor, Nashville, TN
<b>Zip:</b>	37243
<b>Phone:</b>	(615) 532-7924
<b>Email:</b>	Rachel.Appelt@tn.gov

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1200-14-01	Communicable and Environmental Diseases
Rule Number	Rule Title
1200-14-01-.29	Immunization Against Certain Diseases Prior to School Attendance in Tennessee

(Rule 1200-14-01-.27, continued)

**Authority:** T.C.A. §§ 4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed March 31, 1977; effective May 2, 1977. Amendment filed April 20, 1987; effective June 4, 1987. Amendment filed March 30, 2004; effective July 29, 2004.

**1200-14-01-.28 REPEALED.**

**Authority:** T.C.A. §§ 4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed March 31, 1977; effective May 2, 1977. Amendment filed April 20, 1987; effective June 4, 1987. Amendment filed March 30, 2004; effective July 29, 2004. Repeal filed May 11, 2010; effective October 29, 2010.

**1200-14-01-.29 IMMUNIZATION AGAINST CERTAIN DISEASES PRIOR TO SCHOOL ATTENDANCE IN TENNESSEE.**

- (1) Every nursery school, day care center, Head Start center, Kindergarten, or other pre-school, day care or grades Kindergarten through twelve of any public, private, or church related school shall obtain proof of adequate immunization against diphtheria, measles (rubeola), pertussis (whooping cough), poliomyelitis, rubella, mumps, hepatitis B and tetanus on the form prescribed by the Commissioner (unless otherwise exempted by law) prior to admitting a child. It shall be the duty of the school to enforce the provisions of this regulation, subject to the exemptions as set out in T.C.A. § 49-6-5001(b).
- (2) The state and county health departments are authorized to provide proof of immunization to the admissions officer of any school in the state of Tennessee. For the purpose of this subsection, "school" shall include nursery schools, Kindergartens, other pre-schools, day care centers and facilities, after school day care facilities, grades Kindergarten through twelve of any public, private or church-related schools, vocational schools, technical schools, colleges and universities. The state and county health departments are further authorized to provide proof of immunization to physicians who are evaluating a school-aged patient's immunization status.
- ~~(3) (a) The Department shall publish an official Certificate of Immunization ("Certificate"). A Certificate may be signed by an individual licensed by the Board of Medical Examiners, the Board of Osteopathic Examiners, or an Advanced Practice Nurse licensed by the Board of Nursing (hereinafter "providers") or by a public health nurse employed by a local health department. The Certificate also may be qualified as complete without the signature of a provider if a certificate that has been validated by the Immunization Registry is printed from the state Immunization Registry, indicating the patient's immunization records in the Registry meet all criteria for compliance with state requirements for that patient's age and grade. The Certificate may include space to record vaccinations which are routinely recommended but not required by law. Certificates shall be available online to authorized users of SIIIS or in hard copy to providers from local health departments or from the Department's central office. State Immunization Registry validated certificates may be produced by all authorized users of the Registry.~~
- (3) (a) The Department shall publish an official Certificate of Immunization ("hereinafter "Certificate"). A Certificate may be signed by an individual licensed by the Board of Medical Examiners, the Board of Osteopathic Examiners, or an Advanced Practice Registered Nurse licensed by the Board of Nursing (hereinafter "providers") or by a public health nurse employed by a local health department. The Certificate also may be qualified as complete without the signature of a provider if a certificate that has been validated by the Tennessee Immunization Registry is printed from the Registry, indicating the patient's

(Rule 1200-14-01-.29, continued)

immunization records in the Registry meet all criteria for compliance with state requirements for that patient's age and grade. The Certificate may include space to record vaccinations which are routinely recommended but not required by law. Certificates shall be available online to authorized users of the Tennessee Immunization Registry or in hard copy to providers from local health departments or from the Department's central office. Tennessee Immunization Registry validated certificates may be produced by all authorized users of the Registry.

- (b) As stated in subparagraph (3)(a), a certificate of immunization shall be considered "signed" by a qualified provider when it bears either
1. a hard copy signature of a qualified provider; or
  2. ~~an electronic validation of completed requirements, appropriate for the child's age and education level, generated by the Tennessee Web Immunization System pursuant to a secure login process.~~
  2. an electronic validation of completed requirements, appropriate for the child's age and education level, generated by the Tennessee Immunization Registry pursuant to a secure login process.
- (4) For each disease identified in these rules, the Department adopts the recommended immunization schedule or the "catch-up" immunization schedule (when applicable), published by the Advisory Committee on Immunization Practices (ACIP) of the U.S. Centers for Disease Control and Prevention (CDC). An individual shall be presumed to be immunized against a particular disease when the individual has been immunized in a manner consistent with the recommendations of ACIP for that disease. The Department shall make the schedule available on its website and at local health departments, and shall revise the schedule from time to time in accordance with revisions published by ACIP, and shall publish the effective dates of any revisions.
- (5) For children aged between 8 weeks and 19 months of age enrolling in child care facilities, a provider shall issue a Certificate showing a child is age-appropriately immunized in accordance with the ACIP schedule at the time of enrollment. For these children, a provider shall issue an updated Certificate at no later than 19 months of age.
- (6) A provider may issue a Temporary Certificate for a child who has not received all required vaccines, but is in the process of completing required immunizations. A Temporary Certificate must have an expiration date that is one month after the date the next required immunization is due according to the minimum acceptable ("catch-up") dose interval published on the Official Immunization Schedule. An expired Certificate is not valid proof of immunization. The school shall obtain a current Certificate no later than the expiration date of a Temporary Certificate.
- (7) A provider shall certify adequate immunization against measles, mumps and rubella for admission into any child care facility and grades Kindergarten through twelve. For purposes of this paragraph adequate immunization is defined as:
- (a) For children 12 months of age or older admitted to a child care facility, one dose of vaccine against measles, mumps and rubella administered no earlier than 4 days before the first birthday; or
  - (b) For children admitted to grades Kindergarten through twelve, two doses of vaccine against measles, mumps and rubella, administered a minimum of 28 days apart and no earlier than 4 days before the first birthday; or

(Rule 1200-14-01-.29, continued)

- (c) For children 12 months of age or older, laboratory evidence of immunity against each disease.
- (8) A provider shall certify adequate immunization against *Haemophilus influenzae* type B ("Hib") for any child under the age of five years entering into any child care facility.
- (9) A provider shall certify adequate immunization against varicella, or a history of varicella disease, prior to admission of a child aged 12 months or older in licensed child care facilities. For purposes of this paragraph, adequate immunization is defined as:
  - (a) One dose of varicella vaccine administered no earlier than 4 days before the child's first birthday; or
  - (b) Laboratory evidence of immunity; or
  - (c) A history verified by a physician, advanced practice nurse, physician's assistant or public health nurse employed by a local health department, of varicella disease. Documentation of the past illness is not required to confirm a history of disease;
- (10) A provider shall certify adequate immunization against varicella, or a history of the disease, prior to a child's entry into Kindergarten.
- ~~(11) Effective July 1, 2010, a provider shall certify adequate immunization against varicella for any child entering Kindergarten or 7th grade, and for new enrollees into any school. For purposes of this paragraph, adequate immunization is defined as one of the following:~~
- (11) A provider shall certify adequate immunization against varicella for any child entering Kindergarten, and for new enrollees into any school. For purposes of this paragraph, adequate immunization is defined as one of the following:
  - (a) Two doses of varicella vaccine; administered at least 28 days apart and no earlier than 4 days before the child's first birthday; or
  - (b) Laboratory evidence of immunity; or
  - (c) A history verified by a physician, advanced practice nurse, physician's assistant or public health nurse employed by a local health department, of varicella disease. Documentation of the past illness is not required to confirm a history of disease;
- (12) Effective July 1, 2010, a provider shall certify adequate immunization against pneumococcal disease for enrollment of any child under the age of five years into any child care facility.
- (13) Effective October 1, 2010, a provider shall certify continued adequate immunization against tetanus, diphtheria and pertussis for any child entering the 7th grade (or, in the case of students in ungraded classrooms, any child age 13). For the purposes of this paragraph, adequate immunization is defined as a complete primary tetanus and diphtheria-containing vaccine series and a dose of vaccine against tetanus, diphtheria and pertussis administered at or after age 10 years.
- (14) Effective July 1, 2010, a provider shall certify adequate immunization against hepatitis A for any child aged 18 months or over, but under five (5) years, enrolling in child care facilities. For purposes of this paragraph, adequate immunization is defined as
  - (a) one dose of hepatitis A vaccine; or

(Rule 1200-14-01-.29, continued)

(b) documented laboratory evidence of immunity.

(15) Effective July 1, 2011, a provider shall certify adequate immunization against hepatitis A for any child enrolling in Kindergarten. For purposes of this paragraph, adequate immunization is defined as

(a) two doses of hepatitis A vaccine; or

(b) documented laboratory evidence of immunity.

(16) Unless exempted by law, any new full-time enrollee of a higher education institution with an enrollment greater than two hundred students who is not enrolled as a full-time distance learning student shall present proof of adequate immunization against the following diseases:

(a) Measles, provided that this requirement shall only apply to those students born on or after January 1, 1957; for purposes of this subparagraph, adequate immunization is defined as:

1. two doses of measles-containing vaccine, administered at least 28 days apart and no earlier than 4 days before the first birthday; or

2. laboratory evidence of immunity.

(b) Mumps, provided that this requirement shall only apply to those students born on or after January 1, 1957; for purposes of this subparagraph, adequate immunization is defined as:

1. two doses of mumps-containing vaccine, administered at least 28 days apart and no earlier than 4 days before the first birthday; or

2. laboratory evidence of immunity.

(c) Rubella, provided that this requirement shall only apply to those students born on or after January 1, 1957; for purposes of this subparagraph, adequate immunization is defined as:

1. two doses of rubella-containing vaccine, administered at least 28 days apart and no earlier than 4 days before the first birthday; or

2. laboratory evidence of immunity.

~~(d) Varicella, provided that this requirement shall not become effective until July 1, 2011, and shall only apply to those students born on or after January 1, 1980. For purposes of this subparagraph, adequate immunization is defined as follows:~~

(d) Varicella, provided that this requirement shall only apply to those students born on or after January 1, 1980. For purposes of this subparagraph, adequate immunization is defined as follows:

1. two doses of varicella-containing vaccine, administered at least 28 days apart; or

2. laboratory evidence of immunity; or

3. a history verified by a physician, advanced practice nurse, physician's assistant or public health nurse employed by a local health department, of varicella disease. Documentation of the past illness is not required to confirm a history of disease.

(Rule 1200-14-01-.29, continued)

- (e) For purposes of this paragraph, "full time" means, for an undergraduate, enrolled in twelve (12) or more educational credit hours, and for a graduate student, enrolled in nine (9) or more educational credit hours, or such lesser number as may be deemed full time by the institution. Such students may be enrolled or registered after a single dose of all required vaccines, provided that the second dose is obtained within 2 months of registration, and at least 28 days after the first dose, and provided, further, that the institution has a procedure for identifying students who have failed to obtain the necessary immunizations and for taking appropriate action to ensure compliance.
- (17) Effective July 1, 2011, unless exempted by law, any student enrolled in a higher education institution who is a student in a school of medicine, nursing, dentistry, laboratory technology or other allied health profession shall present proof of protection against hepatitis B before such trainee is expected to perform procedures with the potential to expose them to potentially infectious blood. For purposes of this paragraph adequate immunization is defined as:
- (a) a complete hepatitis B vaccine series; or
  - (b) laboratory evidence of immunity or infection
- (18) An individual may be exempted from the requirements of this section only under the following circumstances:
- (a) Where a physician licensed by the Board of Medical Examiners, the Board of Osteopathic Examiners or a public health nurse employed by a local Health Department determines that a particular vaccine is contraindicated for one of the following reasons:
    - 1. the individual meets the criteria for contraindication set forth in the manufacturer's vaccine package insert; or
    - 2. the individual meets the criteria for contraindication published by the U.S. Centers for Disease Control or the ACIP;
    - 3. in the best professional judgment of the physician, based upon the individual's medical condition and history, the risk of harm from the vaccine outweighs the potential benefit.
  - (b) An individual who has been exempted from a particular vaccination must comply with immunization requirements for any vaccines from which he/she has not been exempted.
  - (c) Where a parent or guardian, or in the case of an adult student, the student, provides to the school a written statement, affirmed under penalties of perjury, that vaccination conflicts with the religious tenets and practices of the parent or guardian, or in the case of an adult student, the student.
- (19) If the Commissioner determines that insufficient vaccine is available to meet the terms of these rules, the Commissioner shall notify providers, the Commissioners of the Departments of Education and Human Services and the public of any necessary change in immunization requirements, consistent with any changes published by ACIP. The changes will be published as a temporary addendum to the Official Immunization Schedule and individuals vaccinated in accordance with that temporary schedule will be deemed adequately immunized until the Commissioner determines, in accordance with ACIP recommendations, that sufficient vaccine is again available. When sufficient vaccine is again available, Commissioner shall so notify providers, the Commissioners of Education and Human Services and the public and reinstate the Official Immunization Schedule. The reinstated

(Rule 1200-14-01-.29, continued)

Official Immunization Schedule shall not become effective until at least 2 months after the determination that sufficient vaccination is again available.

**Authority:** T.C.A. §§ 4-5-202, 49-6-5001, 49-6-5002(a), 49-6-5003, 68-1-103, 68-5-103, and 68-5-105(a).  
**Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed March 31, 1977; effective May 2, 1977. Amendment filed April 20, 1987; effective June 4, 1987. Amendment filed April 21, 1988; effective June 5, 1998. Amendment filed June 8, 1990; effective July 23, 1990. Amendment filed August 26, 1998; effective November 9, 1998. Amendment filed July 29, 1999; effective October 9, 1999. Amendment filed July 10, 2001; effective September 23, 2001. Withdrawal filed September 21, 2001, 1200-14-01-.29(7). Amendment filed September 10, 2009; effective December 9, 2009. Amendments filed June 13, 2013; effective November 28, 2013.

#### 1200-14-01-.30 RABIES.

The definition of "dog," "cat," "owner," and "vaccination" as defined in T.C.A. § 68-8-102, shall be applicable in these regulations.

**Authority:** T.C.A. § 68-8-105. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed March 31, 1977; effective May 2, 1977. Amendment filed April 20, 1987; effective June 4, 1987.

#### 1200-14-01-.31 PUBLIC RABIES VACCINATION CLINICS.

It shall be the duty of each local health department to provide vaccination of dogs and cats against rabies. In addition to the registration fee as provided for in Section 68-4, Tennessee Code Annotated, dog and cat owners may be required to pay the cost for each dog and cat vaccinated, which shall include the cost of the vaccine and the services for the vaccination. Nothing herein shall be construed as not permitting a veterinarian to charge his regular fee outside of health department sponsored vaccination clinics.

**Authority:** T.C.A. § 68-8-105. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed March 31, 1977; effective May 2, 1977. Amendment filed April 20, 1987; effective June 4, 1987.

#### 1200-14-01-.32 AUTHORIZED RABIES VACCINE SOURCES AND TYPES.

It shall be the duty of any person authorized to vaccinate dogs and cats to select and properly use a rabies vaccine of either a killed virus or modified live virus tissue culture type which is licensed by and in accordance with the standards prescribed by the United States Department of Agriculture for interstate sale and use. To insure proper vaccination and to provide proof of current vaccination status, T.C.A. 68-8 requires that all rabies vaccinations be given by or under the direct supervision of a veterinarian licensed in the State. It shall be prohibited to sell rabies vaccine for use in dogs and cats to persons other than licensed veterinarians unless the purchaser possesses a prescription for the vaccine from a veterinarian duly licensed in Tennessee. These regulations apply only to the rabies vaccinations of domestic dogs and cats. The most recent Compendium of Animal Rabies Vaccines published by the Association of State Public Health Veterinarians shall be used as a guideline by public health officials and veterinarians for the selection of approved rabies vaccines and their appropriate use (site and route of inoculation, duration of immunity, species application, etc.). A State-furnished rabies vaccination tag and certificate shall be issued to every owner whose dog or cat is vaccinated and a copy of the certificate provided by the veterinarian to the local health department.

**Authority:** T.C.A. § 68-8-105. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed March 31, 1977; effective May 2, 1977. Amendment filed April 20, 1987; effective June 4, 1987.

#### 1200-14-01-.33 RABIES VACCINATION SCHEDULE OF DOGS AND CATS.

\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
N/A					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Department of Health, Health Services Administration, Communicable and Environmental Diseases (board/commission/ other authority) on 04/01/2019 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 01/23/19 (mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). 04/01/19 (mm/dd/yy)

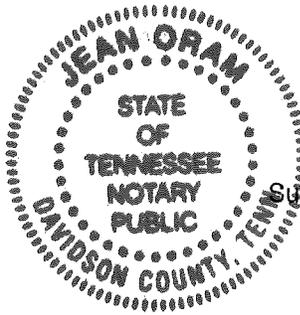
Date: 06/06/2019

Signature: Rachel Appelt

Name of Officer: Rachel Appelt

Sr. Assistant General Counsel

Title of Officer: Department of Health



Subscribed and sworn to before me on: 6-6-19

Notary Public Signature: Jean Oram

My commission expires on: 1-3-2022

Agency/Board/Commission: Department of Health, Health Services Administration, Communicable and Environmental Diseases

Rule Chapter Number(s): 1200-14-01

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III  
Herbert H. Slatery III  
Attorney General and Reporter

4/17/2019  
Date

Department of State Use Only

Filed with the Department of State on: 7/15/19

Effective on: 10/13/19

Tre Hargett  
Tre Hargett  
Secretary of State

## G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Tennessee Board of Medical Examiners

DIVISION:

SUBJECT: General Rules and Regulations Governing the Practice of Medicine

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 4-29-121 and 63-6-101

EFFECTIVE DATES: 10/23/2019 through 06/30/2020

FISCAL IMPACT: The Board's annual revenue is estimated to increase by approximately \$944,000, but expenditures should be unaffected. This estimate is based upon the total initial fees received in 2017-2018.

STAFF RULE ABSTRACT: These rule amendments increase the initial application fee for medical doctors from four hundred dollars (\$400.00) to five hundred dollars (\$500.00) and increase the renewal fee for medical doctors from two hundred and twenty five dollars (\$225.00) to three hundred dollars (\$300.00) every two years.

## Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

The Board received five comments regarding the proposed rules. All of these comments were received in written form.

Lindi VanderWalde, M.D. argued that physicians in good standing should not be subject to a fee increase. In support of her argument she explained that this can be an added burden for a physician receiving lower reimbursements while dealing with increasing costs in running a practice.

Tedford Taylor, M.D. also opposed the fee increase by citing the fact that the State has taken money away in the past. He offered that all board funds should be used "for the benefit of management of better care of physicians."

David Beaird, M.D. cited the annual professional state tax burden in support of his opposition to any increase in fees. He also stated that "a \$75 increase is a substantial increase."

Michael A. McAdoo, M.D. expressed concerns about prior government action by stating that "previous fund balances have been 'raided' in the past." He urged the Board to provide reassurances that the Board would have complete control over the disbursement of the funds, and he stated that if such reassurances were not available, then "a fee increase is ridiculous."

Daniel L. Starnes, M.D., JD, FACR. cited two previous instances where Board surplus funds were "taken from the Board and put into the general fund." At the time of one of these instances, he explained that additional investigators were needed. He expressed concerns that if a fee increase resulted in a future surplus and more Board money again being sent to support other State efforts than it was originally intended, these fees appear to be "a hidden tax ... a separate tax, disguised as a fee."

The Board shares the concerns expressed by the physicians who submitted comment. The Board does not have the authority to use the funds in the reserve, and those disbursements are taken at the authority of the Department of Finance and Administration. Statutory self-sufficiency language requires the Board to justify closing with a deficit for two consecutive years. At this time a fee increase is indicated as it has been over ten years since an increase, costs of regulating the profession have risen, and the Board's increasing work to protect the health, safety, and welfare of the people in Tennessee will have insufficient funds for the upcoming fiscal years if the fees are not raised.

## Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

- (1) **The extent to which the rule or rule may overlap, duplicate, or conflict with other federal, state, and local governmental rules.**

The proposed rule amendments do not overlap, duplicate, or conflict with other federal, state, or local government rules.

- (2) **Clarity, conciseness, and lack of ambiguity in the rule or rules.**

The proposed rule amendments exhibit clarity, conciseness, and lack of ambiguity.

- (3) **The establishment of flexible compliance and/or reporting requirements for small businesses.**

The proposed rule amendments do not impose new compliance or reporting requirements on any entity.

- (4) **The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.**

The proposed rule amendments do not establish new schedules or deadlines for compliance and/or reporting requirements for any entity including small businesses.

- (5) **The consolidation or simplification of compliance or reporting requirements for small businesses.**

The rule amendments do not change, consolidate, or simplify compliance or reporting requirements for small businesses; they simply increase existing fee structures.

- (6) **The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.**

The proposed rule amendments do not establish new performance, design, or operational standards.

- (7) **The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.**

The proposed fee increases are consistent with fees charged by other similar boards and, as such, do not create unnecessary entry barriers or other effects that would stifle entrepreneurial activity or curb innovation.

## STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

**Name of Board, Committee or Council:** Board of Medical Examiners

**Rulemaking hearing date:** 03/19/19

- 1. Type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:**

The proposed rule amendments would affect new medical license applicants (approximately 2,200 per year) and current medical licensees upon renewal (approximately 22,816). (Numbers based upon a measure of July 2017-July 2018.)

- 2. Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:**

None. The proposed rules do not require additional reporting, recordkeeping or other administrative costs in order to comply with the proposed rule.

- 3. Statement of the probable effect on impacted small businesses and consumers:**

The proposed rules should not have a significant impact on small businesses or consumers, as the fee increases are commensurate with fees charged by other medical boards.

- 4. Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:**

There are no less burdensome, intrusive, or costly methods.

- 5. Comparison of the proposed rule with any federal or state counterparts:**

**Federal:** The Board is not aware of any federal counterparts.

**State:** The proposed fees are consistent with fees charged by other state medical boards and some of the other health related boards. For instance the Board of Podiatric Examiners charges \$440, the Board of Chiropractic Examiners charges \$350, the Board of Acupuncture charges \$500, and the Council for Hearing Instrument Specialists charges \$450, for initial application.

- 6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**

There is no exemption as to licensure fees for small businesses.

## **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed rule amendments should not have a financial impact on local governments.

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These rule amendments increase the initial application fee for medical doctors from four hundred dollars (\$400.00) to five hundred dollars (\$500.00) and increase the renewal fee for medical doctors from two hundred and twenty five dollars (\$225.00) to three hundred dollars (\$300.00) every two years.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. §§ 4-29-121 and 63-6-101.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The proposed rule amendments would affect new medical license applicants (approximately 2,200 per year) and current medical licensees upon renewal (approximately 22,816). (Numbers based upon a measure of July 2017-July 2018.)

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The Board's annual revenue is estimated to increase by approximately \$944,000, but expenditures should be unaffected. This estimate is based upon the total initial fees received in 2017-2018.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Mary Katherine Bratton, Chief Deputy General Counsel, Department of Health.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Mary Katherine Bratton, Chief Deputy General Counsel, Department of Health.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Department of Health, Office of General Counsel, 665 Mainstream Drive, Nashville, 37243, (615)741-1611, Mary.Bratton@tn.gov.

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

**Department of State  
Division of Publications**

312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower  
Nashville, TN 37243  
Phone: 615-741-2650  
Email: [publications.information@tn.gov](mailto:publications.information@tn.gov)

**For Department of State Use Only**

Sequence Number: 07-22-19  
Rule ID(s): 9220  
File Date: 7/25/19  
Effective Date: 10/23/19

## Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).*

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

**Agency/Board/Commission:** Tennessee Board of Medical Examiners  
**Division:**  
**Contact Person:** Mary Katherine Bratton, Chief Deputy General Counsel  
**Address:** 665 Mainstream Drive, Nashville, Tennessee  
**Zip:** 37243  
**Phone:** (615) 741-1611  
**Email:** [Mary.Bratton@tn.gov](mailto:Mary.Bratton@tn.gov)

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0880-02	General Rules and Regulations Governing the Practice of Medicine
Rule Number	Rule Title
0880-02-.02	Fees

(Rule 0880-02-.01, continued)

*Authority:* T.C.A. §§ 4-5-202, 4-5-204, 63-1-153, 63-6-101, 63-6-105, 63-6-207, 63-19-104, and Chapter 33, Public Acts of 1999. *Administrative History:* Original rule filed October 13, 1983; effective November 14, 1983. Subsequently repealed and replaced twice, the last replacement was effective April 12, 1991. Amendment filed April 14, 1994; effective June 28, 1994. Amendment filed February 23, 1995; effective May 9, 1995. Amendment filed September 22, 1997; effective December 6, 1997. Amendment filed February 3, 1998; effective April 19, 1998. Amendment filed April 10, 2000; effective June 24, 2000. Amendment filed September 5, 2002; effective November 19, 2002. Amendment filed September 3, 2014; effective December 2, 2014. Amendments filed July 31, 2018; effective October 29, 2018.

**0880-02-.02 FEES.**

- (1) The fees authorized by the Tennessee Medical Practice Act (T.C.A. §§ 63-6-101 through 63-6-104 and T.C.A. §§ 63-6-201 through 63-6-227) and other applicable statutes to be established by the Board are established as follows:

- (a) ~~Application Fee—a non refundable fee to be paid by all licensure applicants regardless of the type of license applied for. It must be paid each time an application for licensure is filed.~~.....\$400.00
  
- (a) Application Fee - a non refundable fee to be paid by all licensure applicants regardless of the type of license applied for. It must be paid each time an application for licensure is filed......\$500.00
  
- (b) Examination Fee - This fee is to be paid each time the USMLE Step 3 examination is taken. ....\$100.00
  
- (c) Inactive Pro Bono Licensure Renewal Fee .....\$00.00

GENERAL RULES AND REGULATIONS GOVERNING  
 CHAPTER 0880-02  
 THE PRACTICE OF MEDICINE

(Rule 0880-02-.02, continued)

- (d) Special Training License Fee .....\$25.00
- (e) Licensure Exemption Fee - Visiting Faculty Member. This fee is paid annually for each year of exemption. ....\$50.00
- ~~(f) Licensure Renewal Fee - To be paid biennially by all licensees except Inactive Pro Bono licensees. This fee also applies to licensees who reactivate a retired license or who reactivate an inactive license.....\$225.00~~
- ~~(f) Licensure Renewal Fee - To be paid biennially by all licensees except Inactive Pro Bono licensees. This fee also applies to licensees who reactivate a retired license or who reactivate an inactive license.....\$300.00~~
- (g) Annual State Regulatory Fee - To be paid by all licensees upon application and biennially upon renewal. (\$10.00 biennially).....\$5.00
- (h) Late Licensure Renewal Fee - To be paid when a licensee fails to timely renew licensure.....\$200.00
- (i) Duplicate License Fee. ....\$25.00
- (j) Licensure Inactivation Fee - To be paid at the time a licensee applies for an inactive license. ....\$50.00
- (k) Licensure Exemption Fee - Interns, Residents or Clinical Fellows. This fee is paid annually for each year of exemption. ....\$10.00
- (l) Medical Spa Registration Fee.....\$175.00

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GENERAL RULES AND REGULATIONS GOVERNING  
CHAPTER 0880-02  
THE PRACTICE OF MEDICINE

(Rule 0880-02-.02, continued)

- (2) All fees may be paid in person, by mail or electronically by cash, check, money order, or by credit and/or debit cards accepted by the Division. If the fees are paid by certified, personal or corporate check they must be drawn against an account in a United States Bank, and made payable to the Tennessee Board of Medical Examiners.

**Authority:** T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-1-106, 63-1-153, 63-6-101, 63-6-105, 63-6-201, 63-6-207, 63-6-210, 63-6-211, and 63-6-230. **Administrative History:** Original rule filed October 13, 1983; effective November 14, 1983. Subsequently repealed and replaced twice, the last replacement was effective April 12, 1991. Amendment filed April 14, 1994; effective June 28, 1994. Amendment filed February 23, 1995; effective May 9, 1995. Amendment filed May 2, 1995; effective July 16, 1995. Amendment filed June 12, 1995; effective August 26, 1995. Amendment filed July 12, 1995; effective November 28, 1995. Public Necessity rule filed and effective November 28, 1995. Amendment filed March 25, 1996; effective June 8, 1996, expired by GOC, August 1996. Amendment filed September 4, 1998; effective November 11, 1998. Amendment filed August 25, 2000; effective November 8, 2000. Amendment filed August 16, 2002; effective October 30, 2002. Amendment filed September 5, 2002; effective November 19, 2002. Amendment filed December 5, 2003; effective February 18, 2004. Amendment filed August 23, 2005; effective November 6, 2005. Amendments filed July 31, 2018; effective October 29, 2018.

**0880-02-.03 LICENSURE PROCESS-U.S. AND CANADA MEDICAL SCHOOL GRADUATES.** To practice medicine in Tennessee a person must possess a lawfully issued license from the board. The procedure for obtaining a license is as follows:

- (1) An applicant shall obtain an application form from the Board Administrative Office, respond truthfully and completely to every question or request for information contained in the form and submit it along with all documentation and fees required by the form and this rule to the Board Administrative Office. It is the intent of this rule that all activities necessary to accomplish the filing of the required documentation be completed prior to filing a licensure application and that all documentation be filed simultaneously.
- (2) It is the applicant's responsibility to request a graduate transcript from a medical school approved by the American Medical Association or its extant accreditation program for medical education or its successor be submitted directly from the school to the Board Administrative Office. The transcript must show that the degree has been conferred and carry the official seal of the institution.

\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Michael D. Zanolli, M.D.	X				
Subhi D. Ali, M.D.	X				
Phyllis E. Miller, MD				X	
Charles R. Handorf, M.D.	X				
Melanie Blake, MD	X				
Neal Beckford, M.D.	X				
Deborah Christiansen, MD	X				
John W. Hale., MD	X				
Jennifer Claxton	X				
Robert Ellis	X				
Julianne Yeiser Cole	X				
W. Reeves Johnson, Jr. MD	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Board of Medical Examiners (board/commission/ other authority) on 03/19/2019 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 01/09/19 (mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). 03/19/19 (mm/dd/yy)

Date: 4 10 19

Signature: Mary Katherine Bratton

Name of Officer: Mary Katherine Bratton

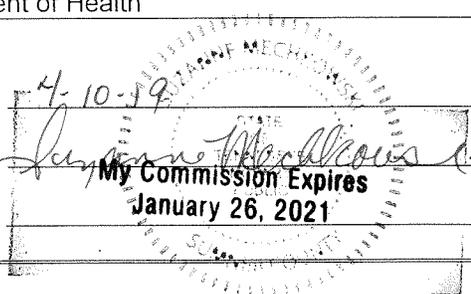
Chief Deputy General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 4-10-19

Notary Public Signature: Julianne Merillious

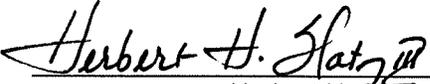
My commission expires on: January 26, 2021



Agency/Board/Commission: Tennessee Board of Medical Examiners

Rule Chapter Number(s): 0880-02

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

  
Herbert H. Slatery III  
Attorney General and Reporter  
6/17/2019  
Date

**Department of State Use Only**

Filed with the Department of State on: 7/25/19

Effective on: 10/23/19

  
Tre Hargett  
Secretary of State

RECEIVED  
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SECRETARY OF STATE  
NASHVILLE, TN 37243

## G.O.C. STAFF RULE ABSTRACT

<u>DEPARTMENT:</u>	Austin Peay State University
<u>SUBJECT:</u>	Student and Student Organization Conduct and Disciplinary Sanctions
<u>STATUTORY AUTHORITY:</u>	Tennessee Code Annotated, Sections 4-5-101 et seq., 49-7-123(a)(1), and 49-8-203
<u>EFFECTIVE DATES:</u>	October 21, 2019 through June 30, 2020
<u>FISCAL IMPACT:</u>	None
<u>STAFF RULE ABSTRACT:</u>	<p>This proposed rule describes that students are expected to conduct themselves as law-abiding members of each community at all times and authorizes the President of Austin Peay State University to take such action as may be necessary to maintain campus conditions and preserve the integrity of APSU and its educational environment. The proposed rule further prescribes what disciplinary action can be taken against a student for violation of the policies and regulations which occur on APSU 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 APSU activity or the mission, processes, and functions of APSU. Finally, the proposed rule describes the due process procedures for a student who wishes to contest a suspension or expulsion of a student or student organization from APSU.</p>

## **Regulatory Flexibility Addendum**

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

These rules only affect students enrolled at Austin Peay State University and no small businesses will be impacted by their promulgation.

## **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

These rules only affect students enrolled at Austin Peay State University and will not have an impact on local governments.

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rule describes that students are expected to conduct themselves as law-abiding members of each community at all times and authorizes the President of Austin Peay State University to take such action as may be necessary to maintain campus conditions and preserve the integrity of APSU and its educational environment. The rule further prescribes what disciplinary action can be taken against a student for violation of the policies and regulations which occur on APSU 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 APSU activity or the mission, processes, and functions of APSU. Finally, the rule describes the due process procedures for a student who wishes to contest a suspension or expulsion of a student or student organization from APSU.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. §§ 4-5-101 et seq., 49-7-123(a)(1), and 49-8-203.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

All students enrolled at Austin Peay State University will be affected by this rule. The Board urges adoption of this rule.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

Not applicable.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

Not applicable.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Dr. Eric Norman  
Vice President for Student Affairs  
Austin Peay State University

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Dannelle Whiteside  
General Counsel  
Austin Peay State University

Dr. Eric Norman  
Vice President for Student Affairs  
Austin Peay State University

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Dannelle Whiteside  
General Counsel  
Austin Peay State University  
931-221-7580  
[whitesided@apsu.edu](mailto:whitesided@apsu.edu)

Dr. Eric Norman  
Vice President for Student Affairs  
Austin Peay State University  
931-221-7341  
[singletong@apsu.edu](mailto:singletong@apsu.edu)

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

**Department of State  
Division of Publications**

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Nashville, TN 37243  
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**For Department of State Use Only**

Sequence Number: 07-20-19  
Rule ID(s): 9219  
File Date: 7/23/19  
Effective Date: 10/21/19

## Proposed Rule(s) Filing Form

*Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.*

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

<b>Agency/Board/Commission:</b>	Austin Peay State University
<b>Division:</b>	
<b>Contact Person:</b>	Dannelle Whiteside
<b>Address:</b>	601 College Street, P.O. Box 4628 Clarksville, TN
<b>Zip:</b>	37044
<b>Phone:</b>	931-221-7580
<b>Email:</b>	whitesided@apsu.edu

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0240-05-02	Student and Student Organization Conduct and Disciplinary Sanctions
Rule Number	Rule Title
0240-05-02-.01	APSU Policy Statement
0240-05-02-.02	Disciplinary Offenses
0240-05-02-.03	Academic and Classroom Misconduct
0240-05-02-.04	Disciplinary Sanctions
0240-05-02-.05	Disciplinary Procedures

Rules  
of  
Austin Peay State University

Chapter 0240-05-02  
Student and Student Organization Conduct and Disciplinary Sanctions

0240-05-02-.01	APSU Policy Statement
0240-05-02-.02	Disciplinary Offenses
0240-05-02-.03	Academic and Classroom Misconduct
0240-05-02-.04	Disciplinary Sanctions
0240-05-02-.05	Disciplinary Procedures

**0240-05-02-.01 APSU Policy Statement.**

- (1) Austin Peay State University ("University" or "APSU") students are expected to conduct themselves as law-abiding members of the community at all times. Admission to APSU 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 APSU and the academic community which it seeks to serve, the APSU Board of Trustees (the Board) has authorized the President of APSU (the President) to take such action as may be necessary to maintain campus conditions and preserve the integrity of APSU and its educational environment.
- (2) Pursuant to this authority and in fulfillment of its duties to provide a secure and stimulating atmosphere in which individual and academic pursuits may flourish, the Board has developed the following regulations, intended to govern student conduct on the APSU campus. The University under the jurisdiction of the Board is directed to implement policies subject to, and consistent with, these rules. 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 APSU's pursuit of its educational objectives, APSU may enforce its own regulations regardless of any proceedings instituted by other authorities. Conversely, violation of any section of these rules may subject a student to disciplinary measures by APSU whether or not such conduct simultaneously violates state, local or national laws.
- (3) For the purpose of these rules, a "student" shall mean any person who is admitted and/or registered for study at APSU for any academic period. This shall include, but not be limited to 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 APSU. 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 policies, rules, and regulations governing student conduct. Students are responsible for compliance with rules and policies including, but not limited to the Policies on Student Conduct and with similar APSU policies at all times.
- (4) Disciplinary action may be taken against a student for violation of the policies, rules, and regulations which occur on APSU 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 APSU activity or the mission, processes, and functions of APSU. The University may enforce their own rules regardless of the status or outcome of any external proceedings instituted in any other forum, including any civil or criminal proceeding.

- (5) These rules, and related material incorporated herein by reference, are applicable to registered student organizations as well as individual students. Registered 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.
- (6) Confidentiality of Discipline Process. Subject to the exceptions provided pursuant to the Family Educational Rights and Privacy Act of 1974 (FERPA) and/or the Tennessee Open Records Act, a student's disciplinary files are considered educational records and are confidential within the meaning of those Acts.

**Authority:** T.C.A. §§ 4-5-101 et seq., 49-8-203, and § 10-7-501 et seq.

#### **0240-05-02-.02 Disciplinary Offenses.**

- (1) Generally, through appropriate due process procedures, APSU disciplinary measures may be imposed for conduct which adversely affects APSU's pursuit of its educational objectives, which violates or shows a disregard for the rights of other members of APSU's academic community or which endangers property or persons on APSU, or APSU-controlled property.
- (2) Individual students or registered student organizational misconduct which is subject to disciplinary sanction may include but not be limited to the following examples:
  - (a) Conduct dangerous to self or others. Any conduct, or attempted conduct, which poses a direct threat to the safety of others or where the student's behavior is materially and substantially disruptive of APSU's learning environment;
  - (b) Hazing. Violations of this section include any act of hazing on or off the University campus or APSU controlled property, by an APSU student, group of students or registered student organization. Hazing means any intentional or reckless act on or off the property of any higher education institution by one (1) student acting alone or with others which is directed against any other student, that endangers the mental or physical health or safety of that student, or which induces or coerces a student to endanger such student'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 organizations;
  - (c) Discrimination or Discriminatory Harassment. Any student or group of students act against another individual or group in violation of these rules and University policies, as well as federal and/or state laws prohibiting discrimination and discriminatory harassment, including, but not limited to, APSU Policy 6:001 and 6:003, and 6:004;
  - (d) Disorderly Conduct. Any student or group of students whose behavior which is abusive, obscene, lewd, indecent, violent, excessively noisy, disorderly, or which unreasonably disturbs or may reasonably provoke other groups or individuals (this may include, but not be limited to verbal abuse, nonverbal gestures and inappropriate behavior resulting from the use of being under the influence of alcohol or drugs), etc.;

- (e) Obstruction of or Interference with APSU Activities or Facilities. Any intentional interference with or obstruction of any APSU program, event, or facility including, but not limited to the following:
1. Any unauthorized occupancy of APSU or APSU-controlled facilities or blockage of access to or from such facilities;
  2. Interference with the right of any APSU member or other authorized person to gain access to any APSU or APSU-controlled activity, program, event or facility;
  3. Any obstruction or delay of a campus security officer, public safety officer, police officer, firefighter, EMT, or any University official in the performance of his or her duty;
  4. Any form of disruptive behavior in the classroom, during any campus event; or activity or at any location on campus or
- (f) 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 APSU or property being used, rented, owned or leased by a student, group of students or officially registered student organization not owned by APSU;
- (g) Theft, Misappropriation, or Unauthorized Sale. Any act of theft, misappropriation, or unauthorized possession, use or sale of APSU property or any such act against a member or organization of the APSU community or a guest of APSU;
- (h) Misuse of Documents or Identification Cards. Any forgery, alteration of or unauthorized use of APSU 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 at APSU or; failure to carry the APSU ID card at all times or to show it upon proper request;
- (i) Firearms and Other Dangerous Weapons. Any possession of or use of firearms, dangerous weapons of any kind on APSU property or APSU controlled property. Firearms or dangerous weapons include, but are not limited to: rifles, handguns, replica/toy guns, BB guns, pellet guns, stun guns, non-culinary knives with a blade greater than four (4) inches, martial arts equipment, paint ball guns, water guns, bows and arrows, etc., or other objects with the intent to cause bodily harm, including mace and/or pepper spray;
- (j) Explosives, Fireworks, and Flammable Materials. The unauthorized possession, ignition or detonation of any object or article which would cause damage by fire or other means to persons or property or APSU controlled property or possession of any substance which could be considered to be and used as fireworks;
- (k) Alcoholic beverages. The use and/or possession of alcoholic beverages and/or public intoxication on APSU-owned or controlled property, violation(s) of any local ordinance or state or federal law concerning alcoholic beverages, on or off campus, or a violation of the terms of the APSU Drug-Free Policy Statement. It shall not be a violation for students twenty-one (21) years of age or older to consume alcohol within areas designated by the President where alcohol is permitted to be served.

In addition, officially registered student organizations that sponsor events off campus, where alcoholic beverages are present and available for consumption, must adhere to all local, state and federal laws concerning alcoholic beverages and must follow APSU's Risk Management Guidelines for Student Organizations;

- (l) Drugs. The unlawful possession or use of any drug, controlled substance or drug paraphernalia (including, but not limited to, any prescription drug, stimulant, depressant, narcotic or hallucinogenic drug or substance, or marijuana), or sale or distribution of any such drug or controlled substance, or a violation of any terms of the APSU Drug-Free Policy Statement;
- (m) Gambling. Participation in any gambling or gambling-related activities on campus or on APSU controlled property or property being used, rented or leased by a student, group of students or registered student organization not owned by APSU that have not been approved and/or administered in accordance with the laws and regulations of the State of Tennessee. Any permitted gambling or gambling-related activity, e.g. raffles, must also be operated under the auspices of the APSU's Foundation;
- (n) Financial Irresponsibility. Failure to promptly meet financial responsibilities to APSU including, but not limited to, knowingly passing a worthless check or money order in payment to APSU or to a member of the APSU community acting in an official capacity;
- (o) Unacceptable Conduct in hearings. Any conduct at an APSU hearing involving contemptuous, disorderly behavior, or the giving of false testimony or other evidence at any hearing;
- (p) Failure to Cooperate with University Officials. Failure to comply with directions of APSU officials acting in the performance of their duties;
- (q) Violation of general rules and regulations. Any violation of the general rules and regulations of the University as published in an official APSU publication, whether in print or digital, including but not limited to, the intentional failure to perform any required action or the intentional performance of any prohibited action;
- (r) Attempts and aiding and abetting the commission of offenses. Any attempt to commit any of the offenses listed in this document, or the aiding and abetting of the commission of any of the offenses (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);
- (s) 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;
- (t) Violation of imposed disciplinary sanctions. Intentional or unintentional violation of a disciplinary sanction officially imposed by an APSU official or a constituted body including, but not limited to, sanctions contained herein;
- (u) Violations of APSU Residence Hall or Apartment policies or regulations. The violation of any policies or regulations which appear in printed materials, whether in

print or digital, distributed to resident students (i.e., housing license agreements, handbooks for resident students, etc.);

- (v) Sexual Battery/Rape. Any act of sexual battery or rape as defined by state law;
- (w) Sexual Misconduct. An offense including acts of sexual assault, domestic violence, dating violence and/or stalking as defined in APSU Policy 6:001. The handling procedures concerning allegations of sexual misconduct are set forth in APSU Policy 6:001;
- (x) Tobacco. Smoking, inclusive of electronic smoking devices and vapors, in all APSU buildings, grounds and state-owned vehicles is prohibited (except in otherwise designated areas as provided in APSU policy 9:022). Regardless of whether classes are in session, smoking is prohibited in APSU all buildings, grounds and state-owned vehicles twenty-four (24) hours a day, year round. Students who want to use smoke-free tobacco products may do so thirty (30) feet from each building exit and entrance. Smoke-free tobacco product use is prohibited in APSU buildings and state-owned vehicles.
- (y) Pets. With the exception of service animals, emotional support animals, and animals used for academic research purposes, animals are prohibited on APSU campus except in designated housing areas. Students are required to provide the Office of Disability Services with medical documentation in requesting an accommodation for an emotional support animal.
- (z) Filing a false complaint or statement. Any behavior whereby a student knowingly submits a false complaint or statement alleging a violation of these regulations by a student or organization or APSU employee.
- (aa) Academic Misconduct includes, but is not limited to plagiarism, cheating, facilitation, fabrication or collusion. For purposes of this section the following definitions apply:
  - 1. Plagiarism. The adoption or reproduction of ideas, words, statements, images, or works of another person as one's own without proper attribution.
  - 2. 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.
  - 3. Fabrication. Unauthorized falsification or invention of any information or citation in an academic exercise.
  - 4. Facilitation or Collusion. Assisting or attempting to assist another to violate a provision of APSU's student code of conduct regarding academic misconduct.
- (bb) Unauthorized Duplication or Possession of Keys. Making, causing to be made or the possession of any key for an APSU facility without proper authorization.
- (cc) Litter. Dispersing litter in any form onto the grounds or facilities of the APSU campus;

(dd) Abuse of Computer Resources and Facilities. Misusing and/or abusing computer resources including, but not limited to the following:

1. Distribution or use of a student and/or another person's identification to gain access to APSU computer resources;
2. Use of APSU 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;
3. Unauthorized access to a computer or network file, including but not limited to, altering, using, reading, copying, or deleting the file;
4. Unauthorized transfer of a computer or network file;
5. Use of computing resources and facilities to send abusive or obscene correspondence;
6. Use of computing resources and facilities in a manner that interferes with normal operation of the APSU computing system;
7. Use of computing resources and facilities to interfere with the work of another student, faculty member, or APSU official;
8. Violation of any published information technology resources policy; or
9. Unauthorized peer-to-peer file sharing.

(ee) Unauthorized Access to APSU Facilities and/or Grounds. Any unauthorized access and/or occupancy of APSU 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;

(ff) 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;

(gg) Uncontrolled or Unsafe Rollerblading/Skateboarding/Other Coasting Device. Individuals are prohibited from using Rollerblades/skateboards/coasting devices in an unsafe and/or reckless manner on APSU campus. must comply with APSU Policy 4:012.

(3) Disciplinary action may be taken against a student or registered student organization for violations of the foregoing rules which occur on APSU owned, leased or otherwise controlled property, or which occur off-campus when the conduct impairs, interferes with, or obstructs any APSU activity or the missions, processes and functions of APSU. In addition, disciplinary action may be taken on the basis of any conduct, on or off campus

which violates local, state or federal laws, which violate APSU policies for student organizations, or which poses a substantial threat to persons or property within the APSU community. 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 APSU, 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 APSU with disciplinary action or academic misconduct action pending, the student's record may be encumbered by the appropriate APSU office until the proceedings have been concluded.

**Authority:** T.C.A. §§ 4-5-101 et seq., 49-7-123(a)(1), 49-8-203, and 10-7-501.

**0240-05-02-.03 Academic and Classroom Misconduct.**

- (1) The instructor has the primary responsibility for control over classroom behavior and maintenance of academic integrity, 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 APSU. 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 established by the Division of Student Affairs.
- (2) Academic dishonesty may be defined as any act of dishonesty in academic work. This includes, but is not limited to, plagiarism, the changing or falsifying of any academic documents or materials, cheating and giving or receiving of unauthorized aid in tests, examinations or other assigned work. Students guilty of academic misconduct, either directly or indirectly through participation or assistance, are immediately responsible to the instructor of the class. Penalties for academic misconduct 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" in the course, reprimand, probation, suspension and expulsion. The student will be advised of his/her rights. The student may accept the instructor's finding, grade reduction, and/or other sanction and waive his/her hearing right. In the event a student believes he/she has been erroneously accused of academic misconduct, he/she may request a hearing. Hearings will be conducted pursuant to the procedures set forth at Rule 0240-05-02-.05, Disciplinary Procedures, below. If the student is found responsible for the allegation(s) of academic misconduct, the grade as assigned by the instructor will stand. Should the hearing source absolve the student of the allegations of academic misconduct, the faculty member will reassess the student's grade based upon the hearing source's finding. When necessary, grade changes will be made administratively.
- (3) Students may appeal a grade assignment associated with a finding of academic misconduct, as distinct from a student disciplinary action, through appropriate APSU academic grade appeal procedures. Courses may not be dropped pending the final resolution of an allegation of academic misconduct.
- (4) Disruptive behavior in the classroom may be defined, but is not limited to, behavior that obstructs or disrupts the learning environment (e.g., repeated outbursts from a student which disrupts the flow of instruction or prevents concentration on the subject taught, failure to cooperate in maintaining classroom decorum, the presence of non-enrolled visitors in the classroom (including but not limited to minors), the continued use of any electronic or other noise or light emitting device which disturbs or interrupts the concentration of others

(e.g., disturbing noises from beepers, text messaging, cell phones, palm pilots, laptop computers, games, etc.).

- (5) Class attendance and punctuality requirements are established by the faculty through the syllabus, whether print or digital, for each course. Students are expected to attend class 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 student(s) are unable to make immediate contact with faculty, the student may contact the Central Student Affairs office 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 possible completion of coursework requirements, if feasible.

**Authority:** T.C.A. §§ 4-5-101 et seq. and 49-8-203.

#### **0240-05-02-.04 Disciplinary Sanctions.**

- (1) APSU shall adopt and publish guidelines, providing notice of potential disciplinary sanctions consistent with these rules applicable to both individuals and organizations. The guidelines may include any appropriate sanction subject to prior review by the APSU Office of Legal Affairs and approval by the Board of Trustees. Upon a determination that a student or student organization has violated any of the disciplinary offenses set forth in these rules, disciplinary policies, general policies, and/or guidelines disciplinary sanctions may be imposed, either singly or in combination, by the appropriate school officials. (Note: Final results of disciplinary proceedings for violations that include violent acts or non-forcible sex offenses, as defined by Tennessee law, may be released without permission of the student perpetrator.)
- (2) Definition of Sanctions. The following provides a non-exhaustive list of possible sanctions with corresponding definitions:
  - (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 monetarily compensate a party or parties for a loss suffered as a result of disciplinary violation(s). Any such monetary payment in restitution shall be limited to actual cost of repair, replacement or financial loss;
  - (b) Warning. The appropriate APSU 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 rules and provides notice that any further violation(s) may result in more serious penalties;
  - (d) Restriction. A restriction upon a student's or registered student organization's privileges for a period of time may be imposed. This restriction may include, but is not limited to, the following: denial of the right to represent APSU in any way, denial of the use of APSU facilities and/or parking privileges, restriction of participation in

extracurricular activities, restriction of organizational privileges including registration, and restriction of the transfer of academic credit from another institution;

- (e) University Probation. Continued enrollment of a student or student organization on probation may be conditioned upon adherence to these rules. Any student or registered student organization placed on probation will be notified of such in writing, either in hard copy or electronic, and will also be notified of the terms and length of probation. Probation may include restrictions upon the extracurricular activities of a student or registered student organization. Any conduct in violation of these rules while on probationary status or the failure to comply with the terms of the probationary period may result in the imposition of a more serious disciplinary sanction;
- (f) Suspension. If a student or student organization is suspended, he/she or the organization is separated from APSU for a stated period of time with conditions for readmission stated in the notice of suspension;
- (g) Expulsion. Expulsion entails a permanent separation from APSU. The imposition of this sanction is a permanent bar to the student's readmission, or a registered student organization's recognition by APSU. A student or registered student organization that has been expelled may not enter APSU property or facilities without obtaining prior approval from an appropriate campus official with knowledge of the expulsion directive;
- (h) Interim or Summary Suspension. As a general rule, the status of a student or student organization accused of violations of these rules should not be altered until a final determination has been made in regard to the charges. Interim or Summary suspension may be imposed upon a finding by the appropriate APSU official that the continued presence of the accused on campus constitutes an immediate threat to the physical safety and well-being of the accused or of any other member of the APSU community or its guests, destruction of 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;
- (i) Housing Probation. A student or registered student organization placed on housing probation is deemed not to be in good standing with the housing community, and his/her continued residence is conditioned upon adherence to these rules and the Housing Contract. Any student or registered student organization placed on probation shall be notified in writing or via email of the terms and length of the probation. Probation may include restrictions upon the activities of the housing resident, including any other appropriate special condition(s). Any conduct of a similar or more serious nature in violation of the probation shall result in suspension from housing;
- (j) Housing Suspension and Forfeiture. A student or registered student organization suspended from housing may not reside in, 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 student or registered student organization shall be required to forfeit housing fees (including any unused portion thereof and the Housing deposit). A suspended student or registered student organization must vacate the housing unit within forty-eight (48) hours. Housing suspension shall remain a part of the student's disciplinary record;

- (k) Service to the University. A student or registered student organization may be required to donate a specified number of service hours to APSU, by way of performing reasonable tasks for the appropriate APSU office or official. This service shall be commensurate to the offense the student or registered student organization is guilty of violating (i.e., service to maintenance staff for defacing APSU property);
- (l) Special Educational Program. A student or student organization may be required to participate in any special educational programs relevant to the offense, to attend special seminars or educational programs or to prepare a project or report concerning a relevant topic;
- (m) Smoking and Clean Air Policy Violation. There will be graduated fines imposed for violation of the Smoking and Clean Air policy:
  - 1. First Offense- \$25.00
  - 2. Second Offense- \$50.00
  - 3. Third Offense or more- \$100.00 and for additional Disciplinary Charges;
- (n) Interim or Summary Suspension from Campus Housing. Though as a general rule, the status of a student or student organization accused of violations of these regulations should not be altered until a final determination has been made in regard to the charges against him or her, interim suspension from campus housing may be imposed upon a finding by the appropriate APSU official that the continued presence of the accused in APSU housing constitutes an immediate threat to the physical safety and well-being of the accused, or of any other member of the APSU community or its guests, or the destruction of property. A final determination of the charges against any student or student organization summarily suspended from campus housing shall be made through appropriate hearing procedures within seven (7) class days of such housing suspension during which time the accused shall forfeit the right to reside in or visit campus housing facilities. The accused student shall be permitted to attend classes during this interim period.
- (o) Referral for Intervention, Assessment and/or Counseling. The student is mandated to visit the appropriate APSU official for an initial intervention and assessment which may be followed by required participation and a prescribed plan of action or treatment plan. Parents or legal guardians may be notified;
- (p) Fines. Penalties in the form of fines may be enforced against a student or an organization whenever the appropriate hearing officer(s) or hearing body deems necessary. The sanction of fines may be imposed in addition to other forms of disciplinary sanctions. Failure to pay fines to the Business Office within two (2) weeks of the decision will result in further disciplinary action;
- (q) Letter of Apology. A student or student organization may be required to write a letter of apology to APSU or its guests, another student or student organization, faculty or staff member, or any other constituent affected by the behavior for which the student or student organization has been found responsible. The letter shall be written and sent within seven (7) class days of notification of sanction and copies to the appropriate hearing body or official;

- (r) Revocation of Admission, Degree, or Credential; and,
- (s) Any alternate sanction deemed necessary and appropriate to address the misconduct at issue.

**Authority:** T.C.A. §§ 4-5-101 et seq. and 49-8-203.

**0240-05-02-.05 Disciplinary Procedures.**

- (1) Hearing Procedures:
  - (a) Procedures conforming to the Uniform Administrative Procedures Act (UAPA). All cases which may result in (i) suspension or expulsion of a student or student organization from APSU for disciplinary reasons, or (ii) revocation of registration of a student organization during the term of the registration are subject to the contested case provisions of the UAPA § T.C.A. 4-5-301 et seq. and shall be processed in accordance with the uniform contested case procedures adopted by the Board of Trustees, unless the student or student organization waives those procedures in writing and elects to have his or her case heard by either the University Hearing Board or an Administrative Hearing.
  - (b) Cases which are not subject to the contested case procedures under the Uniform Administrative Procedures Act and cases in which a student or student organization has waived the contested case procedures in writing shall be processed in accordance with APSU Hearing Procedures. APSU has established two (2) alternate APSU Hearing Procedures:
    - 1. A hearing conducted by one (1) or more Student Affairs Administrators; or
    - 2. A hearing conducted by the University Hearing Board. (Note: This option shall be available until the final ten (10) class days of each semester, or the final five (5) class days of the second summer term, during which time all disciplinary hearings will be conducted by appropriate Student Affairs Administrators, except those subject to UAPA procedures as selected by the accused student or student organization.)
  - (c) Cases which are not subject to the contested case procedures under the Uniform Administrative Procedures Act and which involve very minor first offenses by students or student organizations may be discussed informally with students or student organizations. In such cases, no formal record will be maintained in the judicial records of APSU. The Dean of Students or other designee, appointed by the Vice President for Student Affairs, shall note the name of the student or student organization involved in his/her personal records. The purpose of this notation is only to determine a student's or student organization's prior involvement in a minor offense, when and if a second offense occurs at a later date. If the student or student organization is subsequently involved in another violation of regulations, at the discretion of the hearing body, this Informal Record will become a part of the student's or student organization's Formal Disciplinary Records.
  - (d) Alternative resolution methods may include, but are not limited to, mediation, diversion programs and/or negotiated resolutions.
  - (e) Jurisdiction of Cases to be heard by Student Affairs Administrators:

1. All formal cases involving incidents which occur in APSU residence halls and/or apartments and which involve on-campus residents shall be heard by the Residence Life staff or designee.
  2. All other formal cases shall be heard by the Dean of Students for Student Affairs, or appropriate designee, except in cases where such staff member is unavailable or has a bias toward either party in the pending case. In such cases the Senior Student Affairs Officer shall assign one (1) or more Student Affairs Administrators to hear the case.
- (2) Commencement of Disciplinary Proceedings.
- (a) A student or registered student organization accused of violating APSU disciplinary policies, rules, or regulations shall be called before the Dean of Students or designee, appointed by the Vice President for Student Affairs, for a preliminary conference at which the student or registered student organization will be orally advised of the following:
    1. The charges against him/her/or organization;
    2. The rights afforded to him/her/or organization by the hearing procedures which are available;
    3. The hearing procedure options available; and
    4. The responsibilities of the accused student or registered student organization in the disciplinary procedures.
  - (b) A student or registered student organization may waive the right to a preliminary conference and an oral explanation of the items listed in (2) (a) above.
  - (c) Once advised of the hearing options, the accused student or registered student organization may elect to accept the finding and sanction from the Dean of Students or designee, or elect a hearing pursuant to UAPA (where appropriate), or a hearing before the University Hearing Board.
  - (d) The election must be made within three (3) class days of receipt of notice of pending charges against him/her or organization by completing, and signing, an Election of Procedure form and/or waiver form. Once the election is made, the decision is final and may not be changed during the course of the hearing.
  - (e) Procedural guidelines for all matters involving allegations of impermissible discrimination, harassment, or retaliation are set forth in an APSU policy that reflects the requirements of that guideline.
  - (f) Procedural guidelines regarding all matters involving allegations of sexual misconduct and/or stalking are set forth in the procedures outlined in APSU policy 6:001: Sexual Violence and Stalking.
- (3) APSU Hearing Rights. These rights shall be afforded the accused student/organization in all APSU Hearings before the appropriate Student Affairs administrator or the University Hearing Board.

- (a) The right to choose the appropriate hearing option. (This right must be exercised within three (3) class days of the presentation of charges. Note: This option shall be available until the final ten (10) class days of each semester, or the final five (5) class days of the second summer term, during which time all discipline hearings will be conducted by appropriate Student Affairs administrators, except those subject to UAPA procedures.)
- (b) The right to written notice, by United States mail, courier service, hand delivery to the permanent or local address on file for the student, or APSU email, of the time, place, and date of the hearing at least three (3) days in advance of the hearing. A justified delay may be granted. (This right may be waived in writing by the accused student/organization.) When notice is sent by United States Mail.
- (c) The right to a written statement of the charges in time and detail sufficient to enable the student/organization to prepare a defense.
- (d) The right to be accompanied by an advisor of the student's/organization's choice, but such advisor participation shall be limited to advising the student/organization.
- (e) The right to a statement of the possible sanctions that may be imposed as a result of a finding of a violation of the Student Code, at least three (3) days in advance of the hearing.
- (f) The right to present witnesses in the student's/registered student organization's behalf and to question any witnesses presented against the student. The student/organization is responsible for the attendance of any witnesses to be present in the student's /organization's behalf.
- (g) The right to be informed in writing, delivered either by United States mail, courier service, hand delivery to the permanent or local address on file for the student, or via email, of:
  - 1. The final administrative decision in the case.
  - 2. The proper procedure for appeal.
- (h) The right to be provided copies, upon request and in accordance with APSU policies, rules, and guidelines, of all complaints, reports, witness statements and other written materials used in determining the charges.
- (i) In cases involving sexual misconduct, the right to the name of each witness APSU expects to present at the student disciplinary proceeding and those APSU may present if the need arises.
- (j) In cases involving sexual misconduct, the right to request a copy of the institution's investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974.
- (k) In cases involving sexual misconduct, the student's right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that the institution has in its possession, custody, or control and may use to support claims or defenses, unless the use would solely be for impeachment.

(4) Rights of Complainant and/or Victim.

The APSU member (student, faculty or staff) who authors "complaints" or "statements" as a victim in the alleged violation shall have the following rights:

- (a) To be notified of his/her rights prior to making a statement.
  - (b) To be informed that any written statement made or signed will be shared with the accused student/organization and that the accused student/organization may request a copy of the statement.
  - (c) To attend the hearing.
  - (d) To have an advisor present during the hearing.
  - (e) To be given the opportunity to question all witnesses and the accused during the hearing.
  - (f) To be provided a copy of any statement he/she has written or dictated to others.
  - (g) To be able to submit a list of witnesses to be called to the hearing.
  - (h) To be permitted to drop the charges only up to the date of the hearing.
  - (i) To be notified of the outcome of the hearing, including the finding concerning responsibility and any sanctions taken.
  - (j) In cases involving sexual misconduct, the right to the name of each witness APSU expects to present at the student disciplinary proceeding and those APSU may present if the need arises.
  - (k) In cases involving sexual misconduct, the right to request a copy of the APSU's investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974.
  - (l) In cases involving sexual misconduct, the student/organization's right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that APSU has in its possession, custody, or control and may use to support claims or defenses, unless the use would solely be for impeachment.
- (5) APSU Hearing Procedures.
- (a) Hearings before a Student Affairs Administrator. The appropriate Student Affairs Administrator shall act as hearing officer in the hearing, shall determine student's/organization's innocence or guilt and shall apply sanctions as appropriate.
  - (b) Hearings before the University Hearing Board ("Hearing Board). Procedures for the Board include the following:
    - 1. The Hearing Board shall be composed of nine (9) persons: five (5) students, (two (2) automatically selected from the Student Tribunal Justices of the Student Government Association, and three (3) selected at large from the

student body who meet the same qualifications and are selected via the same procedures as those for Student Tribunal Justices as listed in the APSU SGA Constitution), two (2) faculty and two (2) administrators, all appointed by the President, for a term of one (1) academic year. Additionally, student, faculty and administrator alternate members shall be selected to serve in the absence of regular members and shall be appointed by the President for a term of one (1) academic year.

2. The Chair of the Hearing Board shall be appointed by the President.
3. A minimum of five (5) members of the Hearing Board are required to hear a disciplinary case, composed of at least two (2) students, one (1) faculty member, and one (1) administrator.
4. The Dean of Students shall train and advise all regular and alternate members of this Hearing Board in appropriate disciplinary procedures.
5. The hearing shall be conducted consistent with the rights described above in paragraphs (3) and (4) of this rule.
6. All hearings shall be closed unless the respondent and the complainant both elect in writing to have an open hearing.
7. Formal rules of evidence shall not be applicable. The adjudicating body may exclude evidence which in its judgment is immaterial, irrelevant, or unduly repetitious.
8. The standard of proof required to overturn a finding of violation of the Student Discipline Policy made by the Dean of Students, or designee, shall be the preponderance of the evidence and the charged student bears the burden of proof.
9. The hearing source shall issue a written decision within three (3) class days after the conclusion of the hearing.
10. The student will be advised in writing via ASPU email (and USPS mail if requested by the student) of the Hearing Board or Student Affairs Administrator decision and all sanctions imposed as a result of the disciplinary hearing.
11. Any sanction imposed as a result of a hearing conducted under the Code of Conduct shall be effective immediately upon written notification of the student/organization unless the hearing authority deems a stay of such sanction desirable pending appeal.
12. In any case where the decision results in separation from APSU, the decision shall be reviewed by the Senior Student Affairs Officer prior to notifying the Office of the Registrar and the Academic Department in which the student has been enrolled.

(6) Appeals.

- (a) The student may appeal a decision of the University Hearing Board or the Student Affairs Administrator to the Senior Student Affairs Officer, or designee.

- (b) An appeal in writing setting forth grounds for the appeal and addressed to the appropriate appellate authority must be received in the Office of the Senior Student Affairs Officer within three (3) class days after the student/organization is notified of the sanction imposed at any hearing or appellate level.
- (c) Appeals shall be limited to the following grounds on the following issues:
  - 1. Were procedures properly followed in the hearing?
  - 2. Was the evidence presented at the hearing determined by "preponderance"?
  - 3. Was the sanction imposed proportional to the violation?
  - 4. New information, not available at the time of the original hearing, has become available which would substantially alter the outcome of the hearing.
- (d) Review shall be based solely on a consideration of the record generated through the hearing together with the written appeal document and relevant attachments filed by the student.
- (e) Appellate Authority. The Senior Student Affairs Officer, or designee, shall have the authority to do any of the following upon review of an appeal:
  - 1. Sustain the previous decision including the penalty imposed;
  - 2. Sustain the previous decision but impose a greater or lesser penalty;
  - 3. Remand the case for further consideration; or
  - 4. Reverse the previous decision.
- (f) The Senior Student Affairs Officer shall issue a written decision within ten (10) class days after the appeal is filed by the student.
- (g) The decision of the Senior Student Affairs Officer is final.

(7) Student Organization Disciplinary Procedures.

Sanctions against Student Organizations. Any registered student organization may be given a warning, reprimand, placed on probation, suspension, or restriction or may have its registration withdrawn by the Dean of Students, or by a Student Affairs Administrator appointed by the Senior Student Affairs Officer. Such actions may be taken after having a hearing conducted in accordance with the procedures outlined in these rules for disciplinary procedures. In the case of Withdrawal of Registration of an organization, the procedures to be used will be the contested case provisions of the UAPA, unless those provisions have been waived in writing by an authorized representative of the student organization. Such action may be taken for any one of the following reasons:

- (a) The organization fails to maintain compliance with the initial requirements for registration.
- (b) The organization ceases to operate as an active organization.

- (c) The organization requests withdrawal.
- (d) The organization operated or engaged in any activity in violation of the policies, rules, and regulations of APSU, of any governing body of federal or state laws.

**Authority:** T.C.A. §§ 4-5-101 et seq. and 49-8-203.

\* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Billy Atkins	X				
Katherine Cannata	X				
Larry Carroll				X	
Don Jenkins	X				
Gary Luck				X	
Valencia May	X				
Robin Mealer	X				
Mike O'Malley				X	
Nell Rayburn				X	

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by Austin Peay State University on 6/7/19, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 6/11/19

Signature: [Handwritten Signature]

Name of Officer: Dannelle Whiteside

Title of Officer: General Counsel



Subscribed and sworn to before me on: 6/11/19

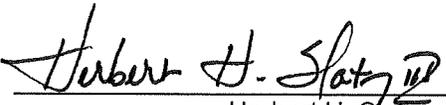
Notary Public Signature: [Handwritten Signature]

My commission expires on: 12/16/20

Agency/Board/Commission: Austin Peay State University

Rule Chapter Number(s): 0240

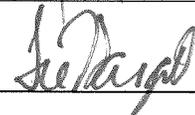
All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

  
Herbert H. Slatery III  
Attorney General and Reporter  
7/5/2019  
Date

**Department of State Use Only**

Filed with the Department of State on: 7/23/19

Effective on: 10/21/19

  
Tre Hargett  
Secretary of State

FILED  
JUL 23 AM 9:35  
SECRETARY OF STATE  
RECORDS

## G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: University of Memphis

SUBJECT: Public Records

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 10-7-503(g)

EFFECTIVE DATES: October 14, 2019 through June 30, 2020

FISCAL IMPACT: None

STAFF RULE ABSTRACT: In compliance with Tennessee Code Annotated, Section 10-7-503(g), the University has prepared a comprehensive public records rule that does not impose requirements that are more burdensome than state law. This proposed rule includes information related to the process for making requests and receiving copies; the response and redaction process; fees for public records; and contact information. This is a new rule for the University of Memphis, which was previously under the jurisdiction of the Tennessee Board of Regents.

## **Regulatory Flexibility Addendum**

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The rule is not anticipated to have an impact on small business except for those making a request for inspection or copying of public records and who may be required to pay the necessary fees.

### **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The rule is not anticipated to have an impact on local governments except for those making a request for inspection or copying of public records and who may be required to pay the necessary fees.

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

In compliance with Tennessee state law, Tenn. Code Ann. § 10-7-503(g), the University has prepared a comprehensive public records rule that does not impose requirements that are more burdensome than state law. The rule includes information related to the process for making requests and receiving copies; the response and redaction process; fees for public records; and, contact information. This is a new rule for the University of Memphis who was previously under the jurisdiction of the Tennessee Board of Regents.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Tenn. Code Ann. § 10-7-503(g) requires the promulgation of rules regarding public records, which must meet the requirements of Tenn. Code Ann. § (g)(1)(A)-(D).

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The individuals most affected by this rule are the citizens of the State of Tennessee who desire to obtain access to public records of the State of Tennessee. The University consulted with Janet Kleinfelter of the Tennessee Open Records Counsel Office to ensure compliance with Tennessee state law. The University also consulted with and allowed review of the proposed rule by Deborah Fisher, Executive Director of the Tennessee Coalition for Open Government. Ms. Fisher provided feedback on the rule, some of which was incorporated into the rule presented for promulgation.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

Although there are numerous attorney general opinions related to public records in general, there are none known that specifically address the necessity to promulgate a rule.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

There will be no probable increase or decrease in state and local government revenues and expenditures resulting from this new rule.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Melanie Murry, University Counsel and Ingrid Powell, Legal Affairs Coordinator/Public Records Request Coordinator

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Melanie Murry, University Counsel and Ingrid Powell, Legal Affairs Coordinator/Public Records Request Coordinator

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Melanie Murry (mmurry@memphis.edu) and Ingrid Powell (ipowell@memphis.edu), 201 Administration Building, Memphis, TN, 38152, 901-678-2155

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None

**Department of State  
Division of Publications**

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Nashville, TN 37243  
Phone: 615-741-2650  
Email: [publications.information@tn.gov](mailto:publications.information@tn.gov)

**For Department of State Use Only**

Sequence Number: 07-11-19  
Rule ID(s): 9216  
File Date: 7/16/19  
Effective Date: 10/14/19

# Proposed Rule(s) Filing Form

*Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.*

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

<b>Agency/Board/Commission:</b>	University of Memphis
<b>Division:</b>	
<b>Contact Person:</b>	Ingrid Powell
<b>Address:</b>	201 Administration Bldg., Memphis, TN
<b>Zip:</b>	38152
<b>Phone:</b>	901-678-2039
<b>Email:</b>	<a href="mailto:ipowell@memphis.edu">ipowell@memphis.edu</a>

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0240-10-03	Public Records
Rule Number	Rule Title
0240-10-03-.01	Purpose and Scope
0240-10-03-.02	Definitions
0240-10-03-.03	Public Records Request Coordinator (PRRC)
0240-10-03-.04	Process for Making Requests to Inspect and/or Copy Public Records
0240-10-03-.05	Responses to Requests
0240-10-03-.06	Redaction
0240-10-03-.07	Fees, Billing and Payment
0240-10-03-.08	Aggregation of Frequent and Multiple Requests
0240-10-03-.09	Delivery of Records

Rules of  
University of Memphis

Chapter 0240-10-03  
Open Records

Table of Contents is added to Chapter 0240-10-03 Open Records and shall read as follows:

0240-10-03-.01 Purpose and Scope

0240-10-03-.02 Definitions

0240-10-03-.03 Public Records Request Coordinator (PRRC)

0240-10-03-.04 Process for Making Requests to Inspect and/or Copy Public Records

0240-10-03-.05 Responses to Requests

0240-10-03-.06 Redaction

0240-10-03-.07 Fees, Billing and Payment

0240-10-03-.08 Aggregation of Frequent and Multiple Requests

0240-10-03-.09 Delivery of Records

0240-10-03-.01 Purpose and Scope is added to Chapter 0240-10-03 and shall read as follows:

0240-10-03-.01 Purpose and Scope

These rules are promulgated for the purpose of providing procedures to allow access to records of the University of Memphis ("University") that are subject to the Tennessee Public Records Act ("TPRA"), T.C.A. §§ 10-7-501 et seq., and are promulgated for the additional purpose of implementing and establishing fees to be charged for reproduction of records and procedures for billing and payment.

Statutory Authority: T.C.A. § 10-7-503(g); T.C.A. § 49-8-203.

0240-10-03-.02 Definitions is added to Chapter 0240-10-03 and shall read as follows:

0240-10-03-.02 Definitions

(1) "Labor" means the time reasonably necessary to produce the requested records and includes the time spent locating, retrieving, reviewing, redacting, and reproducing the record.

(2) "Public Record"

(a) Means any record of the University that is required to be open to inspection under the provisions of the Tennessee Public Records Act, Tenn. Code Ann. §§ 10-7-501 et seq.

(b) The term "public record" does not include any data in any record, or any portion of a record, that is:

\_\_\_\_\_ (1) protected as confidential or privileged pursuant to any state law, including T.C.A. § 10-7-504, or regulation, or federal law or regulation or under any court order; or

\_\_\_\_\_ (2) protected as privileged under any statutory or common law privilege; or

\_\_\_\_\_ (3) protected as any attorney work product; or

\_\_\_\_\_ (4) protected by the attorney/client or any other professional privilege; or

(5) the device or equipment that may have been used to create or store a public record including, but not limited to, a cell phone, computer, or other electronic or mechanical device or equipment.

(3) "Public Records Request Coordinator" means the person who receives and coordinates public records requests and maintains documentation of public records requests, responses, and charges.

(4) "Records Custodian" means the office, official or employee lawfully responsible for the direct custody and care of a public record and is not necessarily the original preparer or producer of the record.

(5) "Requestor" means the person who requests to inspect or copy public records of the University.

Statutory Authority: T.C.A. § 10-7-503(g).

0240-10-03-.03 Public Records Request Coordinator (PRRC) is added to Chapter 0240-10-03 and shall read as follows:

0240-10-03-.03 Public Records Request Coordinator (PRRC)

(1) The Public Records Request Coordinator (PRRC) coordinates the University's responses to public records requests and maintains documentation of public records requests, responses and fees.

(2) The Legal Affairs Coordinator in the University's Office of Legal Counsel is the designated PRRC and can be contacted at 201 Administration Building, Memphis, Tennessee 38152, [www.openrecordsrequest@memphis.edu](mailto:www.openrecordsrequest@memphis.edu) or 901.678.2155.

Statutory Authority: T.C.A. § 10-7-503(g).

0240-10-03-.04 Process for Making Requests to Inspect and/or Copy Public Records is added to Chapter 0240-10-03 and shall read as follows:

0240-10-03-.04 Process for Making Requests to Inspect and/or Copy Public Records

(1) Persons requesting to inspect or receive copies of a record are required to provide identification of Tennessee residency with a government-issued photo identification card or proof of enrollment or employment at the University. The PRRC reserves the right to accept alternative proof of residency.

(2) The request must be sufficiently detailed to enable the University to identify the specific records to be located and copied. When a request is unclear as to the records being requested, the requester will be contacted to clarify or narrow the request.

(3) Requests for inspection may be submitted by one of the following methods:

\_\_\_\_\_ (a) Orally (in person or by phone) to the PRRC's office;

\_\_\_\_\_ (b) By mail to the PRRC's office or

\_\_\_\_\_ (c) By email to [www.openrecordsrequest@memphis.edu](mailto:www.openrecordsrequest@memphis.edu).

(4) Requests for copies must be made in writing by completing a Request Form to Inspect/Copy Public Records at <https://na3.docusign.net/Member/PowerFormSigning.aspx?PowerFormId=8982c376-8e7b-42d2-8c70-10ad0dfae795> and submitting:

\_\_\_\_\_ (a) In person to the PRRC's office;

\_\_\_\_\_ (b) By mail to the PRRC's office or

\_\_\_\_\_ (c) By email to [www.openrecordsrequest@memphis.edu](mailto:www.openrecordsrequest@memphis.edu).

(5) Custody of the original records will not be relinquished. No records shall be produced or copied in a form to further a commercial business or similar purpose (i.e., mailing and/or telephone list, special format on computer disc, etc.). Electronic records will be produced in a secure .pdf format.

(6) A requestor is prohibited from bringing his/her own copying equipment (e.g., cell phone, camera, hand-held scanner, laptop, etc.) to make copies.

Statutory Authority: T.C.A. § 10-7-503(g).

0240-10-03-.05 Responses to Requests is added to Chapter 0240-10-03 and shall read as follows:

0240-10-03-.05 Responses to Requests

(1) The PRRC will review all public records requests and will assure that:

(a) The requestor is a citizen of the State of Tennessee, University employee, or University student;

(b) The request identifies with sufficient specificity the records that are the subject of the request;

(c) The items requested are Public Records;

(d) If appropriate, notice will be provided to the person whose file is the subject of the request that a request for inspection has been made; and

\_\_\_\_\_ (e) The public records are reviewed and redacted of confidential information as appropriate \_\_\_\_\_ before being made available for review.

(2) The PRRC will respond promptly to requests. If not practicable to promptly provide the requested records, the PRRC will respond to the requestor within seven (7) business days. The response will include any one of the following responses, as applicable:

(a) The records are ready and providing the requestor with the location, date and hours of availability.

(b) An estimate of the time needed to produce the records if the requested record is not available within the seven (7) day time frame.

(c) A denial of the request, which will include the reason for denial of the request which may \_\_\_\_\_ include the following:

\_\_\_\_\_ (1) The requestor did not provide proof of Tennessee residency;

\_\_\_\_\_ (2) Need clarification of request;

(3) The record is exempt from disclosure under TPRA (The applicable statutory exemption or other exemptions will be cited.);

\_\_\_\_\_ (4) The University is not the custodian of the requested records; or

\_\_\_\_\_ (5) There are no records responsive to the request.

Statutory Authority: T.C.A. § 10-7-503(g).

0240-10-03-.06 Redaction is added to Chapter 0240-10-03 and shall read as follows:

0240-10-03-.06 Redaction

(1) The following information shall be redacted (stricken) before being made available for inspection or copying:

(a) Confidential by state or federal law or regulation.

(b) Not made or received pursuant to law or ordinance.

(c) Not made or received in connection with the transaction of official business.

Statutory Authority: T.C.A. § 10-7-503(g); T.C.A. § 10-7-504.

0240-10-03-.07 Fees, Billing and Payment is added to Chapter 0240-10-03 and shall read as follows:

0240-10-03-.07 Fees, Billing and Payment

(1) No fees or charges will be assessed for inspection of records.

(2) An itemized estimate of the fees and charges for any copies will be provided in advance to the requestor. Payment in full of the actual costs must be made prior to the release of requested records.

(3) In cases where the cost of the total production, including copies, labor/programming charges, and delivery is less than \$25.00, the cost will be waived, with the exception of fees associated with aggregated records requests.

(4) Fees and charges for copies are as follows:

(a) \$0.15 per page for letter and legal-size black and white copies.

(b) \$0.50 per page for letter and legal-size color copies.

(c) The price per copy for larger documents (such as blueprints and other specialized documents) is the actual cost.

(d) Delivery costs incurred by the University, such as postal fees, etc., will be added to the final bill.

(e) Labor charges are assessed when the time spent locating, retrieving, reviewing, redacting, and reproducing the record(s) exceeds one (1) hour.

(f) If an outside vendor is used to produce copies, the actual costs assessed by the vendor will be charged to the requestor.

(5) Acceptable forms of payment for costs are cash or a check made out to the University of Memphis. Credit card payments are acceptable if paying in person.

Statutory Authority: T.C.A. § 10-7-503(g).

0240-10-03-.08 Aggregation of Frequent and Multiple Requests is added to Chapter 0240-10-03 and shall read as follows:

0240-10-03-.08 Aggregation of Frequent and Multiple Requests

(1) The University will aggregate records requests when more than four (4) requests are received within a calendar month (either from a single individual or a group of individuals deemed working in concert). The PRRC will be responsible for making the determination if a group of individuals are working in concert.

(2) When the total number of requests made by a requestor(s) during a calendar month exceeds four (4), the requestor shall be charged a fee for all labor that is reasonably necessary to produce copies of the requested records. The one (1) free hour of labor before additional costs are assessed will not be applicable.

Statutory Authority: T.C.A. § 10-7-503(g).

0240-10-03-.09 Delivery of Records is added to Chapter 0240-10-03 and shall read as follows:

0240-10-03-.09 Delivery of Records

(1) The requestor will have the following options for delivery of the record(s):

\_\_\_\_\_ (a) On-site pick-up (PRRC's office or designated location);

\_\_\_\_\_ (b) Electronically (depending on size of request); or

\_\_\_\_\_ (c) USPS First-Class Mail.

Statutory Authority: T.C.A. § 10-7-503(g).

\* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
G. Douglas Edwards	✓				
Marvin Ellison				✓	
Alan Graf, Jr.	✓				
Cato Johnson	✓				
R. Brad Martin	✓				
David North	✓				
Carol Roberts	✓				
David Kemme	✓				
Susan Springfield	✓				
Drew Gilmore	Non-voting				

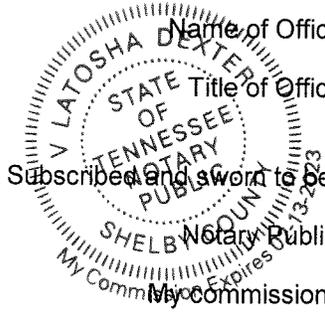
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the University of Memphis Board of Trustees on 6/5/19, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 6/12/19

Signature: *Melanie Murry*

Name of Officer: Melanie Murry

Title of Officer: University Counsel/Board Secretary



Subscribed and sworn to before me on: June 12, 2019

Notary Public Signature: *Latasha Dexter*

My commission expires on: 2-13-2023

Agency/Board/Commission: University of Memphis

Rule Chapter Number(s): Chapter 020-10-03

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

*Herbert H. Slatery III*  
 Herbert H. Slatery III  
 Attorney General and Reporter

7/5/2019  
 Date

Department of State Use Only

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Filed with the Department of State on: 7/16/19

Effective on: 10/14/19



Tre Hargett  
Secretary of State

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