

G.O.C. STAFF RULE ABSTRACT

AGENCY: Tennessee Treasury Department, Division of
Claims Administration, Criminal Injuries
Compensation

SUBJECT: Criminal Injuries Compensation Program

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 29-13-106

EFFECTIVE DATES: May 8, 2016 through June 30, 2017

FISCAL IMPACT: The department estimates that an increase in
annual expenditures of \$172,900, which will be
funded by a federal grant and fines, penalties, and
fees paid by convicted individuals to state and
federal courts.

STAFF RULE ABSTRACT: Under the Criminal Injuries Compensation Act of
1976, the maximum compensation that may be
awarded on account of the same criminal act is set
by statute at \$30,000. The Act requires the
treasurer to annually compare the maximum to that
of other states and, if the treasurer determines that
the maximum is less than 105 percent of the
national average, the treasurer must promulgate a
rule to adjust the maximum award to an amount
equal to 105 percent of the national average,
rounded up to the nearest \$100. Any adjustment
made pursuant to this provision is effective on July
1 of the next fiscal year and applies to claims filed
for crimes occurring on or after such date.

The proposed rule adjusts the maximum
compensation to \$31,900, which will apply to claims
filed for crimes occurring on or after July 1, 2016.

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.

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://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

Chapter 0300-02-.07 does not have a projected impact on local governments.

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Sequence Number: 02-09-16
 Rule ID(s): 6121
 File Date: 2/8/16
 Effective Date: 5/8/16

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 twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) 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).

Agency/Board/Commission:	Tennessee Treasury Department
Division:	Division of Claims Administration, Criminal Injuries Compensation
Contact Person:	Rodney Escobar, Director of the Division of Claims Administration
Address:	502 Deaderick Street; Andrew Jackson Building, 15 th Floor, Nashville, Tennessee
Zip:	37243
Phone:	615-741-9957
Email:	Rodney.Escobar@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
0300-02	Criminal Injuries Compensation Program
Rule Number	Rule Title
0300-02-.07	Maximum Award Limit

Chapter 0300-02

Criminal Injuries Compensation Program

0300-02-.07 Maximum Award Limit.

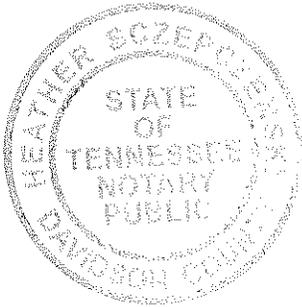
- (1) Purpose. The purpose of this rule is to adjust the maximum compensation award for a claim or claims filed pursuant to title 29, chapter 13, part 1.
- (2) Award Limit and Requirements. For a claim or claims filed with the division requesting compensation for a crime committed against a victim, the maximum compensation award shall not exceed thirty-one thousand nine hundred dollars (\$31,900.00). The maximum compensation award applies to the aggregate of all claims filed arising from a single crime against a victim. The maximum compensation award shall be effective on July 1, 2016, and shall apply to all claims filed for crimes occurring on or after such date.

Authority: T.C.A. § 29-13-106(h).

* 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)
Not applicable.					

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on 01/05/2016 (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: January 5, 2016

Signature: [Handwritten Signature]

Name of Officer: David H. Lillard, Jr.

Title of Officer: State Treasurer

Subscribed and sworn to before me on: Jan. 5, 2014

Notary Public Signature: Heather Szczepcinski

My commission expires on: March 10, 2019

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.

[Handwritten Signature]
 Herbert H. Slatery III
 Attorney General and Reporter
2/5/2016
 Date

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Filed with the Department of State on: 2/8/16

Effective on: 5/8/16

[Handwritten Signature]
 Tre Hargett
 Secretary of State

G.O.C. STAFF RULE ABSTRACT

AGENCY: Water and Wastewater Financing Board

SUBJECT: Definitions; Powers, Duties and Authority;
Regulatory Procedures

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 68-211-
1009(a)(1)

EFFECTIVE DATES: May 1, 2016 through June 30, 2017

FISCAL IMPACT: None

STAFF RULE ABSTRACT: According to the Board, the rules provide basic procedural guidelines for the Board's administrative processes and change the Board's prior rules by removing provisions that duplicated state law and streamlining the regulatory procedures section.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making 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.

(If applicable, insert Regulatory Flexibility Addendum here)

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)

The estimated fiscal impact on state and local government revenues and expenditures is minimal; the rule is merely a simplified version of the Water and Wastewater Financing Board's prior rule.

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Sequence Number: 02-01-16
Rule ID(s): 6119
File Date: 2/1/16
Effective Date: 5/1/16

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 twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) 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).

Agency/Board/Commission:	Comptroller of the Treasury
Division:	Water and Wastewater Financing Board
Contact Person:	Betsy Knotts
Address:	Suite 1700, James K. Polk Building, 505 Deaderick Street
Zip:	37243
Phone:	(615) 401-7954
Email:	Betsy.Knotts@cot.tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
1740-01	Water and Wastewater Financing Board
Rule Number	Rule Title
1740-01-.01	Definitions
1740-01-.02	Powers, Duties, and Authority
1740-01-.03	Regulatory Procedures

Chapter Number	Chapter Title
Rule Number	Rule Title

(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://share.tn.us/sos/rules/1360/1360.htm>)

1740-01-.01 DEFINITIONS

(1) As used in these regulations:

- (a) "Board" means the Water and Wastewater Financing Board.
- (b) "Chair" means the Comptroller's designee.
- (c) "Comptroller" means the Comptroller of the Treasury, or designee.
- (d) "Counsel" means an attorney from the Comptroller's Office.
- (e) "Staff" means any person or persons under the control and direction of the Comptroller.

Authority: T.C.A. §§4-5-202 and 68-221-1007 through 68-221-1013. Administrative History: Original rule filed August 26, 1988; effective October 10, 1988. Chapter 1200-22-05 moved to 1740-01 by the Secretary of State under the authority of Public Chapter 86 of Acts of 2007. Repeal and new rule filed June 29, 2010; effective September 27, 2010. Repeal and new rules filed <DATE>; effective <DATE>.

1740-01-.02 POWERS, DUTIES, AND AUTHORITY

(1) Terms; expenses

- (a) Board members shall be appointed to three-year terms.
- (b) If a successor is not appointed before the end of a Board member's three-year term, the Board member shall continue to serve until a successor is appointed or until the Board member is reappointed.
- (c) Appointments to succeed a Board member who is unable to serve a full term shall be for the remainder of that term.
- (d) Board members shall serve without compensation, but shall be eligible for reimbursement for travel expenses in accordance with the provisions of the comprehensive travel regulations as promulgated by the Department of Finance and Administration and approved by the Attorney General and Reporter.

(2) Meetings

- (a) The Board shall exercise its powers only at public meetings.
- (b) The Board shall hold at least two meetings each calendar year.
- (c) The Board may hold special meetings.
- (d) Special meetings shall be called by the Chair or by any two Board members.
- (e) For any calendar year, the Board by resolution may set a regular meeting schedule.

(3) Quorum

- (a) A majority of the Board constitutes a quorum.

- (b) A majority of the Board members present and voting shall be required for formal action of the Board; for purposes of determining whether a Board member is voting, any member who has been determined by Counsel to have a conflict of interest or an appearance of impropriety must be excluded.

(4) Conflicts of interest; appearances of impropriety

- (a) Board members shall file annual written disclosures of financial interests and other direct and indirect conflicts of interest.
- (b) Board members are not authorized to participate in the discussion of or to vote on matters involving entities in which the Board member has a financial interest, with which the Board member has a conflict of interest, with which the Board member has a contract of employment, or if there is any appearance of impropriety as determined by Counsel.

(5) Records

- (a) Staff shall keep complete and accurate records of Board meetings.
- (b) Board records will be maintained in accordance with applicable records retention policy and will be open to the public in accordance with Comptroller policy and state law.

(6) Guidelines

- (a) The Board may annually delegate certain duties to Staff related to researching, drafting, and updating Board guidelines and other educational materials.
- (b) The Board may annually review, amend, and endorse by formal action the following:
 - 1. A non-revenue water percentage and validity score that provide parameters for water loss referrals and any related Board guidelines or educational materials.
 - 2. A list of certain factors that are used by the Board when evaluating the reasonableness of rate structures and any related Board guidelines or educational materials.

Authority: T.C.A. §§4-5-202 and 68-221-1007 through 68-221-1013.

1740-01-.03 REGULATORY PROCEDURES

(1) Formal Review

- (a) When an entity is referred by operation of statute to the Board for any reason, including, but not limited to financial distress, Comptroller investigation, or excessive water loss, the entity will undergo a formal review by Staff and the Board.
- (b) In preparation for the Board's formal review, Staff may request and review documents of the entity and speak with officials and staff of the entity. Staff shall gather as much verifiable information as possible about the entity's situation and summarize that information for the Board; Staff must be able to provide backup documentation for all statements made in any case summary.
- (c) The Board shall review Staff's case summary at a public meeting, request any backup documentation, and decide what the entity must do to remedy any issues. The Board shall then direct Counsel to document

the Board's requirements in the form of a Board order, letter, or memorandum. The requirements must be met before the Board releases the entity from Board oversight and the formal review. The order or similar document shall require the entity to update the Board in writing by a date certain prior to formal release from Board oversight.

- (d) At the appropriate time, the Board shall direct Counsel to close the case formally and inform the entity of its changed status.

(2) Board Investigation

- (a) In certain circumstances, including, but not limited to, when an entity has been referred by operation of statute to the Board for two or more years consecutively, the Board may request Staff to perform an investigation of an entity's financial, technical, and managerial capacity.
- (b) Staff may request and review documents, speak with officials and staff of the entity, and attend entity meetings.
- (c) At the conclusion of the special investigation, Staff shall summarize its findings and recommendations in a draft report to the Board.
- (d) The Board shall review and amend as necessary the draft report at a public meeting and decide what the entity must do to remedy any issues. The Board shall then direct Counsel to enter it into an order. The order shall require the entity to update the Board in writing by a date certain as a condition for formal release from Board oversight and the investigation.
- (e) At the appropriate time, the Board shall direct Counsel to close the investigation formally and inform the entity of its changed status.

(3) Contested Case

- (a) Parties to a Board order may request by written petition a hearing or rehearing brought before the Board pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3.
- (b) The written request for a contested case hearing must be received by Staff no later than thirty (30) days after the date the Board order was served on the parties.
- (c) All contested cases before the Board shall be conducted pursuant to the Rules of Procedure for Contested Cases as compiled at Chapter 1360-04-01.

(4) Litigation

- (a) Within the parameters of state law, as confirmed by Counsel, the Board may initiate legal proceedings against noncompliant entities.
- (b) The Board shall exhaust all statutorily authorized administrative procedures before initiating any formal legal proceedings.
- (c) In all matters involving formal litigation, the Board shall engage the Attorney General and Reporter.

Authority: T.C.A. §§4-5-202 and 68-221-1007 through 68-221-1013.

* 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)
Ann Butterworth	X				
Tom Moss	X				
Tamika Parker				X	
Drexel Heidel	X				
Kenneth Wiggins	X				
Rick Graham	X				
Mechele Williams				X	
Randy Wilkins	X				
Vacancy					

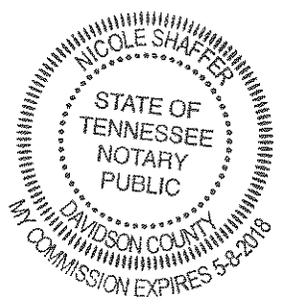
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on 12/03/2015 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the 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: 1/4/16

Signature: [Handwritten Signature]

Name of Officer: Ann V. Butterworth

Title of Officer: Chair of the Water and Wastewater Financing Board



Subscribed and sworn to before me on: 01/04/18

Notary Public Signature: [Handwritten Signature]

My commission expires on: 05/08/18

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.

[Handwritten Signature]
 Herbert H. Slatery III
 Attorney General and Reporter
1/28/2016 Date

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Filed with the Department of State on: 2/1/16

Effective on: 5/1/16

[Handwritten Signature]
 Tre Hargett
 Secretary of State

G.O.C. STAFF RULE ABSTRACT

AGENCY: Utility Management Review Board

SUBJECT: Definitions; Powers, Duties and Authority;
Regulatory Procedures

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 7-82-
702(a)(1)

EFFECTIVE DATES: May 1, 2016 through June 30, 2017

FISCAL IMPACT: None

STAFF RULE ABSTRACT: According to the Board, the rules provide basic procedural guidelines for the Board's administrative processes and change the Board's prior rules by removing provisions that duplicated state law, streamlining the regulatory procedures section, and clarifying the provisions related to Board member conflicts of interest.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making 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.

(If applicable, insert Regulatory Flexibility Addendum here)

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)

The estimated fiscal impact on state and local government revenues and expenditures is minimal; the rule is merely a simplified version of the UMRB's prior rule.

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Sequence Number: 02-02-16
Rule ID(s): 6120
File Date: 2/1/16
Effective Date: 5/1/16

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 twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) 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).

Agency/Board/Commission:	Comptroller of the Treasury
Division:	Utility Management Review Board
Contact Person:	Betsy Knotts
Address:	Suite 1700, James K. Polk Building, 505 Deaderick Street
Zip:	37243
Phone:	(615) 401-7954
Email:	Betsy.Knotts@cot.tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
1715-01	Utility Management Review Board
Rule Number	Rule Title
1715-01-01	Definitions
1715-01-02	Powers, Duties, and Authority
1715-01-03	Regulatory Procedures

Chapter Number	Chapter Title
Rule Number	Rule Title

(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://share.tn.us/sos/rules/1360/1360.htm>)

1715-01-.01 DEFINITIONS

(1) As used in these regulations:

- (a) "Board" means the Utility Management Review Board.
- (b) "Chair" means the Comptroller's designee.
- (c) "Comptroller" means the Comptroller of the Treasury, or designee.
- (d) "Counsel" means an attorney from the Comptroller's Office.
- (e) "Staff" means any person or persons under the control and direction of the Comptroller.

Authority: T.C.A. §§ 4-5-202 and 7-82-701 through 7-82-709. Administrative History: Original rule filed June 13, 1989; effective July 28, 1989. Amendment filed August 2, 1994; effective December 29, 1994. Chapter 1200-22-07 moved to 1715-01 by the Secretary of State Under the authority of Public Chapter 86 of 2007. Amendment filed June 29, 2010; effective September 27, 2010. Repeal and new rule filed <DATE>; effective <DATE>.

1715-01-.02 POWERS, DUTIES, AND AUTHORITY

(1) Terms; expenses

- (a) Board members shall be appointed to four-year terms.
- (b) If a successor is not appointed before the end of a Board member's four-year term, the Board member shall continue to serve until a successor is appointed or until the Board member is reappointed.
- (c) Appointments to succeed a Board member who is unable to serve a full-term shall be for the remainder of that term.
- (d) Board members shall serve without compensation, but shall be eligible for reimbursement for travel expenses in accordance with the provisions of the comprehensive travel regulations as promulgated by the Department of Finance and Administration and approved by the Attorney General and Reporter.

(2) Meetings

- (a) The Board shall exercise its powers only at public meetings.
- (b) The Board shall hold at least two meetings each calendar year.
- (c) The Board may hold special meetings.
- (d) Special meetings shall be called by the Chair or by any two Board members.
- (e) For any calendar year, the Board by resolution may set a regular meeting schedule.

(3) Quorum

- (a) A majority of the Board constitutes a quorum.
- (b) A majority of the Board members present and voting shall be required for formal action of the Board; for purposes of determining whether a Board member is voting, any member who has

been determined by Counsel to have a conflict of interest or an appearance of impropriety must be excluded.

(4) Conflicts of interest; appearances of impropriety

- (a) Board members shall file annual written disclosures of financial interests and other direct and indirect conflicts of interest with Staff to be maintained in accordance with applicable records retention policy and open to the public in accordance with Comptroller policy and state law.
- (b) Board members are not authorized to participate in the discussion of or to vote on matters involving entities in which the Board member has a financial interest, with which the Board member has a conflict of interest, with which the Board member has a contract of employment, or if there is any appearance of impropriety as determined by Counsel.
- (c) At each Board meeting, Counsel shall state the following on the record:
 - 1. The Board was created to act for the public welfare and in furtherance of the legislature's intent that utility systems be operated as self-sufficient enterprises.
 - 2. Board members are not authorized to participate in the discussion of or to vote on matters involving entities in which the Board member has a financial interest, with which the Board member has a conflict of interest, with which the Board member has a contract of employment, or if there is any appearance of impropriety.

(5) Records

- (a) Staff shall keep complete and accurate records of Board meetings.
- (b) Board records will be located in the office of the Comptroller and will be open to the public in accordance with Comptroller policy and state law.

(6) Guidelines

- (a) The Board may annually delegate certain duties to Staff related to researching, drafting, and updating Board guidelines and other educational materials.
- (b) The Board may annually review, amend, and endorse by formal action the following:
 - 1. A non-revenue water percentage and validity score that provide parameters for water loss referrals and any related Board guidelines or educational materials.
 - 2. A list of certain factors that are used by the Board when evaluating the reasonableness of rate structures and any related Board guidelines or educational materials.
 - 3. A list of model utility system policies and any related Board guidelines or educational materials.
 - 4. A priority list of commissioner training topics and any related Board guidelines or educational materials.

Authority: T.C.A. §§ 4-5-202 and 7-82-701 through 7-82-709.

1715-01-.03 REGULATORY PROCEDURES

(1) Formal Review

- (a) When an entity is referred by operation of statute to the Board for any reason, including, but not limited to financial distress, Comptroller investigation, or excessive water loss, the entity will undergo a formal review by Staff and the Board.
- (b) In preparation for the Board's formal review, Staff may request and review documents of the entity and speak with officials and staff of the entity. Staff shall gather as much verifiable information as possible about the circumstances leading to the referral and summarize that information, as well as remedial steps taken by the entity for the Board; Staff must be able to provide backup documentation for all statements made in any case summary.
- (c) The Board shall review Staff's case summary at a public meeting, request any backup documentation, and decide what the entity must do to correct any issues if the Board decides satisfactory remedial actions have not been taken by the entity. Counsel shall document the Board's direction(s) in the form of a Board order, letter, or memorandum. The order or similar document shall require the entity to update the Board in writing by a date certain prior to formal release from Board oversight. The Board's direction(s) must be met before it releases the entity from Board oversight.
- (d) Upon satisfactory compliance with the direction(s) of the Board, the Board shall instruct Staff to close the review and inform the entity of its changed status.

(2) Board Investigation

- (a) In certain circumstances, including, but not limited to, when an entity has been referred by operation of statute to the Board for two or more years consecutively, the Board may request Staff to perform an investigation of an entity's financial, technical, and managerial capacity.
- (b) Staff may request and review documents, speak with officials and staff of the entity, and attend entity meetings.
- (c) At the conclusion of the investigation, Staff shall summarize its findings and recommendations in a draft report to the Board.
- (d) The Board shall review and amend as necessary the draft report at a public meeting and decide what the entity must do to remedy any issues. The Board shall then direct Counsel to enter it into an order. The order shall require the entity to update the Board in writing by a date certain as a condition for formal release from Board oversight and the investigation.
- (e) At the appropriate time, the Board shall direct Staff to close the investigation formally and inform the entity of its changed status.

(3) Informal Hearing

- (a) Counsel shall review every customer request for an informal hearing in order to assess whether the matter falls within the legal jurisdiction of the Board.
- (b) Upon confirmation of jurisdiction, Counsel shall prepare the matter for informal hearing by requesting evidence from both parties, including, but not limited to, minutes, transcripts, policies, rules, cost of service, and other related documentation.
- (c) Both parties shall have an opportunity to be heard at the informal hearing.
- (d) After reviewing the evidence, the Board shall direct Counsel to enter an order memorializing the Board's reasoning and conclusion(s).

(4) Contested Case

- (a) In the event of customers petitioning the Board to initiate a contested case hearing, Staff shall verify the signatures on the petition and prepare a Staff recommendation to the Board.

- (b) At a public meeting, the Board shall review the Staff recommendation and, if appropriate, the Board shall take formal action to initiate a contested case hearing. The Board shall direct Staff and Counsel accordingly to ensure that the case is handled in an efficient manner.
- (c) All contested cases before the Board shall be conducted pursuant to the Rules of Procedure for Contested Cases as compiled at Chapter 1360-04-01.

(5) Litigation

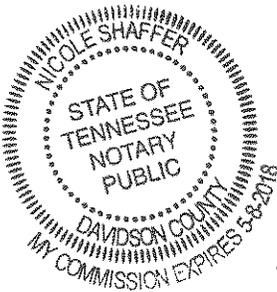
- (a) Within the parameters of state law, as confirmed by Counsel, the Board may initiate legal proceedings against noncompliant entities.
- (b) The Board shall exhaust all statutorily authorized administrative procedures before initiating any formal legal proceedings.
- (c) In all matters involving formal litigation, the Board shall engage the Attorney General and Reporter.

Authority: T.C.A. §§ 4-5-202 and 7-82-701 through 7-82-709.

* 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)
Ann Butterworth	X				
Tom Moss	X				
Jim Hunter	X				
Kevin Botts	X				
Tim Pelham				X	
Bruce Giles	X				
Jason West	X				
Rebecca Hunter	X				
Pat Riley	X				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on 12/03/2015 (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: 1/4/16

Signature: Ann V. Butterworth

Name of Officer: Ann V. Butterworth

Title of Officer: Chair of the Utility Management Review Board

Subscribed and sworn to before me on: 01/04/16

Notary Public Signature: Nicole Shaffer

My commission expires on: 05/08/18

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
1/28/2016 Date

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Department of State Use Only

Filed with the Department of State on: 2/1/16

Effective on: 5/1/16

Tre Hargett
 Tre Hargett
 Secretary of State

G.O.C. STAFF RULE ABSTRACT

AGENCY: Alarm Systems Contractor Board

SUBJECT: General Provisions and Rules of Conduct

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 62-32-307

EFFECTIVE DATES: May 26, 2016 through June 30, 2017

FISCAL IMPACT: None.

STAFF RULE ABSTRACT: The Board submitted two rules in one filing.

According to the Board, the first rulemaking hearing rule amends certain employee registration requirements concerning the renewal of employee registration, specifically, by clarifying the statutory expiration date for registered employees, which is 24 months, and deleting language in the rules, previously adopted by the Board, which list the alarm contractor's date of expiration as the date in which its employees' registration expires. The alarm contractor will remain responsible for submitting the employee registrant's renewal application, which includes the respective renewal fees. The first rulemaking hearing rule also adds a new rule clarifying the statutory renewal requirement for alarm contractors, upon submission of its certification renewal application, to attach a list of registered employees.

The second rulemaking hearing rule adds a new chapter with rules concerning standards of conduct and ethics for all licensees and employee registrants. This includes standards by which licensees and registrants conduct door-to-door solicitation with customers, along with the prohibition from engaging in certain false, deceptive or misleading acts by the licensees or employee registrants during the sale, installation, service or maintenance of alarm systems. Furthermore, the rule will address certain measures by which alarm

contractors shall conduct themselves and its employees in regards to conduct concerning contractual issues with its customers.

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 are not reasonably viewed as having a projected financial impact on local governments.

Public Hearing Comments

The Alarm Systems Contractors Board held a public hearing on October 16, 2014. Oral comments received during the hearing are summarized below along with the Department's response.

Comment:

Mr. Howard Kohnstamm with Videoguard Integrated Technologies indicated his support regarding the Board's proposed rule 0090-06-.04 regarding the providing of terms clearly and conspicuously on forms and requiring contractors to train their employees sufficiently to be able to explain the contractual terms to persons solicited. He indicated this is a good business practice and that such rule would not dictate what is going to be in the contract. Mr. Kohnstamm further indicated that those businesses that are complying with the law will not have an issue with the proposed rule.

Response: The Board appreciates Mr. Kohnstamm's response in support of this rule.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making 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. Overlap, duplicate, or conflict with other federal, state, and local governmental rules:

There will be no overlap, duplication, or conflict with other federal, state or local governmental rules.

2. Clarity, conciseness, and lack of ambiguity in the rule or rule:

The proposed rules are clear in purpose and intended execution. The rules are not open to different interpretations.

3. Flexible compliance and/or reporting requirements for small businesses:

The proposed rules do not effect current compliance and/or reporting requirements as provided by the Act and current rules.

4. Friendly schedules or deadlines for compliance and/or reporting requirements:

The proposed rules do not effect current compliance and/or reporting requirements as provided by the Act and current rules.

5. Consolidation or simplification of compliance or reporting requirements:

There will be no change to the current compliance or reporting requirements.

6. Performances standards for small businesses:

The Board expects all licensees and registrants to follow the newly proposed rules concerning Standards of Conduct and Ethics.

7. Barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs:

The proposed rules do not create any significant barriers or other effects that may stifle entrepreneurial activity, curb innovation, or increase costs to licensees.

Economic Impact Statement:

1. Types of small businesses directly affected:

These rules are not expected to have a measurable impact on the cost to small businesses.

2. Projected reporting, recordkeeping, and other administrative costs:

There are no projected reporting, recordkeeping or other administrative costs required for these proposed rules.

3. Probable effect on small businesses:

There is no expected adverse impact on small businesses as a result of these proposed rules. The proposed rules are expected to assist with the protection of the welfare and safety of the citizens of the State of Tennessee by seeking to further clarify provisions in the law regarding issues such as code of conduct of licensees in solicitation and the reporting requirements regarding status changes and arrests of licensees.

4. Less burdensome, intrusive, or costly alternative methods:

There are no less burdensome, less intrusive or less costly alternative methods known which will achieve the purpose and objective of these proposed rules.

5. Comparison with federal and state counterparts:

There are no known federal or state counterparts to these rules.

6. Effect of possible exemption of small businesses:

Any possible exemption of small businesses from these rules would result in less protection for the citizens of the State of Tennessee.

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For Department of State Use Only

Sequence Number: 02-27-16
 Rule ID(s): 6126-6127
 File Date: 2/26/16
 Effective Date: 5/26/16

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 Alarm Systems Contractors Board
Division:	Division of Regulatory Boards Department of Commerce and Insurance
Contact Person:	Ashley N. Thomas
Address:	Davy Crockett Tower 500 James Robertson Pkwy. Nashville, Tennessee
Zip:	37243
Phone:	615-741-3072
Email:	Ashley.thomas@tn.gov

Revision Type (check all that apply):

- Amendment
- New
- Repeal

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

Chapter Number	Chapter Title
0090-01	General Provisions
Rule Number	Rule Title
0090-01-.05	Employee Registration Requirements
0090-01-.06	Qualifying Agent Requirements
0090-01-.07	Alarm Systems Contractor Requirements
0090-01-.09	Fees
0090-01-.10	Renewal of Certification and License

Chapter Number	Chapter Title
0090-06	Standards of Conduct
Rule Number	Rule Title
0090-06-.01	Applicability
0090-06-.02	Door-to-door Solicitation
0090-06-.03	Standards of Conduct and Ethics

Chapter 0090-01
General Provisions
Amendments

Rule 0090-01-.05 Employee Registration Requirements is amended by deleting the text of paragraphs (7) and (9) in their entirety and substituting instead the following language so that, as amended, the new paragraphs shall read:

~~(7) If a registered employee leaves the employment of a contractor the registered employee must be employed with a certified contractor within ninety (90) days or their registration will expire.~~

(7) If an active registered employee leaves the employment of a contractor the employee's registration will be placed in an "invalid" status until such time as the alarm employee registration is transferred to a certified alarm contractor or until the registration expires.

~~(9) Renewal~~

- ~~(a) A registration shall expire on the expiration date of the certification of the alarm systems contractor that employs the holder of the registration.~~
- ~~(b) An alarm systems contractor shall apply to the Board for the renewal of the registration of each registrant employed by the contractor as of the date the contractor submits its application for renewal of its certification.~~
- ~~(c) An alarm systems contractor is not required to apply to renew an employee who has submitted an application for initial registration which has not yet been determined by the Board by the date of the expiration of the contractor's certification provided that the contractor renews its certification in a timely fashion. If the contractor fails to submit to the Board its application for renewal by the expiration date of its certification, then the contractor is required to apply to renew each registration of a registrant employed by the contractor regardless of the date that the registration was issued by the Board.~~
- ~~(d) In order to renew the registrations of its employees, an alarm systems contractor shall submit to the Board:
 - ~~1. a Board approved form containing a notarized statement of the contractor's designated qualifying agent or chief executive officer which identifies the number of registrations being renewed as well as a list containing the name and registration number of each registered employee which the contractor is required to renew; and~~
 - ~~2. the renewal fee required for the renewal of each registration, as established by rule 0090-01-.09 Fees.~~~~

(9) Renewal

(a) A registration shall expire on the last day of the twenty-fourth (24th) month following its issuance or renewal and shall become invalid on such date unless renewed. A new application for employee registration, including a new application fee, as established by

Rule 0090-01-.09 Fees, shall be required to be submitted if such renewal application is not timely submitted to Board by the date of the employee registrant's expiration date.

- (b) An alarm systems contractor shall apply to the Board for the renewal of the registration of each registrant employed by the contractor by submitting the required renewal application, including the requisite renewal fee as established by Rule 0090-01-.09 and two (2) frontal, color photographs for each renewal registration.
- (c) Upon initial implementation of this part all registered employee registration expiration dates will be set to coincide with the alarm systems contractor with whom they are affiliated as of the effective date of these rules. All registered employee renewals thereafter will be the last day of the twenty-fourth (24th) month following the issuance or renewal thereof per Rule 0090-01-.05(9)(a).
- (d) An alarm employee registrant who has not met the requirements for renewal of registration by the expiration date of the registration shall cease acting as an alarm employee for any firm until all requirements for registration renewal, including the payment of any fees for late renewal, have been met.
- (e) No alarm employee registrant shall receive a renewal when such registration has been in default for failure to comply with T.C.A. § 62-32-301 et seq. for a period of three (3) months. In such an event, the alarm employee, in order to qualify under the law, shall make new application and meet all current requirements to obtain a new registration.

Authority: T.C.A. §§ ~~62-32-307(a), 62-32-307(b), 62-32-307(g), 62-32-307(l)~~, 62-32-312, 62-32-312(d), ~~62-32-317, 62-32-318 and 62-32-320.~~

Rule 0090-01-.06 Qualifying Agent Requirements is amended by deleting paragraph (9)(i) in its entirety and substituting instead the following so that, as amended, paragraph (9)(i) shall read:

- (9) A designated qualifying agent must perform the following:
 - (i) A designated qualifying agent shall notify the Board within thirty (30) days after a registrant's, applicant's or qualifying agent's conviction under their supervision by any state, federal, or military court of any crime (except minor traffic violations) has been arrested or convicted, that is known or should be have been known to the designated qualifying agent. The designated qualifying agent shall provide this notification for persons who are registered or required to be registered under the alarm systems contractor that employs the designated qualifying agent. ~~The designated qualifying agent shall provide notification if the registrant, applicant or qualifying agent was convicted in any city, county, state, federal or military court of any crimes listed in Tenn. Code Ann. § 62-32-303(8) except minor traffic violations.~~ For the purposes of these rules, "conviction" means the entry of a guilty plea, no contest plea or a verdict or decision rendered by a judge or jury.

Authority: T.C.A. §§ 62-32-303, 62-32-304(b), ~~62-32-307(a), 62-32-307(c), 62-32-307(d), 62-32-307(g), 62-32-307(i), 62-32-307(l)~~, 62-32-313, 62-32-316(b), and 62-32-320.

Rule 0090-01-.07 Alarm Systems Contractors Requirements is amended by deleting "listed in T.C.A. § 62-32-303, paragraph 8" from paragraph (10) and substituting, instead, the phrase "(except minor traffic violations)" so that, as amended, the paragraph shall read:

- (10) The contractor or the Designated Qualifying Agent must notify the Board within thirty (30) days of any known arrest, conviction or any arrest or conviction of which the contractor or Designated Qualifying Agent should have known of any Designated Qualifying Agent, Qualifying Agent, or registered employee under their supervision by any state, federal, or military court of any crime listed in T.C.A. § 62-32-303, paragraph 8 (except minor traffic violations). For purposes of these

rules, "conviction" means and includes the entry of a plea of guilty, pleas of no contest or a verdict rendered in open court by a judge or jury.

Authority: T.C.A. §§ 62-32-307, ~~62-32-307(a)~~, ~~62-32-307(l)~~, 62-32-314, 62-32-316, and 62-32-320.

Rule 0090-01-.09 Fees is amended by adding paragraph (6), so that, as amended, the new paragraph shall read:

- (6) The examination fee shall be the fee charged by the entity administering the examination, subject to the Board's approval.

Authority: T.C.A. §§ 62-32-307(b), 62-32-313(a), ~~62-32-313(1)~~, 62-32-314(a), and 62-32-318.

Rule 0090-01-.10 Renewal of Certification and License is amended by deleting the section in its entirety and substituting instead the following language, so that, as amended, the section shall read:

- (1) As used in these Rules, the requirements contained in T.C.A. § 62-32-317 are applicable.
- (2) Each certificate, ~~and license, and registration~~ shall expire on the last day of the twenty-fourth (24th) month following its issuance or renewal and shall become invalid on such date unless renewed.
- (3) Company Certification, Qualifying Agent License, and Alarm Employee Registration renewal notices shall all be mailed ~~by the Board to~~ the last known business address ninety (90) days prior to the expiration date of the license, certification, or registration. Such renewals must be received in the office of the Board thirty (30) days prior to the expiration of such Certification, ~~or License, or Registration~~.
- (4) The Board shall notify every company certificate holder, ~~and qualifying agent licensee, and alarm employee registrant~~ by mail to the last known business address of the date of expiration of such certificate, ~~or license, or registration~~ and the fee required for its renewal for two (2) years.
- (5) Applications for renewal of the company Certification shall list all persons required to be licensed or registered in accordance with T.C.A. § 62-32-312(a).
- (6) No Qualifying Agent license shall be renewed unless the Board has received satisfactory evidence of the completion of continuing education prior to renewal, in compliance with the minimum satisfactory standards set for in rule 0090-05-.01.
- (7) A qualifying agent who has not met the requirements for renewal of a qualifying agent license by the expiration date of the license shall cease acting as a qualifying agent for any firm until the qualifying agent has established to the satisfaction of the Board that all qualifications for renewal, including the payment of any fees for late renewal, have been met.
- (8) The fee to be paid for the renewal of a company certificate or Qualifying Agent license after the expiration date shall be increased ten percent (10%) for each month or fraction of a month that payment for renewal is delayed; provided that the maximum fee for a delayed renewal shall not exceed twice the normal fee.
- (9) No company certificate holder ~~or~~ qualifying agent licensee, or alarm employee registrant shall receive a renewal when such company ~~or~~ agent, or registrant has been in default in complying with T.C.A. § 62-32-301 et seq. for a period of three (3) months. In such an event, the alarm systems contractor ~~or~~ qualifying agent, or registrant, in order to qualify under the law, shall make new application and meet all current requirements to obtain a new certificate ~~or~~ license, or registration.
- (10) An alarm contractor, in order to renew its certification, shall submit to the Board, on a Board approved form, a notarized statement of the contractor's designated qualifying agent, chief executive officer or any other authorized contractor representative, which identifies the number of

employees required to be registered with the Board as well as a list containing the name and registration number of each employee who is registered or required to be registered with the Board.

Authority: T.C.A. §§ 62-32-307, ~~62-32-307(a)~~, ~~62-32-307(e)~~, 62-32-312, 62-32-313, and 62-32-317.

New Rules

Chapter 0090-06 is added to 0090 Alarm Systems and shall read as follows:

Chapter 0090-06 Standards of Conduct Table of Contents

<u>0090-06-.01</u>	<u>Applicability</u>
<u>0090-06-.02</u>	<u>Door-to-door solicitation</u>
<u>0090-06-.03</u>	<u>Standards of Conduct and Ethics</u>
<u>0090-06-.04</u>	<u>Contracting with customers</u>

Rule 0090-06-.01 Applicability

The provisions of this chapter shall apply to any person or firm licensed and/or registered by the Alarm Systems Contractors Board, to conduct the sale, service, maintenance, installation and/or monitoring of alarm systems in this state. For purposes of this chapter, unless the context otherwise requires, the word "licensee" includes any person, partnership, corporation, or any other entity certified as an alarm contractor or licensed as a qualifying agent.

Authority: T.C.A. §§ 62-32-302 and 62-32-307.

Rule 0090-06-.02 Door-to-door solicitation

- (1) A licensee or employee registrant who sells, offers to sell, or attempts to sell alarm systems, as defined in T.C.A. § 62-32-303(1), to a homeowner or resident of a home or apartment, through direct physical contact, including door-to-door solicitation, shall:
 - (a) Carry an identification card or a copy of a currently pending application for license or registration issued by the Board, and present said identification or proof of registration for inspection to the homeowner or resident;
 - (b) Truthfully and clearly identify themselves by name, their full registered company name, and the purpose of their solicitation to the potential customer at the initiation of a sales presentation without request from the consumer. No licensee or registrant shall generically identify themselves as being from "the alarm company" or "the security company";
 - (c) Provide to the homeowner or resident, at no charge, a document or business card listing the licensee's name, employer's name, address, phone number, license number;
 - (d) Not approach or solicit a home or residence at any time where a placard, sign, or any other posting of whatever nature is displayed indicating that the homeowner or residential occupant does not wish to be solicited; and
 - (e) Comply with any applicable door-to-door solicitation ordinance consistent with state and federal law.

Authority: T.C.A. §§ 62-32-302, 62-32-304 and 62-32-307.

Rule 0090-06-.03 Standards of Conduct and Ethics

- (1) An alarm systems contractor, licensee, or employee registrant shall not engage in any deceptive, misleading, unlawful or unethical business practices with customers or consumers. Such practices shall constitute improper, fraudulent or dishonest dealing pursuant to T.C.A. § 62-32-319(d).
- (2) An alarm systems contractor, licensee or employee registrant, when engaging in the sale, installation, service or maintenance of alarm systems, shall not falsely state or imply the following to a potential or existing customer:
 - (a) That a competitor company is going out of business or is in financial difficulty, or that such competitor company no longer exists;
 - (b) That a competitor company is changing or has changed its company name;
 - (c) That the licensee or registrant is a representative agent of, is acting on behalf of, or is otherwise acting with the consent or approval of a competitor company;
 - (d) That the licensee or registrant's company is a "sister" company of a competitor, or is acquiring, merging with, or has taken over or purchased the competitor company's accounts;
 - (e) That the licensee or registrant is performing routine maintenance on a competitor company's equipment which is in the possession of a customer;
 - (f) That any material change proposed during a sales solicitation is an "update" or "upgrade" of an existing alarm system, when such transaction requires an agreement with a person, company, or entity different than the customer's existing alarm system or alarm monitoring service agreement;
 - (g) That the licensee or registrant's company is affiliated with, has the endorsement of, or is, in any manner, acting at the direction of any governmental or law enforcement agency; and
 - (h) Quoting statistics or providing other information that is known to be false or misleading, or which the licensee or registrant has not made a reasonable effort to objectively quantify or substantiate.

Authority: T.C.A. §§ 62-32-302, 62-32-307, and 62-32-319.

Rule 0090-06-.04 Contracting with Customers

- (1) When contracting with existing or potential customers, alarm contractors shall require employee registrants to use written materials which clearly and conspicuously set forth both the alarm contractor and the customer's rights and obligations.
- (2) Alarm contractors and their employee registrants shall clearly and conspicuously disclose all material terms and conditions of the offer before obtaining a customer's consent.
- (3) Alarm contractors shall train their employee registrants with respect to the terms and conditions of the contract so that a customer's questions can be adequately answered at or prior to signing the contract.
- (4) Alarm contractors shall require their employee registrants to provide a copy of the contract to the customer immediately upon execution.
- (5) Refund policies, including termination fees, shall be clearly and conspicuously disclosed to existing or potential customers prior to the sale of any alarm product or service.
- (6) Alarm contractors shall honor all refunds for customers in accordance with their stated refund policies.
- (7) Upon request, alarm contractors shall provide customers a written termination fee calculation and statement of the information upon which they base the calculation.

Authority: T.C.A. §§ 62-32-302 and 62-32-307.

* 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)
Karen D. Jones	X				
Vivian Hixson	X				
Scott Cockroft	X				
Keith Harvey				X	
McKenzie Roberts				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Alarm Systems Contractor Board on 10/16/2014 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: 08/09/2014

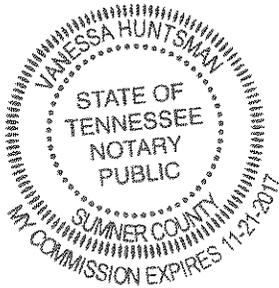
Rulemaking Hearing(s) Conducted on: (add more dates). 10/16/2014

Date: 11/18/15

Signature: *Ashley N. Thomas*

Name of Officer: Ashley N. Thomas

Title of Officer: Assistant General Counsel



Subscribed and sworn to before me on: November 18, 2015

Notary Public Signature: *Vanessa Huntsman*

My commission expires on: November 21, 2017

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

2/17/2016

Date

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PUBLICATIONS

Filed with the Department of State on: 2/26/16

Effective on: 5/26/16

Tre Hargett
Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

AGENCY: Board of Water Quality, Oil and Gas

SUBJECT: Environmental Protection Fund Fees

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 68-203-103 and 69-3-105

EFFECTIVE DATES: May 8, 2016 through June 30, 2017

FISCAL IMPACT: The Department of Environment and Conservation anticipates a slight increase in state revenues and no change in local revenues.

STAFF RULE ABSTRACT: The rulemaking hearing rule reduces the application fee for recreational prospecting for gold or other precious and semi-precious ores, metals and minerals from \$500 to \$50.

The rulemaking hearing rule also reduces the permit annual maintenance fee for recreational prospecting for gold or other precious and semi-precious ores, from \$350 to zero.

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.

There were no comments received during the public comment period.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making 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.

The intent of this rulemaking is to amend Rule 0400-40-11-.02 to reduce the application fee from \$500 to \$50 and the annual maintenance fee from \$350 to \$0 for general permits for recreational prospecting for gold or other precious and semi-precious ores, metals and minerals.

- (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 rule change is intended to benefit individual hobbyists and would not directly affect small businesses; however, there may be some indirect benefit from equipment purchases and travel expenditures related to recreational prospecting activities.

- (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 are no added administrative costs resulting from this proposed rule.

- (3) A statement of the probable effect on impacted small businesses and consumers.

It is anticipated that there will be an increase in the number of applicants that will apply to be covered under the general permit for recreational prospecting.

- (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.

This proposed rule reduces the application and annual maintenance fees for recreational prospecting and there is no other method for achieving this purpose or objective under the current rule.

- (5) A comparison of the proposed rule with any federal or state counterparts.

The regulation and requirements for a permit to conduct recreational prospecting varies widely from state to state. For those states that do require a permit to conduct activities, it is unknown what specific fee requirements exist, but it is anticipated that the proposed rule change would place the permit fee requirement in Tennessee among the lowest by comparison.

- (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.

Small businesses are not directly impacted by this rule change and exempting small businesses from this proposed rule is not necessary.

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)

The Department anticipates that this rulemaking will not result in an increase in expenditures or decrease in revenues for local governments.

**Department of State
Division of Publications**

312 Rosa L. Parks Avenue, 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: 02-10-16
Rule ID(s): 6122
File Date: 2/8/16
Effective Date: 5/8/16

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:	Environment and Conservation
Division:	Water Resources
Contact Person:	Jimmy Smith
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 11th Floor Nashville, Tennessee
Zip:	37243
Phone:	(615) 532-0648
Email:	Jimmy.R.Smith@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
0400-40-11	Environmental Protection Fund Fees
Rule Number	Rule Title
0400-40-11-.02	Fees

(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>)

Amendments

Chapter 0400-40-11 Environmental Protection Fund Fees

Subpart (vi) of part 1 of subparagraph (a) of paragraph (2) of Rule 0400-40-11-.02 Fees is amended by deleting it in its entirety and substituting instead the following:

- | | | |
|------|---|------|
| (vi) | <u>Personal Residence or Family Farm residence, family farm, or recreational prospecting for gold or other precious and semi-precious ores, metals and minerals</u> | \$50 |
|------|---|------|

Authority: T.C.A. § 69-3-101 et seq., 68-203-101 et seq. and 4-5-201 et seq.

Part 12 of subparagraph (b) of paragraph (2) of Rule 0400-40-11-.02 Fees is amended by deleting it in its entirety and substituting instead the following:

12. General Permits

- | | | |
|-------|--|---------|
| (i) | For construction activities that exceed one year under general permit coverage: | |
| (I) | Projects equal to or greater than 150 acres | \$3,750 |
| (II) | Projects equal to or greater than 50 acres and less than 150 acres | \$2,000 |
| (III) | Projects equal to or greater than 20 acres and less than 50 acres | \$1,000 |
| (III) | Projects equal to or greater than 5 acres and less than 20 acres | \$500 |
| (IV) | Projects equal to or greater than 1 acre and less than 5 acres | \$125 |
| (ii) | <u>For minor activities that require no notification to obtain general permit coverage, recreational prospecting for gold or other precious and semi-precious ores, metals and minerals, or concentrated animal feeding operations</u> | \$0 |
| (iii) | <u>All other activities (other than concentrated animal feeding operations or minor activities that require no notification to obtain general permit coverage)</u> | \$350 |

Authority: T.C.A. § 69-3-101 et seq., 68-203-101 et seq. and 4-5-201 et seq.

* 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)
Dr. Gary G. Bible (Oil and Gas Industry)	X				
Elaine Boyd (Commissioner's Designee, Department of Environment and Conservation)	X				
James W. Cameron III (Small Generator of Water Pollution representing Automotive Interests)				X	
Jill E. Davis (Municipalities)	X				
Mayor Kevin Davis (Counties)	X				
Derek Gernt (Oil or Gas Property Owner)	X				
C. Monty Halcomb (Environmental Interests)	X				
Charlie R. Johnson (Public-at-large)	X				
Judy Manners (Commissioner's Designee, Department of Health)	X				
John McClurkan (Commissioner's Designee, Department of Agriculture)				X	
Frank McGinley (Agricultural Interests)				X	
D. Anthony Robinson (Manufacturing Industry)	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Water Quality, Oil and Gas on 10/20/2015, 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: 08/25/15

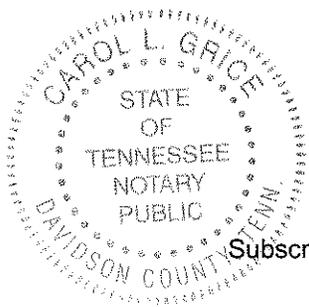
Rulemaking Hearing(s) Conducted on: (add more dates). 10/16/15

Date: October 20, 2015

Signature: C. Monty Halcomb

Name of Officer: C. Monty Halcomb

Title of Officer: Chairman



Subscribed and sworn to before me on: October 20, 2015

Notary Public Signature: Carol L. Grice

My commission expires on: June 21, 2016

Rules of the Board of Water Quality, Oil and Gas
Rule 0400-40-11-.02 Fees

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
2/5/2016
Date

Department of State Use Only

Filed with the Department of State on: 2/8/16

Effective on: 5/8/16

Tre Hargett
Tre Hargett
Secretary of State

RECEIVED
2016 FEB -8 PM 3:18
SECRETARY OF STATE
PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

AGENCY: State Textbook and Instructional Materials Quality Commission

SUBJECT: Supplement to Contract, Policies of the Commission

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 49-6-2203

EFFECTIVE DATES: May 12, 2016 through June 30, 2017

FISCAL IMPACT: None.

STAFF RULE ABSTRACT: According to the Commission, the proposed rule makes the following changes to their current rules:

- (1) Adds "instructional materials" to the definition of textbooks;
- (2) Adds that the Commission shall determine the adoption cycle of textbooks rather than having staggered adoption on a 6-year cycle;
- (3) Adds that the State Instructional Materials Review Association (SIMRA) standards shall be Tennessee's official minimum standards for non-consumable student books;
- (4) Specifies that samples shall be submitted "if requested by the Commission members";
- (5) Defines "finished form" as relates to textbook samples, and adds new language clarifying the content and format of sample textbooks and the process for publishers to submit online samples;
- (6) Establishes that publishers are required to make all textbooks and instructional materials proposed for adoption available for inspection online by LEAs and the public;
- (7) Establishes time limits for substitutions to guard against publishers substituting new editions during the final year of a contract;
- (8) Clarifies what constitutes factual errors, and adds new language about the process for submitting corrective action plans; and

(9) Adds that the department shall develop a process for state advisory panels to review textbooks and instructional materials.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making 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.

Regulatory Flexibility Analysis - Methods of Reducing Impact of Rules on Small Businesses:

(1) The extent to which the rule may overlap, duplicate, or conflict with other Federal, State, and local governmental rules:

There is no overlap, duplication, or conflict with other federal, state, or local governmental rules.

(2) Clarity, conciseness, and lack of ambiguity in the rule:

The rules are clear, concise, and unambiguous.

(3) The establishment of flexible compliance and reporting requirements for small businesses:

These rules do not have any impact on compliance and reporting requirements for small businesses.

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

These rules have no impact on compliance and reporting requirements for small businesses.

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

These rules do not complicate compliance or reporting requirements for small businesses in any respect.

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

There are no performance standards for small businesses as a result of these rules.

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

These rules do not result in the unnecessary creation of entry barriers or other effects that will stifle entrepreneurial activity, curb innovation, or increase costs. In fact, the adopted changes to Rule 0520-05-01-.07 lower the performance bond required for publishers to do business with the State, which eases entry into the marketplace for smaller publishers.

In accordance with Tenn. Code Ann. § 4-5-403, please find the attached Economic Impact Statement, labeled "Addendum A."

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)

The proposed rules to be promulgated will not have a projected impact on local governments.

Addendum A: Economic Impact Statement for Rule 0520-5-1-.07

- (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;

These rule revisions will impact textbook publishing companies that bid to contract with the Textbook and Instructional Materials Quality Commission. In particular, they will have a positive impact for smaller publishers by opening up the potential market to smaller businesses. While we are unable to estimate the number of small publishers that could be affected by these rules, the Commission's intent is to have requirements that foster an open marketplace and competitive contracting with the State.

- (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;

N/A – The Director of Content for the Department of Education manages Textbook Commission matters.

- (3) A statement of the probable effect on impacted small businesses and consumers;

The proposed rule revisions will have a positive impact for smaller publishers by opening up the potential market to smaller businesses. In particular, two rules will positively impact small publishers: (1) Rule 0520-5-1-.06 Online Access to Sample Textbooks and Instructional Materials helps small businesses by allowing them to have their materials in digital form rather than having to go to the expense of printing and distributing hard copies; (2) Rule 0520-5-1-.07 Amount of Performance Bond Required lowers the bond amount required to do business with the State, which opens the potential field to smaller publishers.

- (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;

N/A

- (5) A comparison of the proposed rule with any federal or state counterparts; and

N/A

- (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.

N/A

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

For Department of State Use Only

Sequence Number: 02-13-16
 Rule ID(s): 6124
 File Date: 2/12/16
 Effective Date: 5/12/16

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 twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) 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).

Agency/Board/Commission:	State Textbook and Instructional Materials Quality Commission
Division:	
Contact Person:	Joanna Collins
Address:	Andrew Johnson Tower, 9 th Floor 710 James Robertson Parkway Nashville, TN
Zip:	37243
Phone:	615-770-3869
Email:	joanna.collins@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
0520-05-01	Supplement to Contract – Policies of Tennessee State Textbook Commission
Rule Number	Rule Title
0520-05-01-.01	Definition
0520-05-01-.02	Staggered Adoption
0520-05-01-.03	Manufacturing Standards for Non-Consumable Books
0520-05-01-.04	Submitting of Sample Textbooks and Instructional Materials
0520-05-01-.05	Condition of Sample Textbooks and Instructional Materials
0520-05-01-.06	Online Access to Sample Textbooks and Instructional Materials

0520-05-01-.07	Substitutions
0520-05-01-.08	Amount of Performance Bond Required
0520-05-01-.09	Publisher Corrective Action Plans
0520-05-01-.10	State Advisory Panels

**Textbook and Instructional Materials Quality Commission – Textbook
Commission Rule Proposal**

CHAPTER 0520-05-01
SUPPLEMENT TO CONTRACT-POLICIES OF TENNESSEE STATE TEXTBOOK
COMMISSION
TABLE OF CONTENTS

0520-05-01-.01 Definition.

0520-05-01-.02 Staggered Adoption.

0520-05-01-.03 Manufacturing Standards for Non-Consumable Books.

0520-05-01-.04 Submitting of Sample Textbooks and Instructional Materials.

0520-05-01-.05 Condition of Sample Textbooks and Instructional Materials.

0520-05-01-.06 Online Access to Sample Textbooks and Instructional Materials.

0520-05-01-.07 Substitutions.

0520-05-01-.08 Amount of Performance Bond Required.

0520-05-01-.09 Corrective Action.

0520-05-01-.10 State Advisory Panels.

0520-05-01-.01 DEFINITION. Textbook means and instructional materials shall be defined as any medium or manual of instruction that contains a systematic presentation of the principles of a subject and that constitutes a major instructional vehicle for that subject.

0520-05-01-.02 STAGGERED ADOPTION. There shall be a staggered adoption of textbooks in Tennessee with a period of six (6) years required to complete adoptions in all subject areas. The Textbook Commission shall determine the adoption cycle of textbooks in Tennessee. The Textbook Commission shall approve the state textbook review and approval process and timeline for each textbook adoption cycle.

0520-05-01-.03 MINIMUM STANDARDS AND SPECIFICATION. MANUFACTURING STANDARDS FOR NON-CONSUMABLE BOOKS. The Official “Manufacturing Standards and Specifications for Textbooks” adopted by the National Association of State Textbook Administrators and available from the Advisory Commission on Textbook Specifications of Stamford, Connecticut, shall be Tennessee’s official minimum standards and specifications for textbooks. The Commission may adopt physical standards and specifications that assure suitable durability of the textbooks, instructional materials and supplemental materials. Any non-

consumable student book submitted as a textbook or as part of a textbook must meet the specific criteria identified in the Minimum Manufacturing Standards and Specifications for Textbooks ("Standards") as developed by the State Instructional Materials Review Association ("SIMRA"), in consultation with the Association of American Publishers and the Book Manufacturers' Institute. The SIMRA Standards shall be Tennessee's official minimum standards and specifications for non-consumable student books. The Commission may consider for recommendation textbooks that do not meet the SIMRA Standards if there are limited Learning Resources of quality submitted for a specific state-funded course.

0520-05-01-.04 SUBMITTING OF SAMPLE TEXTBOOKS AND INSTRUCTIONAL MATERIALS.

(1) At least one (1) set of all textbooks and instructional materials bid, including all supplementary materials, shall be filed with the secretary of the Textbook Commission on or before a date specified by the Commission in the state adoption schedule for each cycle, but no later than the date of the start of the review by the advisory panels.

(2) If requested by Commission members, publishing companies may at any time send sample textbooks to the Commission members as individuals only, but these companies are not to send samples to them as members of the Textbook Commission before the first regular meeting of each calendar year start of the textbook review of the state advisory panels on the date set by the Commission.

(3) Each member of the Commission shall receive only one set of samples. If requested by the Commission members, publishers shall send Commission members one set of samples.

(4) Each publishing company shall submit with each sample textbook a brief not to exceed one typewritten page.

0520-05-01-.05 CONDITION OF SAMPLE TEXTBOOKS AND INSTRUCTIONAL MATERIALS. Sample textbooks shall be submitted in the form in which they will be distributed to the public schools. No gallery proofs or page proofs of textbooks will be submitted in the form in which they will be distributed to the public schools. No gallery proofs or page proofs of textbooks will be considered by the Commission after the deadline for the delivery of Official Sample.

(1) A publisher shall not submit draft copies of textbooks, instructional materials or other supplemental materials. All textbooks, instructional materials and accompanying manuals, workbooks and other supplemental materials shall be submitted in finished form at the date set by the Commission, but no later than the start of the review period. If a complete

copy of any textbooks, instructional materials or any of their supplemental materials is not filed prior to the date specified by the Commission, then the textbook or instructional materials shall not be considered for adoption. The textbooks and instructional materials shall be accompanied by a list stating the edition, title and author of each textbook or any instructional materials offered.

- (2) 'Finished form' is defined as the final form of the book or instructional material that would be distributed to public schools, if purchased. Textbooks and instructional materials must meet the minimum manufacturing standards and specifications for textbooks and instructional materials set by the Commission in order to be considered in 'finished form.' Textbooks and instructional materials in beta version, and/or with missing pictures, charts, graphs, or other content will not be considered to be in 'finished form.' No gallery proofs or page proofs may be submitted for review.

0520-05-01-.06 ONLINE ACCESS TO SAMPLE TEXTBOOKS AND INSTRUCTIONAL MATERIALS.

- (1) In addition to the finished textbooks and instructional materials required to be filed with the Tennessee Department of Education, publishers shall make all textbooks and instructional materials proposed for adoption available for inspection online by LEAs and the public. The online inspection shall allow inspection of both the textbook or instructional materials and all accompanying manuals, workbooks and other supplemental materials.
- (2) The content, including pictures and graphs, of the textbooks, instructional materials, and supplementary materials that are made available for online inspection shall be in finished form and shall be the same as what would be distributed to public schools; however, the platform and format does not have to be in finished form. If the online textbooks and instructional materials are the same as the samples submitted to the Commission as required by Rule 0520-05-01-.04, then the online textbooks and instructional materials shall be in finished form.
- (3) Publishers shall agree in the bid documents to provide access to complete online copies of the textbooks or instructional materials, including all supplementary materials, bid during the review process by the advisory panels, at the time specified by the Commission in the textbook adoption schedule, but in no case shall the textbooks or instructional materials be available for less than ninety (90) days.

(4) Publishers that submit textbooks and instructional materials for adoption shall provide the Tennessee Department of Education with instructions for how the public and state advisory panel members can access the textbooks and materials. The department shall post the instructions submitted by publishers on the department's website along with instructions for how the public can submit comments on the textbooks and instructional materials.

0520-05-01-.076 SUBMITTING OF BOOKS/SUBSTITUTIONS. At the first regular meeting of each calendar year, the Commission will consider:

(1) The substitution of the revised edition of a textbook for the edition previously listed; and

(2) The substitution of a textbook which bears the same copyright date, but contains content revisions made since the previous official listing of the book, provided that each book:

(a) Will be sold at the same price as the book originally listed; and

(b) Can be used with the book originally listed. When these books are offered for substitution, the same sampling and bidding procedures shall be followed as in the case of the original texts which they are to replace, except that no additional bond or contract will be required. Samples of each book shall be submitted by the publishing company representatives to each member of the Commission, if requested by the Commission members, together with a brief setting forth in detail the together, with a brief setting forth in detail the differences between the book originally listed and the newer book. Every textbook to be submitted accordingly to Policy No. 06 shall be presented to the members of the Commission at least thirty (30) days prior to the first regular meeting of the calendar year.

(3) Substitution requests shall not be submitted for textbooks and instructional materials within one (1) year of the expiration of the approved contract date for the official listing of the book.

0520-05-01-.08 AMOUNT OF PERFORMANCE BOND REQUIRED. Publishers shall file with the textbook contract a good and sufficient bond with a surety company authorized to do business in this state in the sum of ten thousand dollars (\$10,000) and conditioned upon the faithful performance of all conditions of the contract and T.C.A. Title 49, Chapter 6, Part 22.

0520-05-01-.09 PUBLISHER CORRECTIVE ACTION PLANS. Publishers submitting textbooks or instructional materials for possible state approval shall

executed an agreement to correct all factual and editing errors found in a textbook or instructional materials, at the publisher's expense.

The publisher shall submit a corrective action plan to the department, for review and approval by the state board, within thirty (30) days of the department's notification of the existence of errors in the textbook or instructional materials.

Factual errors only apply to information that is inaccurate at the time of state approval of the textbook or instructional material.

The department shall submit corrective action plans to the board for approval at least once per year.

0520-05-01-.10 STATE ADVISORY PANELS

(1) APPOINTMENT OF STATE ADVISORY PANELS. The Chair of the Commission may recruit and appoint members to an advisory panel of expert teachers and other experts. The Chair shall present the list of members of the advisory panel to the Commission at the next regular meeting.

The department shall post the names of the reviewers, their positions, employers and the panels on which they serve on the department's web site.

(2) QUALIFICATIONS OF STATE ADVISORY PANEL MEMBERS. At least one (1) teacher shall be appointed to each advisory panel. Teachers appointed to the advisory panels shall possess a license to teach with an endorsement in the subject area or grade level for which they shall review textbooks or instructional materials.

Experts, who are not public school teachers, may include college professors and credentialed subject matter specialists.

All members of advisory panels shall have a specific knowledge of and expertise in the content of the subject matter contained in the textbooks or instructional materials they review.

(3) TRAINING FOR ADVISORY PANEL MEMBERS. The Department of Education shall assist the Commission by providing mandatory training to members of advisory panels on the review process and the completion of their assigned tasks. The mandatory training shall include, at a minimum, the components outlined in T.C.A. § 49-6-2201(n)(2).

(4) REVIEW RUBRIC FOR ADVISORY PANEL MEMBERS. The Tennessee Department of Education may develop a review instrument/rubric to be

used by state advisory panels to review textbook and instructional materials submitted for adoption.

The review instrument shall include an examination as to whether the textbooks or instructional materials:

(a) Conform to the standards for their subject areas or grade levels;

(b) Are free of any clear, substantive, factual or grammatical errors;

(c) Comply with and reflect the values expressed in § 49-6-1028(b), if the textbook or instructional materials are being considered for adoption as a textbook or instructional materials for education of students in general studies and specifically in United States history and this nation's republican form of government; and

(d) Nothing in this part shall prohibit the use of or apply to supplemental instructional materials.

The Textbook Commission shall approve any review instrument/rubric used by state advisory panels.

(5) PANEL REVIEW PROCESS. The department shall develop a process for state advisory panels to review textbooks and instructional materials. The process shall align with the review timeline outlined in the textbook adoption schedule approved by the Commission.

Each textbook or any instructional materials proposed for approval shall be reviewed by multiple members of the panel.

(6) PANEL RECOMMENDATIONS TO THE COMMISSION. The advisory panelists shall individually make their recommendations to the Commission. The reviews of the members of an advisory panel shall be posted on the department's web site without any information that would identify the reviewers.

Before issuing a recommendation on a textbook or on instructional materials, each advisory panelist shall review the public comments on the textbook or instructional materials posted on department's web site, pursuant to § 49-6-2203(d)(4), that are received by the date set by the Commission. Each advisory panelist shall consider the public comments in making the panelist's recommendation.

Authority: Tennessee Code Annotated section 49-6-2201(n).

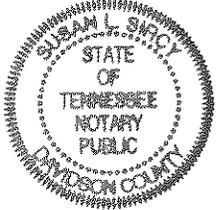
October 6, 2014:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Dr. Craig Hammond, Chairman	X				
Ms. Shannon Streett	X				
Mr. Cory Concus	X				
Dr. Jason Robinson	X				
Mr. Lewis Moorner	X				
Dr. Verna Ruffin	X				

Vote on final version of 0520-05-01-.07 SUBSTITUTIONS, contained herein, on September 28, 2015.

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Ms. Cynthia Bryant	X				
Ms. Susan Bunch	X				
Dr. Bill Campbell	X				
Ms. Kelsey Cruze	X				
Mr. Kyle Mallory	X				
Mr. Jason Vance	X				
Dr. Vicki Kirk, Commissioner of Education's designee	X				
Dr. Craig Hammond, Chairman	X				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the State Textbook and Instructional Materials Quality Commission on 10/06/2014 and 9/28/15 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.



MY COMMISSION EXPIRES:
October 18, 2016

Date: 1/19/16

Signature: Joanna Collins

Name of Officer: Joanna Collins

Title of Officer: Director of Contracts and Staff Attorney, TDOE

Subscribed and sworn to before me on: 1-19-2016

Notary Public Signature: Susan L. Swoy

My commission expires on: 10-18-2016

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
2/5/2016

Date

Department of State Use Only

Filed with the Department of State on: 2/12/16

Effective on: 5/12/16

Tre Hargett
Tre Hargett
Secretary of State

Date: Not Applicable

Signature: Not Applicable

Name of Officer: Not Applicable

Title of Officer: Not Applicable

Subscribed and sworn to before me on: Not Applicable

Notary Public Signature: Not Applicable

My commission expires on: Not Applicable

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PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

AGENCY: Tennessee Student Assistance Corporation Board of Directors

SUBJECT: Tennessee Promise Scholarship Program

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 49-4-204 and Chapter 186 of the Public Acts of 2015

EFFECTIVE DATES: May 9, 2016 through June 30, 2017

FISCAL IMPACT: None.

STAFF RULE ABSTRACT: According to the Board, the rulemaking hearing rule clarifies existing language and makes revisions to the rules due to the enactment of 2015 Tenn. Pub. Acts Ch. 186, including allowing a student to enroll in less than fulltime attendance in the semester of graduation if full-time attendance is not required to complete the program; allowing for a leave of absence for military service and fulltime enrollment while waiting for acceptance into an eligible program of study; allowing partnering organizations to serve students residing in counties outside their service area if attending high school in their service area; and stating that institutions shall apply tuition waivers and discounts before the use of gift aid.

Public Hearing Comments

These rule amendments were originally adopted by the Board of Directors of the Tennessee Student Assistance Corporation on May 27, 2014.

The Tennessee Student Assistance Corporation received no comments pursuant to the Rulemaking Hearing October 5, 2015.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making 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. The statute requires that as a part of its analysis, each agency shall prepare an economic impact statement as an addendum to each rule that is deemed to affect small businesses, which shall be published in the Tennessee Administrative Register, filed with the Secretary of State's Office, and made available to all interested parties, including the Secretary of State, Attorney General, and the House and Senate Government Operations Committees.

The agency shall consider without limitation, certain methods of reducing the impact of the proposed rule on small businesses while remaining consistent with health, safety and well-being and those methods are as follows: the extent to which the proposed rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules; clarity, conciseness, and lack of ambiguity in the proposed rule or rules; the establishment of flexible compliance and/or reporting requirements for small businesses; the establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses; the consolidation or simplification of compliance or reporting requirements for small businesses; the establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule; and the unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

Description of Proposed Rule

The proposed rules act to adopt changes to the Tennessee Promise Scholarship Program Chapter 1640-01-26 as proposed rules, making various clarifications to existing language and revisions to the rule pursuant to the passage of 2015 Tenn. Pub. Acts Ch. 186, which allows a student to enroll in less than full-time attendance in the semester of graduation if full-time attendance is not required to complete the program; allows for a leave of absence for military service and fulltime enrollment while waiting for acceptance into an eligible program of study; allows partnering organizations to serve students residing in counties outside their service area if attending high school in their service area; and states that institutions shall apply tuition waivers and discounts before the use of gift aid.

Regulatory Flexibility Analysis - Methods of Reducing the Impact of Rules on Small Businesses

1. Overlap, duplicate, or conflict with other federal, state, and local governmental rules:

The proposed rules will 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 were patterned to ensure clarity and conciseness of the language of the rules and to eliminate possible ambiguity in the interpretation of the rules.

3. Flexible compliance and/or reporting requirements for small businesses:

The proposed rules were drafted to facilitate administration of the program for eligible postsecondary education institutions.

4. Friendly schedules or deadlines for compliance and/or reporting requirements:

TSAC worked diligently with the postsecondary financial aid community, the Tennessee Higher Education Commission, Tennessee Board of Regents, and Tennessee Colleges of Applied Technology, University of Tennessee System, and partnering organizations that are most directly affected by these proposed rules to ensure that proposed compliance and reporting requirements

can be practically applied by eligible institutions administering the program.

5. Consolidation or simplification of compliance or reporting requirements:

The proposed rules were drafted to ensure solid, easily interpreted, compliance and reporting requirements.

6. Performance standards for small businesses:

TSAC expects the eligible institutions engaged in the administration of the Tennessee Promise Scholarship Program to comply with all applicable rules.

7. Barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs:

The proposed rules do not contain any foreseeable inhibitors to small business entrepreneurial activities.

Furthermore, the statute requires that the agency, as part of the rulemaking process for any proposed rule that may have an impact on small businesses, shall prepare an economic impact statement as an addendum for each rule. The statement shall include the following: the type or types of small businesses 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 rules; 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; a statement of the probable effect on impacted small businesses and consumers; a 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 businesses; a comparison of the proposed rule with any federal or state counterparts; and analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Economic Impact Statement

1. Types of small businesses directly affected:

Not applicable. The proposed rules were drafted to facilitate administration of the program for the eligible postsecondary institutions and should have no impact on small businesses.

2. Projected reporting, recordkeeping, and other administrative costs:

There are no significant changes in reporting, recordkeeping, or other administrative costs that will result from the promulgation of these proposed rules.

3. Probable effect on small businesses:

Not applicable.

4. Less burdensome, intrusive, or costly alternative methods:

As these proposed rules present no foreseeable cost to the eligible postsecondary institutions, there is no alternative method to propose.

5. Comparison with federal and state counterparts:

There are no federal or state counterparts to the issues addressed by these proposed rules.

6. Effect of possible exemption of small businesses:

There will be no exemptions created by these proposed rules.

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)

The rules for the Tennessee Promise Scholarship Program Chapter 1640-01-26, as proposed, have no projected impact on local governments.

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Sequence Number: 02-11-16
Rule ID(s): 6123
File Date: 2/9/16
Effective Date: 5/9/16

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
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
1640-01-26	Tennessee Promise Scholarship Program
Rule Number	Rule Title
1640-01-26-.01	Definitions
1640-01-26-.02	Scholarship Award Amounts and Classifications
1640-01-26-.03	Application Process
1640-01-26-.04	Eligibility – Tennessee Promise Scholarship Program
1640-01-26-.05	Eligibility - Early High School Graduation
1640-01-26-.06	Personal or Medical Leave of Absence
1640-01-26-.07	Community Service Program Requirements
1640-01-26-.09	Partnering Organization Requirements
1640-01-26-.10	Partnering Organizations – Service in Counties
1640-01-26-.11	Terminating Events
1640-01-26-.13	Certification of Eligibility

**RULES
OF
TENNESSEE STUDENT ASSISTANCE CORPORATION**

**CHAPTER 1640-01-26
TENNESSEE PROMISE SCHOLARSHIP PROGRAM**

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1640-01-26-.01 DEFINITIONS.

- (1) Academic Requirement: A requirement of a specified grade point average or satisfactory academic progress that determines the continuing eligibility for postsecondary financial assistance from the Tennessee Promise Scholarship.
- (2) Academic Year: Three (3) consecutive semesters beginning with a fall semester and including the immediately following spring and summer semesters.
- (32) Board of Directors: The board of directors of the Tennessee Student Assistance Corporation.
- (43) Board of Regents: The board of regents of the state university and community college system of Tennessee.
- (54) Certificate or Diploma: A credential, other than a degree, the receipt of which indicates satisfactory completion of training in a program of study offered by an eligible postsecondary institution.
- (65) Continuous Enrollment: The term is defined in T.C.A. 49-4-708.
- (76) Cumulative Grade Point Average: The grade point average as calculated by the eligible postsecondary institution.
- (87) Degree: A two-year associate degree conferred on students by an eligible postsecondary institution.
- (98) Eligible High School: The term is defined in T.C.A. § 49-4-902.
- (109) Eligible Postsecondary Institution: The term is defined in T.C.A. § 49-4-708.
- (11) Eligible Postsecondary Program: The term is defined in T.C.A. § 49-4-708.
- (120) Entering Freshman: A student who enrolls in an eligible postsecondary institution as a participant in the Tennessee Promise Scholarship program in the fall term immediately following high school graduation, completion of a home school program, or attainment of a GED or HiSET diploma. Exceptions to this enrollment requirement may be made for students

(Rule 1640-01-26-.01, continued)

enrolled in a TCAT, for students enrolled in a four-year postsecondary institution but not immediately admitted into an eligible postsecondary program, or for personal or medical leaves of absence as outlined in these rules.

- (134) FAFSA: The term is defined in T.C.A. § 49-4-902.
- (142) Full-Time Student: The term is defined in T.C.A. § 49-4-708.
- (153) GED: The term is defined in T.C.A. § 49-4-902.
- (164) Gift Aid: The term is defined in T.C.A. § 49-4-708.
- (175) HiSET: The term is defined in T.C.A. § 49-4-902. ~~The High School Equivalency Test credential awarded by a state-approved institution or organization.~~
- (186) Home School Student: The term is defined in T.C.A. § 49-4-708.
- (1947) Immediate Family Member: Spouse, parents, children, or siblings.
- (2048) Mentor: An individual who is assigned by a Partnering Organization to assist Tennessee Promise Scholarship program participants in the college application and financial aid process. Mentors may serve in a volunteer or employed capacity at the discretion of the Partnering Organization. Volunteer mentors shall be at least twenty-one (21) years of age.
- (2149) Parent: The parent or legal guardian of a student.
- (2022) Partnering Organization: A not-for-profit organization selected by TSAC to administer the Tennessee Promise Scholarship program.
- (2423) Resident: A resident of Tennessee, as defined by regulations promulgated by the Tennessee Board of Regents ~~A student meeting the definition of "in state" in Tenn. Comp. R. & Regs. 0240-02-02-.03.~~
- (2224) Satisfactory Academic Progress: Progress in a course of study in accordance with the standards and practices used for Title IV programs by the TCAT at which the student is currently enrolled.
- (2325) Semester: The term is defined in T.C.A. § 49-4-902.
- (2426) Semester Hour: The credit hour used by a postsecondary institution, if the institution is on a semester system, or its equivalent, if the institution is on a system other than a semester system. "Semester hour" includes each semester hour attempted, whether remedial or for credit toward a degree, but shall not include any semester hour attempted before graduating from high school or earning a GED® or HiSET.
- (2527) TCAT: Tennessee College of Applied Technology.
- (2628) Tennessee Promise Scholarship: A last-dollar scholarship to be applied to a participating student's tuition and mandatory fees after other gift aid for which a student is eligible is applied first to tuition and mandatory fees.
- (2729) Tennessee Promise Scholarship Program ~~("Program")~~: A scholarship program which provides last-dollar financial aid, mentoring, and community service opportunities for

(Rule 1640-01-26-.01, continued)

Tennessee students upon graduation from high school or home school, or attainment of a GED or HiSET.

- (30) Tennessee Promise Scholarship Student: The term is defined in T.C.A. § 49-4-708.
- (2831) Terminating Event: The occurrence of an event described in T.C.A. § 49-4-708(c)(8).
- (2932) Title IV: The term is defined in T.C.A. § 49-4-902.
- (3033) TSAC: Tennessee Student Assistance Corporation.
- (3134) Tuition and Mandatory Fees: Tuition and mandatory fees required for the enrollment or attendance of a student at an eligible postsecondary institution that are charged to all students, and shall not include fees charged for the Regents Online Degree Program, online courses, specific programs of study, books, or supplies even if such fees are considered necessary for enrollment.

Authority: T.C.A. §§ 49-4-201, 49-4-204, 49-4-708, and 49-4-902. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Amendments filed December 19, 2014; effective March 19, 2015.

1640-01-26-.02 SCHOLARSHIP AWARD AMOUNTS AND CLASSIFICATIONS.

- (1) The Tennessee Promise Scholarship program is intended to provide financial assistance to offset tuition and mandatory fees associated with pursuing postsecondary education after other gift aid has been credited to tuition and mandatory fees.
- (2) Award amounts for the program shall be determined in accordance with T.C.A. § 49-4-708 and shall be set in the General Appropriations Act.
- (3) In the event that funds are insufficient to fully fund the Tennessee Promise Scholarship award program, TSAC may reduce the award amount in accordance with these rules.
- (4) Recipients of a Tennessee Promise Scholarship award as provided by these rules must be enrolled and attending full-time in an eligible postsecondary institution. A student may enroll less than full time in the semester of graduation if full-time enrollment is not required to complete the program of study, and for semesters in which the student receives an approved leave of absence.
- (5) Except for approved medical or personal leaves of absence, award recipients must be continuously enrolled and maintain the required grade point average or satisfactory academic progress at an eligible postsecondary institution as provided in Tenn. Comp. R. & Regs. 1640-01-26-.04(1)(e).
- (6) All tuition waivers and discounts for which a student or parent qualifies shall first be deducted from the student's tuition and mandatory fees before gift aid is credited.
- (7) Gift aid from sources other than the Tennessee Promise Scholarship shall be credited first to tuition and mandatory fees to reduce the student's Tennessee Promise Scholarship award. If other gift aid exceeds tuition and mandatory fees then the student shall not be eligible for the Tennessee Promise Scholarship award, but shall remain eligible for all other services available through the Tennessee Promise Scholarship program, provided the student maintains all academic and non-academic requirements.

(Rule 1640-01-26-.02, continued)

- (8) The receipt of a Tennessee Promise Scholarship is contingent upon admission to and enrollment in an eligible postsecondary institution. Qualifying for the Tennessee Promise Scholarship does not guarantee admission to an eligible postsecondary institution.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Amendment filed December 19, 2014; effective March 19, 2015.

1640-01-26-.03 APPLICATION PROCESS.

- (1) Students participating in the Tennessee Promise Scholarship program shall file a FAFSA, or renewal FAFSA, in each year of program participation. The FAFSA must be submitted by mail or electronically as directed in the FAFSA instructions.
- (2) Students enrolled in a community college, public four-year postsecondary institution, or private institution shall file the FAFSA or renewal FAFSA according to the following deadlines:
 - (a) No later than February 15 for fall enrollment, or
 - (b) No later than November 1 for spring and summer enrollment.
- (3) Students enrolled in a TCAT shall file the FAFSA or renewal FAFSA according to the following deadlines:
 - (a) No later than February 15 for summer and fall enrollment, or
 - (b) No later than November 1 for spring enrollment.
- (4) Students are required to complete the Tennessee Promise Scholarship award application for the initial year of enrollment no later than November 1 of their senior year of high school. For each successive year of participation students shall submit a renewal application no later than July 1 prior to the successive academic year giving notice to TSAC of their intent to participate in the Tennessee Promise Scholarship program. If either deadline occurs on a weekend or state holiday, then the application deadline will be the next business day.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.04 ELIGIBILITY – TENNESSEE PROMISE SCHOLARSHIP PROGRAM.

- (1) To be eligible to receive a Tennessee Promise Scholarship a student shall:
 - (a) Be a Tennessee resident;
 - (b) Graduate from an eligible high school, graduate high school as a dependent child of a military parent as outlined in T.C.A. § 49-4-926, complete high school as a home school student, or obtain a GED or HiSET diploma, provided that the student obtains a GED or HiSET diploma prior to the student reaching nineteen (19) years of age;
 - (c) Attend full time in an eligible postsecondary institution in the fall term immediately following graduation from an eligible high school or home school, or attainment of the GED or HiSET diploma; except that a student enrolling in a certificate or diploma program at a TCAT may enroll in the summer prior to the fall term;

(Rule 1640-01-26-.04, continued)

- (d) Maintain continuous enrollment as a full-time student at an eligible postsecondary institution unless granted a medical or personal leave of absence;
- (e) Maintain a minimum cumulative grade point average of 2.0, as determined by the eligible postsecondary institution, at the end of each academic year if enrolled in an associate degree program, or maintain satisfactory academic progress as determined by the TCAT;
- (f) Comply with United States Selective Service System requirements for registration, if such requirements are applicable to the student;
- (g) Be in compliance with federal drug-free rules and laws for receiving financial assistance;
- (h) Not be in default on a federal Title IV educational loan or Tennessee educational loan;
- (i) Not owe a refund on a federal Title IV student financial aid program or a Tennessee student financial aid program;
- (j) Not be incarcerated;
- (k) Not have earned an associate degree prior to enrolling in the initial academic term following graduation from a high school or home school program;
- (l) Prior to initial fall enrollment in a postsecondary institution, attend one mandatory meeting related to financial aid and FAFSA completion, and the college application process; and a second mandatory meeting related to college orientation. Participants may, but are not required to, attend additional meetings as offered by a Partnering Organization;
- (m) Complete a minimum of eight (8) hours of community service for each semester while participating in the Tennessee Promise Scholarship program; and
- (n) Complete FAFSA verification, if selected by the postsecondary institution. Submit all necessary documentation to allow the postsecondary institution to complete FAFSA verification by August 1 if enrolled at a two-year or four-year eligible institution or by October 1 if enrolled at a TCAT. Verification shall be completed regardless of eligibility for federal or state grants.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Repeal and new rule filed December 19, 2014; effective March 19, 2015.

1640-01-26-.05 ELIGIBILITY - EARLY HIGH SCHOOL GRADUATION.

- (1) A student who graduates early from an eligible high school, or completes an eligible home school program or obtains a GED or HiSET diploma prior to the spring semester preceding the initial fall enrollment may immediately enroll in an eligible postsecondary institution. Such student shall not be eligible for the Tennessee Promise Scholarship until the subsequent fall semester, but shall otherwise meet all initial eligibility requirements, and upon receipt of a Tennessee Promise Scholarship meet all continuing eligibility requirements as outlined in these rules.

(Rule 1640-01-26-.05, continued)

- (2) Notwithstanding the provisions of this section, a student may be eligible for a Tennessee Promise Scholarship at a TCAT prior to the subsequent fall term if eligible for an exception as provided in these rules.
- (3) During all academic terms in which a student is enrolled in a postsecondary institution prior to the fall term following graduation from an eligible high school, the student shall:
 - (a) Enroll in an eligible postsecondary institution or a regionally accredited postsecondary institution located outside this state;
 - (b) Attend all mandatory meetings provided by the Partnering Organization;
 - (c) Not be required to participate in community service, except that the student must complete the amount of community service required by Tenn. Comp. R. & Regs. 1640-01-26-.07(1) before the subsequent fall semester; and
 - (d) Have no minimum requirement for credit hours or academic performance.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.06 PERSONAL OR MEDICAL LEAVE OF ABSENCE.

- (1) A student may be granted a medical or personal leave of absence from timely enrollment in the initial semester, full-time attendance, or continuous enrollment at an eligible postsecondary institution as long as all other applicable eligibility criteria are met. Allowable medical or personal reasons may include illness of the student; illness or death of an immediate family member; extreme financial hardship of the student or student's immediate family; fulfillment of a religious commitment ~~expected~~ encouraged of members of that faith; fulfillment of required ~~military~~ service initial active duty for training as a National Guard or Reserve member or for National Guard or Reserve mobilization; ~~the attendance in a program of study at a TCAT which only begins in the spring or summer academic term or when openings are unavailable for the fall academic term;~~ full-time attendance at an eligible four-year postsecondary institution while waiting for admission to an eligible postsecondary program; or other extraordinary circumstances beyond the student's control where attendance by the student creates a substantial hardship. In the event an institution denies a student's request for a medical or personal leave of absence, the student may appeal the decision in accordance with these rules.
- (2) A student granted a medical or personal leave of absence shall enroll full time in an eligible postsecondary institution in the first semester following the end of the leave of absence and ~~who resumes full-time attendance at an eligible postsecondary institution shall retain the Tennessee Promise Scholarship until a terminating event occurs. However, a leave of absence of six (6) months or less shall not count against the two and one-half years from the date of the student's initial enrollment at an eligible postsecondary institution.~~ A leave of absence of six (6) months or less shall not count against the five semester limit at an eligible postsecondary institution, and a leave of absence may extend beyond six (6) months for military, religious, or other extraordinary circumstances as described in this rule.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.07 COMMUNITY SERVICE PROGRAM REQUIREMENTS.

(Rule 1640-01-26-.07, continued)

- (1) A student participating in the Tennessee Promise Scholarship program shall perform a ~~minimum of eight~~ (8) hours of community service for each semester the scholarship is received. Service shall be performed prior to the beginning of each academic semester, including the initial fall semester, in which the Promise Scholarship is received according to the following deadlines:
 - (a) August 1 for students attending the fall academic term.
 - (b) December 1 for students attending the spring academic term.
 - (c) May 1 for students attending the summer academic term.
- (2) A student who is granted a leave of absence which precludes the performance of community service shall complete the community service in the first academic term following the period for which the leave of absence was granted. Such community service shall be in addition to any other community service required in the same academic term.
- (3) Upon completion of the community service, each student shall verify to the Partnering Organization a description of service performed, the date(s) the service was performed, the total hours of service provided, and the name and address of the organization for which the service was provided.
- (4) Community Service shall not include:
 - (a) Service performed prior to the January preceding the initial academic term;
 - (b) Service resulting in payment or remuneration of any kind; or
 - (c) Service that directly benefits family members.
- (5) Community service may be performed with or under the direction of a faith-based organization, but shall not include religious persuasion or proselytizing.
- (6) Community service in excess of eight (8) hours performed in any semester shall not be carried over into subsequent semesters. Unless the student is on an approved leave of absence, failure to complete the eight (8) hours of community service prior to an academic semester will result in the immediate termination of eligibility for the Tennessee Promise Scholarship. Community service performed during an approved leave of absence shall count towards fulfillment of the community service requirement in the first semester following the leave of absence.
- (7) A student who knowingly provides false verification of community service shall be ineligible to receive additional benefits under the Tennessee Promise Scholarship program.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Repeal and new rule filed December 19, 2014; effective March 19, 2015.

1640-01-26-.08 SELECTION OF PARTNERING ORGANIZATIONS.

- (1) To participate in the Tennessee Promise Scholarship program, a Partnering Organization shall be recommended by the mayor or executive of each county in which the Partnering Organization participates and approved by the Board of Directors.

(Rule 1640-01-26-.08, continued)

- (2) An approved Partnering Organization may continue to serve in such capacity unless it is no longer recommended by a county mayor or executive or approved by the Board of Directors. Final approval to serve as a Partnering Organization shall be given at the discretion of the Board of Directors and based on the Partnering Organization's satisfactory performance and compliance with these rules.
- (3) A negative recommendation by one county mayor or executive shall not automatically disqualify the Partnering Organization from participating in other counties but will be considered in the Board of Directors' evaluation of the Partnering Organization's continued participation in the Program.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.09 PARTNERING ORGANIZATION REQUIREMENTS.

- (1) Partnering Organizations that participate in the Tennessee Promise Scholarship program shall meet the following requirements:
 - (a) Be established as a not-for-profit organization, except that a postsecondary institution that receives funding under the Tennessee Promise Scholarship program shall not be permitted to participate as a partnering organization.
 - (b) Operate as a college access and success program serving Tennessee residents at an eligible postsecondary institution.
 - (c) Demonstrate annually to TSAC that funding exists within the Partnering Organization's budget to provide all services under the Tennessee Promise Scholarship program for a minimum of one (1) year. No funds under this program shall be provided for the direct or indirect benefit of a Partnering Organization.
 - (d) Adhere to rules promulgated by TSAC for the administration of this program.
 - (e) Provide a mentoring program with a ratio of one (1) volunteer mentor to no more than ten (10) eligible student applications. This ratio shall apply to eligible student applications and may be reduced in proportion to the number of students who drop from participation in the program.

The minimum age and ratio requirements shall not apply to full- or part-time paid mentors or counselors that work directly with students.

- (f) Select volunteer mentors prior to December 1 for the following academic year and provide one (1) mandatory training meeting for all paid and volunteer mentors prior to January 31. This meeting may be offered on multiple dates prior to the January 31 deadline. This meeting shall cover at least the following topics:
 1. Program overview,
 2. Appropriate mentor-student relationships,
 3. Financial aid,
 4. FAFSA completion,

(Rule 1640-01-26-.09, continued)

5. College applications and admissions, and
 6. Community service requirements.
- (g) Provide one (1) mandatory meeting for all Tennessee Promise Scholarship program participants prior to March 1 preceding the initial enrollment in an eligible postsecondary institution. This meeting may be offered on multiple dates prior to the March 1 deadline, and shall provide training on the following topics:
1. An overview of the Tennessee Promise Scholarship program,
 2. Appropriate relationships with mentors,
 3. Financial aid opportunities,
 4. FAFSA completion, and
 5. The college application process.
- (h) Provide one (1) mandatory meeting for all Tennessee Promise Scholarship program participants after March 1 and prior to May 31 preceding the initial enrollment in an eligible postsecondary institution. This meeting may be offered on multiple dates prior to the May 31 deadline and shall provide training on topics related to college orientation, making the transition from high school to college, and community service requirements.
- (i) Where a student cannot attend either mandatory meeting due to required attendance at a school-sponsored activity, required attendance at a religious-based activity, documented illness of the student, or other extenuating circumstances, the Partnering Organizations shall provide opportunities for the student to receive the training prior to the March 1 and/or May 31 deadline, or as soon thereafter as practicable.
- (j) Provide a minimum of one (1) mentor contact monthly with each assigned Tennessee Promise Scholarship program participant beginning February 1 of the senior year of high school. Contact shall be maintained throughout the student's participation in the Program.
- (k) Organize a local advisory council to serve as an advocate for the Program. The advisory council shall be comprised of a minimum of five (5) members, with at least one (1) member representative from each the local education agency, the county mayor's or executive's office, and a local postsecondary institution. Organizations that have been in existence for a minimum of three (3) years may use existing boards or boards of trustees as the local advisory council if the board or board of trustees is substantially similar to the requirements of this subsection.
- (l) Obtain a certified background check on all mentors prior to service as a mentor. A mentor shall not be eligible to participate in the Tennessee Promise Scholarship program if convicted of any felony or offense listed at T.C.A. §§ 39-13-527, 39-13-532, 39-17-417, and 40-35-501(i)(2). For purposes of this section, "conviction" includes entry of a plea of guilty or nolo contendere or entry of an order granting pre-trial or judicial diversion.
- (m) Submit to audits on a periodic basis as determined by TSAC.

(Rule 1640-01-26-.09, continued)

- (n) Enter into a memorandum of understanding with TSAC regarding program requirements and Partnering Organization obligations and provide requested information to TSAC as required in the memorandum of understanding.
- (o) Provide electronic notification to TSAC when Tennessee Promise participants have completed their mandatory meetings and community service requirements. Reporting of community service performed in the previous academic term shall be provided to TSAC for each student no later than:
 1. August 15 for students attending the fall academic term.
 2. December 15 for students attending the spring academic term.
 3. May 15 for students attending the summer academic term.
- (p) Provide performance metrics as outlined in the memorandum of understanding entered into with TSAC.
- (q) Obtain an insurance policy that, at a minimum, limits liability of the Partnering Organization against physical and sexual abuse or misconduct directed toward participants of the Program by its officers, directors, employees, and volunteers.

Authority: T.C.A. §§ 39-13-527, 39-13-532, 39-17-417, 40-35-501, 49-4-201, 49-4-204, and 49-4-708.
Administrative History: Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Repeal and new rule filed December 19, 2014; effective March 19, 2015.

1640-01-26-.10 PARTNERING ORGANIZATIONS – SERVICE IN COUNTIES.

- (1) A Partnering Organization that agrees to provide Tennessee Promise Scholarship program services in a county shall make the program available to all eligible high school, home school, and GED/HiSET students in that county. The Partnering Organization shall continue to work with students from that county through a terminating event, regardless of which eligible postsecondary institution the student attends. Partnering Organizations may work with students from high schools or counties outside their assigned counties as agreed upon between the Partnering Organizations.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.11 TERMINATING EVENTS

- (1) A student shall receive the Tennessee Promise Scholarship until reaching a terminating event as outlined in T.C.A. § 49-4-708.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.12 TENNESSEE PROMISE SCHOLARSHIP REFORMS.

- (1) In the event funds are insufficient to fully fund the cost of Tennessee Promise scholarships, TSAC is authorized to take one or more of the following actions:

(Rule 1640-01-26-.12, continued)

- (a) Establish a maximum award amount,
 - (b) Establish additional eligibility criteria for new applicants entering the program,
 - (c) Administer the program on a first-come, first-served basis.
- (2) Any action taken by TSAC as described in subsection (1) shall require approval by TSAC's board of directors and notification shall be provided to the chairs of the Senate and House Education Committees of the Tennessee General Assembly.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.13 CERTIFICATION OF ELIGIBILITY.

- (1) Each Partnering Organization shall determine student eligibility based on attendance at mandatory meetings and fulfillment of community service requirements as required in these rules, and shall certify such eligibility to TSAC.
- (2) TSAC will create a master certification roster of students for each institution. The master list will contain students who have met all requirements for the Tennessee Promise Scholarship.
- (32) ~~The eligible postsecondary institution will be responsible for certifying~~ shall certify each student's eligibility for a financial award from the Tennessee Promise Scholarship based on continuing eligibility requirements established in these rules. The award amount reported to TSAC shall be the amount of tuition and mandatory fees remaining after other gift aid has first been applied to the student's tuition and mandatory fees. All tuition waivers and discounts for which a student or parent qualifies shall first be deducted from the student's tuition and mandatory fees before gift aid is credited.
- (43) Once the eligible postsecondary institution has certified the student's eligibility for a financial award, the certification information shall be electronically transmitted to TSAC.
- (54) TSAC shall process a payment request directly to the eligible postsecondary institution on behalf of all Tennessee Promise Scholarship recipients who are eligible for a financial award. No funds shall be disbursed directly to the Partnering Organizations or to the students.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.14 EVALUATION OF THE TENNESSEE PROMISE SCHOLARSHIP.

- (1) TSAC, along with the Tennessee Higher Education Commission, shall review the Tennessee Promise Scholarship program annually. The review shall include, at a minimum, the number of recipients, total cost of the program, student persistence, hours of community service completed, and scholarship retention. These findings shall be reported to the education committee members of the Senate and House of Representatives of the Tennessee General Assembly.
- (2) TSAC shall convene a meeting of its Special Advisory Committee at least annually to review the effectiveness and best practices of the Tennessee Promise Scholarship program.

(Rule 1640-01-26-.14, continued)

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.15 AWARD MADE IN ERROR.

- (1) Repayment from the student shall not be required if TSAC determines that the error was through no fault of the student.
- (2) Repayment from the student shall be required if TSAC determines that fraud was committed or the error was due to the fault of the student. When repayment is required, the student may not receive additional student aid from TSAC until repayment is made.
- (3) Repayment from the postsecondary institution will be required if TSAC determines that the error was due to the fault of the postsecondary institution.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.16 REFUND POLICY.

- (1) If a recipient of a Tennessee Promise Scholarship award fails to complete a semester for any reason, the eligible postsecondary institution shall apply its refund policy to determine whether a refund may be required and funds returned to TSAC. The eligible postsecondary institution shall provide the student with a notice indicating the amount to be returned to the student or the amount to be refunded to TSAC. Additionally, the eligible postsecondary institution shall notify TSAC of the refund, which shall be noted on the student's record. The eligible postsecondary institution shall also be responsible for obtaining repayment from the student. The student shall be ineligible for student aid from TSAC until the refund is paid.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.17 TRANSFER STUDENTS.

- (1) A student who meets all academic and non-academic requirements of the Tennessee Promise Scholarship may transfer from one eligible postsecondary institution to another eligible postsecondary institution and maintain the scholarship, provided the student is able to complete the diploma or associate degree in the amount of time remaining before reaching a terminating event as outlined in T.C.A. § 49-4-708.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.18 APPEAL AND EXCEPTION PROCESS.

- (1) Each eligible postsecondary institution shall use their existing Institutional Review Panel (IRP) for purposes of reviewing and rendering decisions regarding appeals for the Tennessee Promise Scholarship program. The IRP shall use the same procedures and timelines as those that currently exist for the review of Tennessee Education Lottery Scholarship (TELS) appeals as outlined in Tenn. Comp. R. & Reg. 1640-01-19.

(Rule 1640-01-26-.18, continued)

- (2) TSAC shall use the existing TELS Appeals Panel to consider appeals and render decisions for those students who appeal a decision made by the IRP. The same guidelines shall exist for appeals of the Tennessee Promise Scholarship program as those that are currently in place for TELS as outlined in Tenn. Comp. R & Reg. 1640-01-19.

Authority: T.C.A. §§ 49-4-201, 49-4-204, 49-4-708, and 49-4-924. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

The vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent
Governor Haslam, by Mr. Mark Cate	X			
Dr. Russ Deaton	X			
Dr. Claude Pressnell	X			
Mr. David H. Lillard, Jr.	X			
Comptroller Justin P. Wilson	X			
Commissioner Larry Martin, by Mr. David Thurman	X			
Commissioner Candice McQueen, by Dr. Danielle Mazera				X
Chancellor John Morgan, by Mr. David Gregory	X			
Dr. Joe Dipietro, by Dr. Katie High				X
Dr. Gary Weedman	X			
Dr. J. Gary Adcox	X			
Ms. Celena Tulloss	X			
Ms. Keri McInnis	X			
Dr. LaSimba Gray, Jr.				X
Mr. Tom Hughes	X			
Ms. Sydney Jones				X

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the TSAC Board of Directors on 05/27/2105, 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: 11/30/15

Signature: [Handwritten Signature]

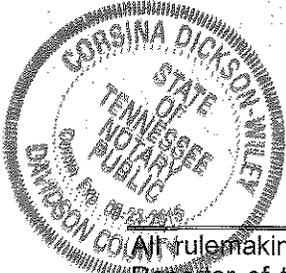
Name of Officer: Dr. Russ Deaton

Title of Officer: Interim Executive Director

Subscribed and sworn to before me on: 11-30-15

Notary Public Signature: [Handwritten Signature]

My commission expires on: 08-23-16



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

1/21/2016
Date

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PUBLICATIONS

Filed with the Department of State on: 2/9/16

Effective on: 5/9/16

[Handwritten Signature]
Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

AGENCY: Tennessee Student Assistance Corporation Board of Directors

SUBJECT: Tennessee Promise Scholarship Program

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 49-4-204

EFFECTIVE DATES: May 22, 2016 through June 30, 2017

FISCAL IMPACT: None.

STAFF RULE ABSTRACT: According to the Board, the proposed rule makes various clarifications and technical changes to the existing language including requiring students to submit Free Application for Federal Student Aid (FAFSA) verification documents to their postsecondary institution by August 1, allowing students to begin fulfilling their community service obligations the day after the application deadline of their high school senior year, and reflecting new community service deadlines beginning with the 2017-18 academic year.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making 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. The statute requires that as a part of its analysis, each agency shall prepare an economic impact statement as an addendum to each rule that is deemed to affect small businesses, which shall be published in the Tennessee Administrative Register, filed with the Secretary of State's Office, and made available to all interested parties, including the Secretary of State, Attorney General, and the House and Senate Government Operations Committees.

The agency shall consider without limitation, certain methods of reducing the impact of the proposed rule on small businesses while remaining consistent with health, safety and well-being and those methods are as follows: the extent to which the proposed rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules; clarity, conciseness, and lack of ambiguity in the proposed rule or rules; the establishment of flexible compliance and/or reporting requirements for small businesses; the establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses; the consolidation or simplification of compliance or reporting requirements for small businesses; the establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule; and the unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

Description of Proposed Rule

Pursuant to T.C.A. § 4-5-202, the Tennessee Student Assistance Corporation (TSAC) intends to file proposed rules to amend the current rules of Chapter 1640-01-26 Tennessee Promise Scholarship Program, in lieu of a rulemaking hearing. It is the intent of TSAC to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of issue of the Tennessee Administrative Register in which the proposed rules are published.

The proposed rules act to adopt changes to the Tennessee Promise Scholarship Program Chapter 1640-01-26 as proposed rules, making various clarifications and technical changes to the existing language including requiring students to submit Free Application for Federal Student Aid (FAFSA) verification documents to their postsecondary institution by August 1, allowing students to begin fulfilling their community service obligations the day after the application deadline of their high school senior year, and reflecting new community service deadlines beginning with the 2017-18 academic year.

Regulatory Flexibility Analysis - Methods of Reducing the Impact of Rules on Small Businesses

1. Overlap, duplicate, or conflict with other federal, state, and local governmental rules:

The proposed rules will 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 were patterned to ensure clarity and conciseness of the language of the rules and to eliminate possible ambiguity in the interpretation of the rules.

3. Flexible compliance and/or reporting requirements for small businesses:

The proposed rules were drafted to facilitate administration of the program for eligible postsecondary education institutions.

4. Friendly schedules or deadlines for compliance and/or reporting requirements:

TSAC worked diligently with the postsecondary financial aid community, the Tennessee Higher Education Commission, Tennessee Board of Regents, and Tennessee Colleges of Applied Technology, University of Tennessee System, and partnering organizations that are most directly affected by these proposed rules to ensure that proposed compliance and reporting requirements can be practically applied by eligible institutions administering the program.

5. Consolidation or simplification of compliance or reporting requirements:

The proposed rules were drafted to ensure solid, easily interpreted, compliance and reporting requirements.

6. Performance standards for small businesses:

TSAC expects the eligible institutions engaged in the administration of the Tennessee Promise Scholarship Program to comply with all applicable rules.

7. Barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs:

The proposed rules do not contain any foreseeable inhibitors to small business entrepreneurial activities.

Furthermore, the statute requires that the agency, as part of the rulemaking process for any proposed rule that may have an impact on small businesses, shall prepare an economic impact statement as an addendum for each rule. The statement shall include the following: the type or types of small businesses 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 rules; 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; a statement of the probable effect on impacted small businesses and consumers; a 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 businesses; a comparison of the proposed rule with any federal or state counterparts; and analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Economic Impact Statement

1. Types of small businesses directly affected:

Not applicable. The proposed rules were drafted to facilitate administration of the program for the eligible postsecondary institutions and should have no impact on small businesses.

2. Projected reporting, recordkeeping, and other administrative costs:

There are no significant changes in reporting, recordkeeping, or other administrative costs that will result from the promulgation of these proposed rules.

3. Probable effect on small businesses:

Not applicable.

4. Less burdensome, intrusive, or costly alternative methods:

As these proposed rules present no foreseeable cost to the eligible postsecondary institutions, there is no alternative method to propose.

5. Comparison with federal and state counterparts:

There are no federal or state counterparts to the issues addressed by these proposed rules.

6. Effect of possible exemption of small businesses:

There will be no exemptions created by these proposed rules.

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)

The rules for the Tennessee Promise Scholarship Program Chapter 1640-01-26, as proposed, have no projected impact on local governments.

**Department of State
Division of Publications**

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For Department of State Use Only

Sequence Number: 02-23-16
Rule ID(s): 6125
File Date: 2/22/16
Effective Date: 5/22/16

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 twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) 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).

Agency/Board/Commission:	Tennessee Student Assistance Corporation
Division:	Higher Education
Contact Person:	Peter Abernathy
Address:	Suite 1510, Parkway Towers, 404 James Robertson Parkway, Nashville, TN
Zip:	37243
Phone:	615.532.6065
Email:	Peter.Abernathy@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

1640-01-26	Tennessee Promise Scholarship Program
Rule Number	Rule Title
1640-01-26-.01	Definitions
1640-01-26-.04	Eligibility – Tennessee Promise Scholarship Program
1640-01-26-.07	Community Service Program Requirements

**RULES
OF
TENNESSEE STUDENT ASSISTANCE CORPORATION**

**CHAPTER 1640-01-26
TENNESSEE PROMISE SCHOLARSHIP PROGRAM**

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1640-01-26-.01 DEFINITIONS.

- (1) **Academic Requirement:** A requirement of a specified grade point average or satisfactory academic progress that determines the continuing eligibility for postsecondary financial assistance from the Tennessee Promise Scholarship.
- (2) **Academic Year:** Three (3) consecutive semesters beginning with a fall semester and including the immediately following spring and summer semesters.
- (3) **Board of Directors:** The board of directors of the Tennessee Student Assistance Corporation.
- (4) **Board of Regents:** The board of regents of the state university and community college system of Tennessee.
- (5) **Certificate or Diploma:** A credential, other than a degree, the receipt of which indicates satisfactory completion of training in a program of study offered by an eligible postsecondary institution.
- (6) **Continuous Enrollment:** The term is defined in T.C.A. 49-4-708.
- (7) **Cumulative Grade Point Average:** The grade point average as calculated by the eligible postsecondary institution.
- (8) **Degree:** A two-year associate degree conferred on students by an eligible postsecondary institution.
- (9) **Eligible High School:** The term is defined in T.C.A. § 49-4-902.
- (10) **Eligible Postsecondary Institution:** The term is defined in T.C.A. § 49-4-708.
- (11) **Eligible Postsecondary Program:** The term is defined in T.C.A. § 49-4-708.
- (12) **Entering Freshman:** A student who enrolls in an eligible postsecondary institution as a participant in the Tennessee Promise Scholarship program in the fall term immediately following high school graduation, completion of a home school program, or attainment of a GED or HiSET diploma. Exceptions to this enrollment requirement may be made for students

(Rule 1640-01-26-.01, continued)

enrolled in a TCAT, for students enrolled in a four-year postsecondary institution but not immediately admitted into an eligible postsecondary program, or for personal or medical leaves of absence as outlined in these rules.

- (13) Expected Family Contribution (EFC): A measure of parental and/or student ability to contribute toward payment of educational expenses as determined by the FAFSA.
- (4314) FAFSA: The term is defined in T.C.A. § 49-4-902.
- (15) FAFSA Verification: The process used by a postsecondary institution to verify the accuracy of information submitted on a student's FAFSA. For purposes of these rules, such process shall apply to verification documents required by the U.S. Department of Education regardless of how the student is selected.
- (4416) Full-Time Student: The term is defined in T.C.A. § 49-4-708.
- (4517) GED: The term is defined in T.C.A. § 49-4-902.
- (4618) Gift Aid: The term is defined in T.C.A. § 49-4-708.
- (4719) HiSET: The term is defined in T.C.A. § 49-4-902.
- (4820) Home School Student: The term is defined in T.C.A. § 49-4-708.
- (4921) Immediate Family Member: Spouse, parents, children, or siblings.
- (2022) Mentor: An individual who is assigned by a Partnering Organization to assist Tennessee Promise Scholarship program participants in the college application and financial aid process. Mentors may serve in a volunteer or employed capacity at the discretion of the Partnering Organization. Volunteer mentors shall be at least twenty-one (21) years of age.
- (2423) Parent: The parent or legal guardian of a student.
- (2224) Partnering Organization: A not-for-profit organization selected by TSAC to administer the Tennessee Promise Scholarship program.
- (2325) Resident: A resident of Tennessee as defined by regulations promulgated by the Tennessee Board of Regents.
- (2426) Satisfactory Academic Progress: Progress in a course of study in accordance with the standards and practices used for Title IV programs by the TCAT at which the student is currently enrolled.
- (2527) Semester: The term is defined in T.C.A. § 49-4-902.
- (2628) Semester Hour: The credit hour used by a postsecondary institution, if the institution is on a semester system, or its equivalent, if the institution is on a system other than a semester system. "Semester hour" includes each semester hour attempted, whether remedial or for credit toward a degree, but shall not include any semester hour attempted before graduating from high school or earning a GED® or HiSET.
- (2729) TCAT: Tennessee College of Applied Technology.

(Rule 1640-01-26-.01, continued)

- (2830) Tennessee Promise Scholarship: A last-dollar scholarship to be applied to a participating student's tuition and mandatory fees after other gift aid for which a student is eligible is applied first to tuition and mandatory fees.
- (2931) Tennessee Promise Scholarship Program: A scholarship program which provides last-dollar financial aid, mentoring, and community service opportunities for Tennessee students upon graduation from high school or home school, or attainment of a GED or HiSET.
- (3032) Tennessee Promise Scholarship Student: The term is defined in T.C.A. § 49-4-708.
- (3133) Terminating Event: The occurrence of an event described in T.C.A. § 49-4-708(c)(8).
- (3234) Title IV: The term is defined in T.C.A. § 49-4-902.
- (3335) TSAC: Tennessee Student Assistance Corporation.
- (3436) Tuition and Mandatory Fees: Tuition and mandatory fees required for the enrollment or attendance of a student at an eligible postsecondary institution that are charged to all students, and shall not include fees charged for the Regents Online Degree Program, online courses, specific programs of study, books, or supplies even if such fees are considered necessary for enrollment.

Authority: T.C.A. §§ 49-4-201, 49-4-204, 49-4-708, and 49-4-902. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Amendments filed December 19, 2014; effective March 19, 2015. Emergency rule filed August 4, 2015; effective through January 31, 2016.

1640-01-26-.02 SCHOLARSHIP AWARD AMOUNTS AND CLASSIFICATIONS.

- (1) The Tennessee Promise Scholarship program is intended to provide financial assistance to offset tuition and mandatory fees associated with pursuing postsecondary education after other gift aid has been credited to tuition and mandatory fees.
- (2) Award amounts for the program shall be determined in accordance with T.C.A. § 49-4-708 and shall be set in the General Appropriations Act.
- (3) In the event that funds are insufficient to fully fund the Tennessee Promise Scholarship award program, TSAC may reduce the award amount in accordance with these rules.
- (4) Recipients of a Tennessee Promise Scholarship award as provided by these rules must be enrolled and attending fulltime in an eligible postsecondary institution. A student may enroll less than full time in the semester of graduation if full-time enrollment is not required to complete the program of study, and for semesters in which the student receives an approved leave of absence.
- (5) Except for approved medical or personal leaves of absence, award recipients must be continuously enrolled and maintain the required grade point average or satisfactory academic progress at an eligible postsecondary institution as provided in Tenn. Comp. R. & Regs. 1640-01-26-.04.
- (6) All tuition waivers and discounts for which a student or parent qualifies shall first be deducted from the student's tuition and mandatory fees before gift aid is credited.
- (7) Gift aid from sources other than the Tennessee Promise Scholarship shall be credited first to tuition and mandatory fees to reduce the student's Tennessee Promise Scholarship award. If

(Rule 1640-01-26-.02, continued)

other gift aid exceeds tuition and mandatory fees then the student shall not be eligible for the Tennessee Promise Scholarship award, but shall remain eligible for all other services available through the Tennessee Promise Scholarship program, provided the student maintains all academic and non-academic requirements.

- (8) The receipt of a Tennessee Promise Scholarship is contingent upon admission to and enrollment in an eligible postsecondary institution. Qualifying for the Tennessee Promise Scholarship does not guarantee admission to an eligible postsecondary institution.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Amendment filed December 19, 2014; effective March 19, 2015. Emergency rule filed August 4, 2015; effective through January 31, 2016.

1640-01-26-.03 APPLICATION PROCESS.

- (1) Students participating in the Tennessee Promise Scholarship program shall file a FAFSA, or renewal FAFSA, in each year of program participation. The FAFSA must be submitted by mail or electronically as directed in the FAFSA instructions.
- (2) Students enrolled in a community college, public four-year postsecondary institution, or private institution shall file the FAFSA or renewal FAFSA according to the following deadlines:
 - (a) No later than February 15 for fall enrollment, or
 - (b) No later than November 1 for spring and summer enrollment.
- (3) Students enrolled in a TCAT shall file the FAFSA or renewal FAFSA according to the following deadlines:
 - (a) No later than February 15 for summer and fall enrollment, or
 - (b) No later than November 1 for spring enrollment.
- (4) Students are required to complete the Tennessee Promise Scholarship award application for the initial year of enrollment no later than November 1 of their senior year of high school. For each successive year of participation students shall submit a renewal application no later than July 1 prior to the successive academic year giving notice to TSAC of their intent to participate in the Tennessee Promise Scholarship program. If either deadline occurs on a weekend or state holiday, then the application deadline will be the next business day.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Emergency rule filed August 4, 2015; effective through January 31, 2016.

1640-01-26-.04 ELIGIBILITY – TENNESSEE PROMISE SCHOLARSHIP PROGRAM.

- (1) To be eligible to receive a Tennessee Promise Scholarship a student shall:
 - (a) Be a Tennessee resident;
 - (b) Graduate from an eligible high school, graduate high school as a dependent child of a military parent as outlined in T.C.A. § 49-4-926, complete high school as a home

(Rule 1640-01-26-.04, continued)

school student, or obtain a GED or HiSET diploma, provided that the student obtains a GED or HiSET diploma prior to the student reaching nineteen (19) years of age;

- (c) Attend full time in an eligible postsecondary institution in the fall term immediately following graduation from an eligible high school or home school, or attainment of the GED or HiSET diploma; except that a student enrolling in a certificate or diploma program at a TCAT may enroll in the summer prior to the fall term;
- (d) Maintain continuous enrollment as a full-time student at an eligible postsecondary institution unless granted a medical or personal leave of absence;
- (e) Maintain a minimum cumulative grade point average of 2.0, as determined by the eligible postsecondary institution, at the end of each academic year if enrolled in an associate degree program, or maintain satisfactory academic progress as determined by the TCAT;
- (f) Comply with United States Selective Service System requirements for registration, if such requirements are applicable to the student;
- (g) Be in compliance with federal drug-free rules and laws for receiving financial assistance;
- (h) Not be in default on a federal Title IV educational loan or Tennessee educational loan;
- (i) Not owe a refund on a federal Title IV student financial aid program or a Tennessee student financial aid program;
- (j) Not be incarcerated;
- (k) Not have earned an associate degree prior to enrolling in the initial academic term following graduation from a high school or home school program;
- (l) Prior to initial fall enrollment in a postsecondary institution, attend one mandatory meeting related to financial aid and FAFSA completion, and the college application process; and a second mandatory meeting related to college orientation. Participants may, but are not required to, attend additional meetings as offered by a Partnering Organization;
- (m) Complete eight (8) hours of community service for each semester while participating in the Tennessee Promise Scholarship program; and
- (n) Submit all necessary documentation by August 1 to allow the postsecondary institution to complete FAFSA verification by August 1 if enrolled at a two-year or four-year eligible institution or by October 1 if enrolled at a TCAT. FAFSA verification shall be completed regardless of eligibility for federal or state grants. After performing an initial review of the verification materials submitted by August 1, additional documentation may be requested by the postsecondary institution to complete initial FAFSA verification. This shall not render the student ineligible for Tennessee Promise if the additional necessary documents are provided by December 1. If either deadline occurs on a weekend or state holiday, then the application deadline will be the next business day; and
- (o) Complete the FAFSA and have been assigned an EFC by the U.S. Department of Education.

(Rule 1640-01-26-.04, continued)

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Repeal and new rule filed December 19, 2014; effective March 19, 2015. Emergency rule filed August 4, 2015; effective through January 31, 2016.

1640-01-26-.05 ELIGIBILITY - EARLY HIGH SCHOOL GRADUATION.

- (1) A student who graduates early from an eligible high school, or completes an eligible home school program or obtains a GED or HiSET diploma prior to the spring semester preceding the initial fall enrollment may immediately enroll in an eligible postsecondary institution. Such student shall not be eligible for the Tennessee Promise Scholarship until the subsequent fall semester, but shall otherwise meet all initial eligibility requirements, and upon receipt of a Tennessee Promise Scholarship meet all continuing eligibility requirements as outlined in these rules.
- (2) Notwithstanding the provisions of this section, a student may be eligible for a Tennessee Promise Scholarship at a TCAT prior to the subsequent fall term if eligible for an exception as provided in these rules.
- (3) During all academic terms in which a student is enrolled in a postsecondary institution prior to the fall term following graduation from an eligible high school, the student shall:
 - (a) Enroll in an eligible postsecondary institution or a regionally accredited postsecondary institution located outside this state;
 - (b) Attend all mandatory meetings provided by the Partnering Organization;
 - (c) Not be required to participate in community service, except that the student must complete the amount of community service required by Tenn. Comp. R. & Regs. 1640-01-26-.07(1) before the subsequent fall semester; and
 - (d) Have no minimum requirement for credit hours or academic performance.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Emergency rule filed August 4, 2015; effective through January 31, 2016.

1640-01-26-.06 PERSONAL OR MEDICAL LEAVE OF ABSENCE.

- (1) A student may be granted a medical or personal leave of absence from timely enrollment in the initial semester, full-time attendance, or continuous enrollment at an eligible postsecondary institution as long as all other applicable eligibility criteria are met. Allowable medical or personal reasons may include illness of the student; illness or death of an immediate family member; extreme financial hardship of the student or student's immediate family; fulfillment of a religious commitment encouraged of members of that faith; fulfillment of required initial active duty for training as a National Guard or Reserve member or for National Guard or Reserve mobilization; attendance in a program of study at a TCAT which only begins in the spring or summer academic term or when openings are unavailable for the fall academic term; full-time attendance at an eligible four-year postsecondary institution while waiting for admission to an eligible postsecondary program; or other extraordinary circumstances beyond the student's control where attendance by the student creates a substantial hardship. In the event an institution denies a student's request for a medical or personal leave of absence, the student may appeal the decision in accordance with these rules.

(Rule 1640-01-26-.06, continued)

- (2) A student granted a medical or personal leave of absence shall enroll full time in an eligible postsecondary institution in the first semester following the end of the leave of absence and shall retain the Tennessee Promise Scholarship until a terminating event occurs. A leave of absence of six (6) months or less shall not count against the five semester limit at an eligible postsecondary institution, and a leave of absence may extend beyond six (6) months for military, religious, or other extraordinary circumstances as described in this rule.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Emergency rule filed August 4, 2015; effective through January 31, 2016.

1640-01-26-.07 COMMUNITY SERVICE PROGRAM REQUIREMENTS.

- (1) A student participating in the Tennessee Promise Scholarship program shall perform and report eight (8) hours of community service for each semester the scholarship is received. Service shall be performed prior to the beginning of each academic semester, including the initial fall semester, in which the Promise Scholarship is received according to the following deadlines:
 - (a) August 1 for students attending the fall academic term; except that beginning in the 2017-18 academic year and thereafter, entering freshmen shall perform and report community service hours by July 1 for the fall academic term.
 - (b) December 1 for students attending the spring academic term.
 - (c) May 1 for students attending the summer academic term.
- (2) A student who is granted a leave of absence ~~which precludes the performance of~~ may complete the community service ~~shall complete the community service during~~ the leave of absence or in the first academic term following the period for which the leave of absence was granted. ~~Such~~ Community service performed in the first academic term following the leave of absence shall be in addition to any other community service required in the same academic term.
- (3) Upon completion of the community service, each student shall verify to the Partnering Organization a description of service performed, the date(s) the service was performed, the total hours of service provided, and the name and address of the organization for which the service was provided.
- (4) Community Service shall not include:
 - (a) Service performed prior to the ~~January~~ Tennessee Promise Scholarship application deadline preceding the initial academic term;
 - (b) Service resulting in payment or remuneration of any kind; or
 - (c) Service that directly benefits family members.
- (5) Community service may be performed with or under the direction of a faith-based organization, but shall not include religious persuasion or proselytizing.
- (6) Community service in excess of eight (8) hours performed in any semester shall not be carried over into subsequent semesters. Unless the student is on an approved leave of absence, failure to complete the eight (8) hours of community service prior to an academic semester will result in the immediate termination of eligibility for the Tennessee Promise

(Rule 1640-01-26-.07, continued)

Scholarship. Community service performed during an approved leave of absence shall count towards fulfillment of the community service requirement in the first semester following the leave of absence.

- (7) A student who knowingly provides false verification of community service shall be ineligible to receive additional benefits under the Tennessee Promise Scholarship program.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Repeal and new rule filed December 19, 2014; effective March 19, 2015. Emergency rule filed August 4, 2015; effective through January 31, 2016.

1640-01-26-.08 SELECTION OF PARTNERING ORGANIZATIONS.

- (1) To participate in the Tennessee Promise Scholarship program, a Partnering Organization shall be recommended by the mayor or executive of each county in which the Partnering Organization participates and approved by the Board of Directors.
- (2) An approved Partnering Organization may continue to serve in such capacity unless it is no longer recommended by a county mayor or executive or approved by the Board of Directors. Final approval to serve as a Partnering Organization shall be given at the discretion of the Board of Directors and based on the Partnering Organization's satisfactory performance and compliance with these rules.
- (3) A negative recommendation by one county mayor or executive shall not automatically disqualify the Partnering Organization from participating in other counties but will be considered in the Board of Directors' evaluation of the Partnering Organization's continued participation in the Program.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.09 PARTNERING ORGANIZATION REQUIREMENTS.

- (1) Partnering Organizations that participate in the Tennessee Promise Scholarship program shall meet the following requirements:
 - (a) Be established as a not-for-profit organization, except that a postsecondary institution that receives funding under the Tennessee Promise Scholarship program shall not be permitted to participate as a partnering organization.
 - (b) Operate as a college access and success program serving Tennessee residents at an eligible postsecondary institution.
 - (c) Demonstrate annually to TSAC that funding exists within the Partnering Organization's budget to provide all services under the Tennessee Promise Scholarship program for a minimum of one (1) year. No funds under this program shall be provided for the direct or indirect benefit of a Partnering Organization.
 - (d) Adhere to rules promulgated by TSAC for the administration of this program.
 - (e) Provide a mentoring program with a ratio of one (1) volunteer mentor to no more than ten (10) eligible student applications. This ratio shall apply to eligible student

(Rule 1640-01-26-.09, continued)

applications and may be reduced in proportion to the number of students who drop from participation in the program.

The minimum age and ratio requirements shall not apply to full- or part-time paid mentors or counselors that work directly with students.

- (f) Select volunteer mentors prior to December 1 for the following academic year and provide one (1) mandatory training meeting for all paid and volunteer mentors prior to January 31. This meeting may be offered on multiple dates prior to the January 31 deadline. This meeting shall cover at least the following topics:
 - 1. Program overview,
 - 2. Appropriate mentor-student relationships,
 - 3. Financial aid,
 - 4. FAFSA completion,
 - 5. College applications and admissions, and
 - 6. Community service requirements.
- (g) Provide one (1) mandatory meeting for all Tennessee Promise Scholarship program participants prior to March 1 preceding the initial enrollment in an eligible postsecondary institution. This meeting may be offered on multiple dates prior to the March 1 deadline, and shall provide training on the following topics:
 - 1. An overview of the Tennessee Promise Scholarship program,
 - 2. Appropriate relationships with mentors,
 - 3. Financial aid opportunities,
 - 4. FAFSA completion, and
 - 5. The college application process.
- (h) Provide one (1) mandatory meeting for all Tennessee Promise Scholarship program participants after March 1 and prior to May 31 preceding the initial enrollment in an eligible postsecondary institution. This meeting may be offered on multiple dates prior to the May 31 deadline and shall provide training on topics related to college orientation, making the transition from high school to college, and community service requirements.
- (i) Where a student cannot attend either mandatory meeting due to required attendance at a school-sponsored activity, required attendance at a religious-based activity, documented illness of the student, or other extenuating circumstances, the Partnering Organization shall provide opportunities for the student to receive the training prior to the March 1 or May 31 deadline, or as soon thereafter as practicable.
- (j) Provide a minimum of one (1) mentor contact monthly with each assigned Tennessee Promise Scholarship program participant beginning February 1 of the senior year of high school. Contact shall be maintained throughout the student's participation in the Program.

(Rule 1640-01-26-.09, continued)

- (k) Organize a local advisory council to serve as an advocate for the Program. The advisory council shall be comprised of a minimum of five (5) members, with at least one (1) member representative from each the local education agency, the county mayor's or executive's office, and a local postsecondary institution. Organizations that have been in existence for a minimum of three (3) years may use existing boards or boards of trustees as the local advisory council if the board or board of trustees is substantially similar to the requirements of this subsection.
- (l) Obtain a certified background check on all mentors prior to service as a mentor. A mentor shall not be eligible to participate in the Tennessee Promise Scholarship program if convicted of any felony or offense listed at T.C.A. §§ 39-13-527, 39-13-532, 39-17-417, and 40-35-501(i)(2). For purposes of this section, "conviction" includes entry of a plea of guilty or nolo contendere or entry of an order granting pre-trial or judicial diversion.
- (m) Submit to audits on a periodic basis as determined by TSAC.
- (n) Enter into a memorandum of understanding with TSAC regarding program requirements and Partnering Organization obligations and provide requested information to TSAC as required in the memorandum of understanding.
- (o) Provide electronic notification to TSAC when Tennessee Promise participants have completed their mandatory meetings and community service requirements. Reporting of community service performed in the previous academic term shall be provided to TSAC for each student no later than:
 - 1. August 15 for students attending the fall academic term.
 - 2. December 15 for students attending the spring academic term.
 - 3. May 15 for students attending the summer academic term.
- (p) Provide performance metrics as outlined in the memorandum of understanding entered into with TSAC.
- (q) Obtain an insurance policy that, at a minimum, limits liability of the Partnering Organization against physical and sexual abuse or misconduct directed toward participants of the Program by its officers, directors, employees, and volunteers.

Authority: T.C.A. §§ 39-13-527, 39-13-532, 39-17-417, 40-35-501, 49-4-201, 49-4-204, and 49-4-708.
Administrative History: Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Repeal and new rule filed December 19, 2014; effective March 19, 2015. Emergency rule filed August 4, 2015; effective through January 31, 2016.

1640-01-26-.10 PARTNERING ORGANIZATIONS – SERVICE IN COUNTIES.

- (1) A Partnering Organization that agrees to provide Tennessee Promise Scholarship program services in a county shall make the program available to all eligible high school, home school, and GED/HISET students in that county. The Partnering Organization shall continue to work with students from that county through a terminating event, regardless of which eligible postsecondary institution the student attends. Partnering Organizations may work with students from high schools or counties outside their assigned counties as agreed upon between the Partnering Organizations.

(Rule 1640-01-26-.10, continued)

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Emergency rule filed August 4, 2015; effective through January 31, 2016.

1640-01-26-.11 TERMINATING EVENTS

- (1) A student shall receive the Tennessee Promise Scholarship until reaching a terminating event as outlined in T.C.A. § 49-4-708.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Emergency rule filed August 4, 2015; effective through January 31, 2016.

1640-01-26-.12 TENNESSEE PROMISE SCHOLARSHIP REFORMS.

- (1) In the event funds are insufficient to fully fund the cost of Tennessee Promise scholarships, TSAC is authorized to take one or more of the following actions:
 - (a) Establish a maximum award amount,
 - (b) Establish additional eligibility criteria for new applicants entering the program,
 - (c) Administer the program on a first-come, first-served basis.
- (2) Any action taken by TSAC as described in subsection (1) shall require approval by TSAC's board of directors and notification shall be provided to the chairs of the Senate and House Education Committees of the Tennessee General Assembly.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.13 CERTIFICATION OF ELIGIBILITY.

- (1) Each Partnering Organization shall determine student eligibility based on attendance at mandatory meetings and fulfillment of community service requirements as required in these rules, and shall certify such eligibility to TSAC.
- (2) TSAC will create a master certification roster of students for each institution. The master list will contain students who have met all requirements for the Tennessee Promise Scholarship.
- (3) The eligible postsecondary institution shall certify each student's eligibility for a financial award from the Tennessee Promise Scholarship based on continuing eligibility requirements established in these rules. The award amount reported to TSAC shall be the amount of tuition and mandatory fees remaining after other gift aid has first been applied to the student's tuition and mandatory fees. All tuition waivers and discounts for which a student or parent qualifies shall first be deducted from the student's tuition and mandatory fees before gift aid is credited.
- (4) Once the eligible postsecondary institution has certified the student's eligibility for a financial award, the certification information shall be electronically transmitted to TSAC.
- (5) TSAC shall process a payment request directly to the eligible postsecondary institution on behalf of all Tennessee Promise Scholarship recipients who are eligible for a financial award. No funds shall be disbursed directly to the Partnering Organizations or to the students.

(Rule 1640-01-26-.13, continued)

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014. Emergency rule filed August 4, 2015; effective through January 31, 2016.

1640-01-26-.14 EVALUATION OF THE TENNESSEE PROMISE SCHOLARSHIP.

- (1) TSAC, along with the Tennessee Higher Education Commission, shall review the Tennessee Promise Scholarship program annually. The review shall include, at a minimum, the number of recipients, total cost of the program, student persistence, hours of community service completed, and scholarship retention. These findings shall be reported to the education committee members of the Senate and House of Representatives of the Tennessee General Assembly.
- (2) TSAC shall convene a meeting of its Special Advisory Committee at least annually to review the effectiveness and best practices of the Tennessee Promise Scholarship program.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.15 AWARD MADE IN ERROR.

- (1) Repayment from the student shall not be required if TSAC determines that the error was through no fault of the student.
- (2) Repayment from the student shall be required if TSAC determines that fraud was committed or the error was due to the fault of the student. When repayment is required, the student may not receive additional student aid from TSAC until repayment is made.
- (3) Repayment from the postsecondary institution will be required if TSAC determines that the error was due to the fault of the postsecondary institution.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.16 REFUND POLICY.

- (1) If a recipient of a Tennessee Promise Scholarship award fails to complete a semester for any reason, the eligible postsecondary institution shall apply its refund policy to determine whether a refund may be required and funds returned to TSAC. The eligible postsecondary institution shall provide the student with a notice indicating the amount to be returned to the student or the amount to be refunded to TSAC. Additionally, the eligible postsecondary institution shall notify TSAC of the refund, which shall be noted on the student's record. The eligible postsecondary institution shall also be responsible for obtaining repayment from the student. The student shall be ineligible for student aid from TSAC until the refund is paid.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.17 TRANSFER STUDENTS.

- (1) A student who meets all academic and non-academic requirements of the Tennessee Promise Scholarship may transfer from one eligible postsecondary institution to another

(Rule 1640-01-26-.17, continued)

eligible postsecondary institution and maintain the scholarship, provided the student is able to complete the diploma or associate degree in the amount of time remaining before reaching a terminating event as outlined in T.C.A § 49-4-708.

Authority: T.C.A. §§ 49-4-201, 49-4-204, and 49-4-708. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

1640-01-26-.18 APPEAL AND EXCEPTION PROCESS.

- (1) Each eligible postsecondary institution shall use their existing Institutional Review Panel (IRP) for purposes of reviewing and rendering decisions regarding appeals for the Tennessee Promise Scholarship program. The IRP shall use the same procedures and timelines as those that currently exist for the review of Tennessee Education Lottery Scholarship (TELS) appeals as outlined in Tenn. Comp. R. & Reg. 1640-01-19.
- (2) TSAC shall use the existing TELS Appeals Panel to consider appeals and render decisions for those students who appeal a decision made by the IRP. The same guidelines shall exist for appeals of the Tennessee Promise Scholarship program as those that are currently in place for TELS as outlined in Tenn. Comp. R & Reg. 1640-01-19.

Authority: T.C.A. §§ 49-4-201, 49-4-204, 49-4-708, and 49-4-924. **Administrative History:** Emergency rule filed August 14, 2014; effective through February 10, 2015. Original rule filed August 14, 2014; effective November 12, 2014.

The vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent
Governor Haslam, by Mr. Will Cromer	X			
Dr. Russ Deaton	X			
Dr. Claude Pressnell	X			
Mr. David H. Lillard, Jr.	X			
Comptroller Justin P. Wilson by Mr. Joseph Woodson	X			
Commissioner Larry Martin, by Mr. Greg Turner	X			
Commissioner Candice McQueen, by Dr. Danielle Mazera	X			
Chancellor John Morgan, by Mr. David Gregory	X			
Dr. Joe Dipietro, by Dr. Katie High	X			
Dr. Gary Weedman	X			
Dr. J. Gary Adcox	X			
Mr. Richard Smelser	X			
Ms. Keri McInnis	X			
Dr. L. LaSimba Gray, Jr.	X			
Mr. Tom Hughes	X			
Ms. Kerri McInnis	X			
Ms. Courtney Williams	X			

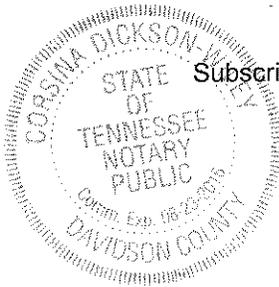
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the TSAC Board of Directors on 09/24/2015, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed 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: 11/30/15

Signature: [Handwritten Signature]

Name of Officer: Dr. Russ Deaton

Title of Officer: Interim Executive Director



Subscribed and sworn to before me on: 08-23-16

Notary Public Signature: [Handwritten Signature]

My commission expires on: 08-23-16

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.

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

2/17/2016
Date

Department of State Use Only

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PUBLICATIONS

Filed with the Department of State on: 2/22/16

Effective on: 5/22/16

[Handwritten Signature]
Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

AGENCY: Tennessee Alcoholic Beverage Commission

SUBJECT: Rules for Sales of Wine at Retail Food Stores

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 57-3-104(c)(4)

EFFECTIVE DATES: May 29, 2016 through June 30, 2017

FISCAL IMPACT: Based on the fiscal note for Chapter 554 of the Public Acts of 2014, the Commission reports an expected increase in its gross revenues (after subtraction of expected expenditures) of \$961,000 for FY 14-15, \$2,102,200 for FY 15-16, \$1,444,000 for FY 16-17, and \$1,777,000 for subsequent fiscal years. In addition, the fiscal note expected an increase in general fund revenues of \$1,724,800 for FY 14-15, \$7,278,200 for FY 15-16, and at least \$7,677,700 for FY 16-17 and subsequent years. To the best knowledge of the Commission, this rule would not significantly alter the expectations specified in the fiscal note.

STAFF RULE ABSTRACT: The rulemaking hearing rules effectuate the purposes of Chapter 554 of the Public Acts of 2014, which authorized the sale of wine in retail food stores upon licensure by the Commission.

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.

A copy of a document summarizing Commission responses to public hearing comments is attached.



STATE OF TENNESSEE
ALCOHOLIC BEVERAGE COMMISSION
DAVY CROCKETT TOWER
500 JAMES ROBERTSON PKWY, 3rd FLOOR
NASHVILLE, TENNESSEE 37243-0755



PHONE 615.741.1602

FAX 615.741.0847

MEMO

From: E. Keith Bell, Director

Re: Responses to comments made at public rulemaking hearing

Date: December 11, 2015

On December 9, 2015, a rulemaking hearing was held in accordance with the law. At the hearing, various comments were made regarding proposed Rule 0100-11. Below is a summary of the comments and the Tennessee Alcoholic Beverage Commission's (TABC's) responses to such comments:

- (1) OFFICER IDENTIFICATION – Rule 0100-11-.01(1)(a)(2) and (1)(a)(15) – Comments were presented that the proposed rules requiring officers of a corporation to submit questionnaires and declarations of citizenship were either unnecessary or not sufficiently defined. The TABC deems it to be necessary to require questionnaires and declarations of citizenship for officers of corporations in certain circumstances, but agrees that the proposed rule should be revised to clarify which officers exactly would need to complete such documents, and the proposed rule has been so revised.
- (2) SUBMISSION OF LEASES – Rule 0100-11-.01(2) - Comments were presented requesting that Rule 0100-11-.01(2) be revised to specify that only lease restrictions between the applicant and the applicant's landlord are relevant to bar an applicant from obtaining a license, and that lease restrictions between other tenants of the same shopping center or other development and the landlord were not relevant. We disagree. T.C.A. § 57-3-806(f) states that “[n]o retail food store wine license shall be issued to a retail food store located within a shopping center or other development unless documentation is provided to the commission that the owner of such shopping center or development has imposed no restrictions on the sale of wine or other alcoholic products at the shopping center or development and that it does not impose any restrictions or limitations on the business practices related to the sale or distribution of alcoholic beverages upon any entity that is located within the same shopping center or other development as the proposed location of the retail food store wine license holder.” To TABC staff, it is clear from the plain language of the statute that if the landlord has placed any restriction upon the development or any tenant in the development regarding wine or alcoholic products, then any retail food store applicant within that development would not be eligible for a license. It is the TABC staff's belief that the language of the proposed rule accurately reflects that interpretation and the plain meaning of T.C.A. § 57-3-806(f). That being said, upon further review of the statute and rule, the TABC staff has made two revisions to the

rules. Firstly, it is the opinion of the TABC staff that the use of the term “alcoholic product” instead of “alcoholic beverage” in the statute includes both alcoholic beverages and beer, and the proposed rule has been revised accordingly. Secondly, it is clear upon further review of the statute that the statute not only requires that no such restrictions exist, but it also requires that documentation be provided to the TABC evidencing that no such restrictions exist. To satisfy this requirement, Rule 0100-11-.01(1)(a)(4) has been added to require an affidavit from the landlord or owner of such property.

- a. A separate comment was made suggesting that the lease restrictions in a development which would prohibit a retail food store from being eligible for a license be expanded to include not just wine and alcoholic products, as specified in the statute, but also any other product that is authorized to be sold by a retail package store under T.C.A. § 57-3-204. It is the opinion of the TABC staff, that such a suggestion is outside of the statute’s scope and the TABC’s authority, and as such should be denied.
- (3) CONFIDENTIALITY – A request was made for the TABC to establish a rule allowing for the redaction of certain confidential information prior to such information being placed in the files of the TABC. It is the opinion of the TABC staff that such a rule is unnecessary, and that such a process can already be performed without any such rule pursuant to the authority of T.C.A. § 10-7-504(a)(24).
- (4) STORAGE PRIOR TO LICENSURE – A request was made that the TABC, by rule, allow for the delivery of wine to, and storage by, retail food store wine applicants prior to the licensure of any such retail food store wine applicant on July 1, 2015. The TABC does not have any statutory authority to create any such rule. In addition, the laws of the state prohibit any unlicensed entity from storing alcoholic beverages, and, a licensed wholesaler is prohibited from selling, or delivering, alcoholic beverages to any unlicensed person or establishment. The TABC may not supersede these laws by rule to allow the storage of alcoholic beverages by an unlicensed entity and to allow the delivery and sale of alcoholic beverages to an unlicensed entity.
- (5) SERVICES BY BEER WHOLESALERS – Rule 0100-11-.07(3) – Rule 0100-11-.07(3) was drafted to effectuate the provisions of T.C.A. § 57-3-815, which prohibits a licensed wholesaler from providing any services to or for the benefit of a retail food store wine licensee, including services involving shelving, dressing, displaying, or setting inventory. This statute could be interpreted one of two ways: (1) a licensed wholesaler cannot provide such services with regards to any product that it sells to the retail food store, including beer, or (2) a licensed wholesaler cannot provide such services only with regards to the wine that the wholesaler sells to the retail food store. Initially, TABC staff held the opinion that the first interpretation was applicable and the rule reflected that. Upon the receipt of multiple comments urging the adoption of the second interpretation, and upon further review, TABC staff agrees to adopt the latter interpretation and has revised the proposed rules to reflect that change.
- (6) SERVICES BY WHOLESALERS - Rule 0100-11-.07(3) – Furthermore, one comment requested that the TABC remove the rule completely and to allow licensed wholesalers to provide any and all services to retail food stores with regards to the wine that the wholesaler sells to such store. Such a request would be in direct conflict with T.C.A. § 57-3-815 and is denied.
- (7) MANAGEMENT AGREEMENTS – Rules 0100-11-.01(1)(a)(3) and various other rules – Pursuant to T.C.A. § 57-3-803, a retail food store may enter into a franchise or

- management agreement with another person or entity for the making of wine sales. A comment suggested adding the management agreement as a possible proof of possession to be provided pursuant to Rules 0100-11-.01(1)(a)(3) and for that term to be inserted in various other rules. While it is the opinion of TABC staff that such additions are unnecessary, TABC staff, upon further review, agrees that it is necessary that the TABC receive a copy of any such management or franchise agreement, if one exists, and a rule has been added to this effect in Rule 0100-11-.01(a)(5).
- (8) SALES TAXABLE SALES – Rules 0100-11-.01(4) and 0100-11-.04(1) – T.C.A. § 57-3-802 requires that 20% of a retail food store’s sales taxable sales include food and food ingredients, and T.C.A. § 57-3-806(d)(1) requires that such calculation be made on an annual basis. Rule 0100-11-.01(4) required that an applicant provide an affidavit regarding this and copies of applicant’s sales tax returns for the past two years. A comment suggested that the rule be revised to require the past 3 years of sales tax returns and to consider other information. Upon review, it is the opinion of TABC staff that such a revision would be outside of the statute’s scope and the TABC’s authority. Furthermore, upon further review, it is the opinion of TABC staff, that the initial requirement of the rule that 2 years of sales tax returns be provided is outside the scope of the statute and the authority of the TABC, and as such, the proposed rule has been revised to instead require that such tax returns be provided for the last complete business year of the applicant.
- a. A separate comment was made suggesting that the requirement for the past sales tax returns would cause otherwise confidential information to be disclosable pursuant to the Public Records Act. This assertion is incorrect as such information would be confidential pursuant to T.C.A. § 10-7-504(a)(24).
- (9) PROHIBITION AGAINST REMUNERATION – T.C.A. § 57-3-404(i) states that “[n]o retail food store wine licensee may receive any remuneration, by whatever name, at a corporate office located inside or outside this state that affects the profitability of wine or beer sales in this state, that is not made available to all retail licensees or other retail food stores licensed to sell wine or beer in this state.” A comment suggested restating this prohibition in the rules, requiring a certification that this requirement will be followed, and requiring a written agreement from the applicant agreeing to notify the commission of any compensation agreement. TABC staff agrees that the compliance with this statutory provision is of great importance. That being said, it is not believed that the creation of a rule to this effect is either necessary or the best method for ensuring compliance with this statute. Instead, it is the intent of the TABC staff to include a similar certification and/or question regarding remuneration and/or compensation agreements in the application for a retail food store wine applicant.
- (10) ADDITION OF FIRM, PARTNERSHIP, ETC. – Rule 0100-11-.02(4) and other provisions – A comment was made suggesting that language clarifying that certain provisions applying to persons be revised to specify that they also apply to firms, partnerships, limited liability companies, corporations, and other entities. It is the opinion of TABC staff that the term “person” as used in the law, includes and incorporates any and all such companies, firms, businesses and entities, and as such the addition of those terms in addition to the term “person” is unnecessary.
- (11) SUBLEASEE’S AND MANAGEMENT COMPANIES ACCOUNTABLE – A comment suggested clarifying that the proposed rules that specify that the laws of agency apply and that a licensee is responsible for the actions of it’s agents to clarify that such provision would also apply to any business that has a management agreement

with the licensee and any subleasee upon the premises. It is the opinion of TABC staff that such clarification is unnecessary and could potentially add confusion, and thus should be denied. Such an addition could add confusion to the law, as (1) in many, if not most, circumstances in which a management agreement is used, the management company will be the licensee as the management company is the person with ultimate control over the alcoholic beverages and this clarification could be construed to be contrary to this, and (2) in many circumstances, a subleasee may not be permissible, and to the extent that it is, such subleasee would have to be completely separate from the licensed premises of the licensee, and this clarification may be interpreted to be contrary to this. Furthermore, to the extent that a licensee might have possibly have a management agreement with a business that is not the licensee or have a sublease where the subleasee is still a part of the licensed premises, then in those circumstances those persons would be the agents of the licensee and would be subject to this rule as the agents of the licensee without the addition of this clarification.

- (12) LICENSE AFTER REVOCATION – Rule 0100-11-.01(4) – Comments were made suggesting that prohibiting licensure within five miles of a revoked licensee is too prohibitive, and that Rule 0100-11-.01(4)(b) which prohibits licensure, or renewal of a license, for 1 year of a corporation who has a license revoked, could have the impact of, for example, requiring the non-renewal of the licenses of all Krogers in the state upon the revocation of a single Kroger’s store in the state. Upon further review, TABC staff agrees with said comment and has revised the proposed rules accordingly to remove Rule 0100-11-.01(4)(b) and to remove the requirement that a store cannot get a license within 5 miles of a store whose license has been revoked, provided that the requirement that a store within close proximity to a store who’s license has been revoked cannot get a license at that location for one year following revocation, unless commission approval, is still in effect.

- a. There was a separate comment made to revise the rule prohibiting licensure of any entity within close proximity to a retail food store whose license was revoked to instead have that the rule only prohibit such a license of an applicant owned by any of the owners of the license which was revoked. Such a clarification is unnecessary, since the rule applies to all applicants as currently written. Note, under the rule, the Commission may waive this prohibition on a case by case basis, and thus whether or not the applicant is in any manner related to the store whose license was revoked can be considered by the TABC in deciding whether or not to waive the prohibition.

- (13) DISCIPLINARY ACTIONS – Rule 0100-11-.03 – Multiple comments were made regarding this rule and are detailed below:

- a. A comment was made suggesting to add to Rule 0100-11-.03(c) the requirement that a retail food store licensee whose license is revoked cannot sell for on-premises consumption. T.C.A. § 57-3-817 authorizes a retail food store wine licensee to hold a license to sell alcoholic beverages for on-premises consumption (LBD license), provided that both the premises and the business of the LBD is operated separately and distinctly from the business and premises of the retail food store licensee. As such, the activities of off-premises sales are performed pursuant to a retail food store wine license and the activities of on-premises consumption are performed pursuant to an LBD license and both the licenses and the activities performed pursuant to such licenses are completely separate and distinct. Because of this separation, the TABC will generally have no authority to

take action on an LBD license held by an entity or similar entity that holds a separate retail food store wine licensee. An exception to this general rule may be when there is sufficient evidence that the LBD is not being ran separately and distinctly from the retail food store wine licensee as required by law. In such circumstances, the TABC may seek to revoke both licenses, but it is the opinion of TABC staff that in such very limited circumstances, such action can be taken under current law, without the necessity of a rule to that effect.

- b. A comment was made suggesting the deletion of the last sentence in proposed Rule 0100-11-.03 regarding the consideration of mitigation factors. This sentence is used practically verbatim in a similar rule regarding liquor by the drink licensees, and as such, for consistency, the suggested deletion should be denied.
- c. Proposed Rule 0100-11-.03(c) states that the suspension or revocation of a retail food store wine licensee only effects the ability of the retail food store to sell wine and does not effect such stores' ability to sell food items, non-food items, or beer. This rule contrasts to the laws surrounding retail package stores in which the suspension or revocation of such a license requires the entire closure of the retail package store, and the retail package store cannot sell food items, non-food items, or beer during any period of suspension or revocation. A comment was made suggesting that retail food stores and retail package stores needed to be treated the same on this issue, and to do otherwise would be treating one member of the industry unfairly. The difference between the treatment of retail food stores and retail package stores is statutory. The retail food store wine license solely applies to the sale of wine and has no bearing or impact on the sale of other items, and as such a suspension or revocation of that license has no bearing on any item other than wine. A retail package store, however, sells beer and items other than alcoholic beverages under the authority given by it's retail package store license. Let's take beer for example. A retail food store can sell beer pursuant to a local beer board permit and is not selling such beer pursuant to a TABC license, whereas retail package stores do not need a local beer board permit to sell beer, because retail package stores sell beer pursuant to their TABC issued retail package store license. Similarly, other items that a retail package store can sell, are sold pursuant to their retail package store license. Let's take the example of a retail package store that sells Jack Daniel's shirts under their license, and their retail package store license is revoked. In that case, the retail package store cannot stay open and licensed as a retail package store just to sell Jack Daniel's shirts. The retail package store would need to be completely closed. That being said, if a completely different business that was not a retail package store wanted to set up a new business selling Jack Daniel's shirts and other items that they can lawfully sell, then that would be fine, but while a retail package store is a retail package store, they can only sell such other items pursuant to their retail package store license. It is also for this reason, why a retail package store must be completely closed on Sundays and cannot be open to sell solely non-alcoholic items. Notwithstanding this statutory distinction, the TABC does take this distinction into consideration in issuing certain penalties, like suspensions for sales to minors. For LBD licensees (restaurants, bars, etc.) who have a second sale to minor within 3 years, the TABC generally issues a suspension of between 10 and 30 days. Such suspension must be served all at once and cannot be broken up as a few days one day a week. This is done because an LBD under a TABC

suspension can still sell food and beer, and thus, given that, such a suspension is an adequate and necessary penalty to ensure compliance with the laws regarding the sale of alcoholic beverages or beer to minors. For a retail package store that has a similar second sale to minor, however, a suspension of between 5 and 10 days is issued and the suspension may typically be held one day a week, for so many weeks. This is done exactly because a retail package store must be closed during a suspension and cannot be open or sell any other items during a suspension, and without that fact, the suspension terms that are applied to LBD's would have otherwise been made applicable to retail package stores. Therefore, the suggestion that the TABC has not and is not taking all steps necessary to ensure a fair playing field among all industry members is disingenuous.

- (14) **STORAGE – Rule 0100-11-.03(3) –** A comment was made suggesting to clarify that a retail package store cannot store any alcoholic beverages outside of its licensed premises. As such activity is illegal under present law, such a clarification in the rules would be unnecessary.
- (15) **RESPONSIBLE VENDOR PROGRAM – Rule 0100-11-.05 –** A comment was made suggesting that the proposed rule be revised to make clear that a retail food store wine licensee can choose whether to participate in the Responsible Wine Vendor Program or the Responsible Beer Vendor Program. Upon careful consideration of both the comment and the proposed rule, it is the opinion of TABC staff that the proposed rule is properly worded and that no change in the proposed rule would be either proper or necessary.
- (16) **MINIMUM PRICING OF WINE –** A suggestion was made to add into the rules the provisions of T.C.A. § 57-3-901, et seq. verbatim. It is the opinion of TABC staff that such an addition would be unnecessary, as such provisions are already in the applicable statutes and restating such provisions verbatim in the rules does not accomplish anything of value. Furthermore, in the event that it should be determined that a clarification of T.C.A. § 57-3-901, et seq. by rule is necessary, it is the present intent of TABC staff that such clarification would be accomplished at another time and through the creation of a completely separate rule.
- (17) **CERTIFICATE OF GOOD MORAL CHARACTER – Rule 0100-11-.01(c) –** Under the original proposed rule, if a retail food store applicant applies for a required certificate of good moral character from a city or county after March 1, 2016, and the city or county fails to grant or deny the certificate within 60 days of application, then the certificate is deemed to be granted. A comment was made that this rule may not be adequate to ensure that such certificates could be obtained in time for the applicant to be licensed by July 1, 2015, and suggesting that the language “March 1, 2016” be removed and that this rule apply upon the city or county receiving a request, instead of an application, for a certificate, instead of an application. TABC staff agrees that the date of March 1, 2016 is too far out, and has accordingly revised the rule instead make it effective January 1, 2016. However, in the opinion of TABC staff, the TABC does not have the authority to deem the certificates granted if not granted or denied within 60 days of receipt of a “request” for such certificate. The practical effect of this change would be for the TABC to deem a certificate to be granted after 60 days of a request being made for a certificate, even if the city or county had not established any application or review process for granting a certificate at the time the request was made. T.C.A. § 57-3-806(h) states that “[a] failure on the part of the issuing authority to grant or deny the certificate within sixty (60) days of the written application for

such shall be deemed a granting of the certificate.” The statute specifically says application, and the TABC does not have the authority to change this by rule. In the opinion of TABC staff, for the TABC to deem a certificate to be granted before a city or county has established any process for the acceptance or review of applications for a certificate would be contrary to law and would be preempting the lawful authority of the local government to make a determination whether or not a certificate should be issued upon application.

- (18) MANDATORY CARDING – Rule 0100-11-.03(6) – Comments were made suggesting that this rule be revised to clarify that a person over the age of 55 does not need to be carded and that a retail food store can accept expired government issued identifications. The language of the proposed rule is substantially the same as a similar rule for retail package stores. This rule is based off of T.C.A. § 57-3-808(a), which creates a defense to the mandatory carding requirement if a person reasonably appears over the age of fifty. Regarding expired identifications, the statute requires that the licensee view a “valid, government-issued document,” and an expired document is not a valid document. Because the statute creates a defense for not carding persons who appear over 50, instead of stating that there is no requirement to card persons over 50, and because the statute requires that the document be valid at the time of presentation, not solely at the time of issuance, it is the opinion of TABC staff that no change in the proposed rule is necessary or proper.
- (19) SALES TO INTOXICATED CUSTOMERS – Rule 0100-11-.03(7) – A suggestion was made that the language “may not” be changed to “shall not” for clarification purposes. The TABC staff agrees and that suggested change has been made.
- (20) CUSTOMER ASSISTANCE – Rule 0100-11-.03(8) – The original proposed rule allowed a retail food store to assist with loading wine purchased by a customer of the store to the customer’s vehicle, but implied that such activity must be done by a certified clerk and only the same certified clerk who had reviewed the customer’s identification. A comment was made suggesting that the language be modified to clarify that any employee of the retail food store could assist with such loading of wine, as long as the customer’s identification was checked by a certified clerk prior to such sale and assistance. The TABC staff agrees with the proposed clarification, and has made the appropriate changes accordingly.

Sincerely,

 12-11-15

E. Keith Bell
Executive Director
Tennessee Alcoholic Beverage Commission
(615)741-8916

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making 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.

Public Acts 2014, ch. 554 (commonly referred to as the Wine in Grocery Stores Act) allowed for the selling of wine in retail food stores upon licensure by the Tennessee Alcoholic Beverage Commission (TABC). These rules effectuate the purpose of such Act and create an application process for such licenses. The statute, and the rule effectuating the statute, benefits small business retail food stores throughout the state by allowing such small businesses to expand their business and begin the sale of wine. An exact number of such small businesses affected is impossible to estimate at this time, but is expected to be substantial and significant. The impact of the statute, and the rule effectuating the statute, is beneficial to both small businesses and the consumer by increasing the business of the small business and increasing the number of establishments that a consumer may be able to purchase wine in the state. The requirements specified in the rule are designed to effectuate the purpose and requirements of Public Acts 2014, ch. 554, and any other applicable statute, and there are no less burdensome, intrusive, or costly method for effectuating such purpose and requirements. There are no state or federal counterparts for which this rule can be effectively compared to. The exemption of small businesses from this rule would be detrimental to the small businesses of this state and would be contrary to statute.

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)

The proposed rule is not projected to have any direct impact on local governments.

**Department of State
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Sequence Number: 02-28-16
Rule ID(s): 6128
File Date: 2/29/16
Effective Date: 5/29/16

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 Alcoholic Beverage Commission
Division:	
Contact Person:	E. Keith Bell (Keith Bell is also the disc acquisition contact)
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
0100-11	Rules for Sales of Wine at Retail Food Stores
Rule Number	Rule Title
0100-11-01	Licenses and Permits
0100-11-02	Issuance of Initial Licenses
0100-11-03	Conduct of Business
0100-11-04	Renewal
0100-11-05	Responsible Vendor Training Program
0100-11-06	Operation of Liquor By The Drink Establishments Within Retail Food Stores
0100-11-07	Conduct of Industry Members with Retail Food Stores

(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://sos.tn.gov/sites/default/files/forms/Rulemaking_Guidelines_August2014.pdf)

Rules 0100 are amended by adding the following language as a new chapter 0100-11:

**RULES
OF
ALCOHOLIC BEVERAGE COMMISSION**

**CHAPTER 0100-11
RULES FOR SALES OF WINE AT RETAIL FOOD STORES
TABLE OF CONTENTS**

0100-11-.01	Licenses and Permits
0100-11-.02	Issuance of Initial License
0100-11-.03	Conduct of Business
0100-11-.04	Renewal
0100-11-.05	Responsible Vendor Training Program
0100-11-.06	Operation of Liquor by the Drink Establishments within Retail Food Stores
0100-11-.07	Conduct of Industry Members with Retail Food Stores

0100-11-.01 Licenses and Permits.

- (1) Procedure for Off-Premise Retail Food Store Wine License Application. An application for a retail food store wine license shall be made on forms provided for such purpose by the Commission. In addition to completing and filing such forms, data, written statements, affidavits, evidence or other documents deemed a part of the application, an applicant shall provide the Commission with the following information:
 - (a) Applications shall be submitted to the TABC Headquarters offices in Nashville, Tennessee or on-line at the TABC website. In addition to the application and other forms provided by the Commission, the following data, written statements, affidavits, evidence or other documents must be submitted in support of an application for a retail food store wine license:
 1. Completed application;
 2. Completed questionnaires from all individuals having at least a ten percent (10%) ownership interest in the business and from all executive officers of a corporate applicant. As used in this rule, the term "executive officers" shall mean each of the following four persons: (1) the President or Chief Executive Officer (CEO); (2) the Vice President or Chief Operating Officer (COO); (3) the Secretary; and (4) the Treasurer or Chief Financial Officer (CFO). The term "executive officers" shall include the four (4) individuals that best fit into each of the above categories, respectively and shall not include more than four (4) individuals, including assistant Secretaries, assistant officers, and other such individuals.
 3. Proof of possession of the licensed premises, i.e., lease agreements, assignments, subleases, and/or deed to property;
 4. Affidavit from the landlord or owner of the proposed location of the applicant's retail food store stating that there does not exist any lease or deed restrictions or covenants limiting or restricting the sale or distribution of wine or other alcoholic

products (i.e. alcoholic beverages and/or beer as defined in T.C.A. § 57-5-101) by any tenant within the same shopping center or development of the applicant.

5. A copy of any management or franchise agreement, if applicable.
 6. Affidavit regarding amount of sales taxable sales of the applicant and copies of applicant's sales tax returns filed with the Tennessee Department of Revenue for the last complete business year;
 7. Affidavit regarding amount of retail floor space of the applicant;
 8. If not included in the lease, a site-plan designating the premises and the parking areas.
 9. Certificate of Good Moral Character, Zoning and Approved Sales of Wine by local option election, as required by T.C.A. §§ 57-3-801, 57-3-805 & 57-3-806, issued within one hundred eighty (180) days of the applicant's application and signed by the county executive or chair of the county commission in which the licensed premises are to be located if outside the corporate limits of a municipality or, if within a municipality, signed by the mayor (or highest executive officer) or a majority of the commission, city council, or legislative body of the municipality.
 10. Inspection by the Tennessee Alcoholic Beverage Commission;
 11. Acknowledgment of the rules and regulations;
 12. Proof that applicant entity, if a corporation, LLC, LP, etc., is registered with the Tennessee Secretary of State's office, and the submission by said applicant entity of a Certificate of Existence/Good Standing issued by the Tennessee Secretary of State's Office within thirty (30) days of applicant's application for a new or renewed license. If applicant entity was formed in another state or foreign jurisdiction, applicant must submit a Certificate of Authorization issued by the Tennessee Secretary of State's Office within thirty (30) days of applicant's application for a new license or renewal of an existing license.
 13. Corporate charter/Articles of Organization;
 14. List of Officers/Owners/Members/Partners. Any owner of less than ten percent (10%) of the applicant need not be individually identified;
 15. Sales & Use Tax Certificate of Registration;
 16. Application fee;
 17. Completed declarations of citizenship to be submitted by owner(s), member(s), executive officer(s), and/or principal(s) of the applicant and others as required by P.C. 1061 (2012);
 18. Designation by the applicant of a TABC permitted manager or managers who will be in actual control of the retail wine sale operations upon the applicant's premises; and
 19. Any other information that the Tennessee Alcoholic Beverage Commission may request pursuant to the provisions of Tenn. Code Ann. §57-3-801, et.seq.
- (b) In addition, any of the following documents which exist must also be submitted:

1. Management agreements;
 2. Bill of sale.
- (c) If a county or municipality wherein the applicant intends to conduct business fails to grant or deny the certificate required by T.C.A. § 57-3-806 within sixty (60) days of receipt of the written application for a certificate, the certificate is deemed to be granted.
- (2) If a lease agreement, assignment, sublease or other documentation executed by the applicant for a Retail Food Store Wine license and the owner or landlord of the proposed location, sought to be licensed, contains provisions that would limit or restrict the sale or distribution of wine or other alcoholic products (i.e. alcoholic beverages and/or beer as defined in T.C.A. § 57-5-101) within the same shopping center or other development whereupon the applicant seeks to license its premises, the applicant and the owner or landlord of the proposed location, shopping center or other development, must submit documentation acceptable to the Commission waiving any such restrictions to any and all tenants within the same shopping center or other development. An applicant is not required to obtain and submit the leases of other tenants of the shopping center or other development. However, lease or deed restrictions or covenants imposed by an owner or landlord limiting or restricting the sale or distribution of wine or other alcoholic products (i.e. alcoholic beverages and/or beer as defined in T.C.A. § 57-5-101) by other tenants within the same shopping center or development will serve to prohibit the issuance to the applicant of a retail food store wine license at the proposed location.
- (3) An applicant for a retail food store wine license shall identify all retail liquor stores within 500 feet measured from the closest outside wall of the confines of the retail food store to the closest outside wall of the retail liquor store. An applicant may submit waivers of the permission required pursuant to TCA §57-3-806(e) from the retail liquor stores located within 500 feet of the applicant's retail food store, signed by the owners of such retail liquor stores, and such waivers shall be deemed to be written permission from the retail liquor store for the issuance of the retail food store wine license to the applicant.
- (a) Upon receipt of an application for a retail food store wine license application, and in the absence of the submission of a signed waiver from the owner of a retail liquor store located within 500 feet of the applicant's retail food store, the Commission shall notify the retail liquor store, by email if the retail liquor store has provided an email address or by telephone if not provided, of the applicant requesting said waiver.
 - (b) The retail liquor store shall have 30 days to respond to the communication from the Commission by either granting permission for the issuance of a retail food store license or denying the issuance of a retail food store license.
 - (c) If the retail liquor store does not respond within 30 days, such non-response shall be considered a denial of permission.
 - (d) If a retail liquor store denies permission for the issuance of retail food store wine license, it shall immediately cease selling all items identified in T.C.A § 57-3-404(e). A retail liquor store may not resume selling the items identified in T.C.A § 57-3-404(e) until permission is granted to the retail food store wine applicant and the Commission is notified in writing of this grant of permission or July 1, 2017, whichever occurs first.
 - (e) The grant of permission to a retail food store shall survive any and all subsequent purchases of a retail liquor store by a new owner and once a written grant of permission has been given to a retail food store it may not be rescinded.

- (4) **Restriction on License after Revocation.** If a retail food store wine license is revoked by the Commission, for a period of one (1) year following revocation, no subsequent license shall be issued to the spouse, child or children, daughter-in-law, son-in-law or other person having any interest in the business of the licensee whose license was revoked. Additionally, for a period of one (1) year following revocation, no license shall be issued at the same location or in close proximity of the same location. The Commission may, in its discretion, waive the prohibition regarding locations.
- (5) **Must Surrender License If Business Discontinued.** Whenever any licensee discontinues business for any reason, it shall immediately notify the Commission in writing and surrender its license.
- (6) **Time Requirement to Commence Business.** Approval of the issuance of a retail food store wine license by the Commission shall automatically expire ninety (90) calendar days after such approval if the licensee has not opened for business, unless a written request is received and granted for an extension.
- (7) **Business Name Change.** At least seven (7) calendar days prior to any change in its business name or "d/b/a", a licensee shall submit the proposed change in writing to the Commission for approval. Upon approval and within a reasonable time, the Commission will amend the licensee's electronic record to reflect the licensee's new business or "d/b/a" name.
- (8) **Display of License.** Any person, partnership, corporation, or other legal entity holding a retail food store wine license shall prominently display and post, and keep displayed and posted, in a conspicuous place in the licensed premises, the license so issued.

Authority: T.C.A. §§ 57-1-209, 57-3-104(c)(4), 57-3-803, and 57-3-806. **Administrative History:** Original rule filed

0100-11-.02 Issuance of Initial Licenses.

A retail food store wine applicant may not sell wine to patrons or customers, in sealed packages only, and not for consumption on the premises until it has been issued a retail food store wine license. Retail food store wine licenses shall not be issued prior to July 1, 2016.

Authority: T.C.A. §§ 57-3-104(c)(4) and 57-3-803. **Administrative History:** Original rule filed

0100-11-.03 Conduct of Business.

- (1) **Advertising.** The provisions of rules, 0100-03-.02, 0100-03-.03, 0100-03-.04, 0100-03-.05, 0100-03-.06, 0100-03-.07, and 0100-03-.08 apply to retail food store wine licensees in the same manner as they apply to off premises retailers licensed pursuant to T.C.A. § 57-3-204.
- (2) **Responsibility for Penalties and Violations.**
 - (a) Licensees are at all times responsible for the conduct of their business and are at all times directly responsible for any act or conduct of any employee which is in violation of the laws of Tennessee, the rules and regulations of the Commission, whether the licensee be present at any such time or not. This section is defined to mean that any unlawful, unauthorized, or prohibited act on the part of an agent or employee shall be construed as the act of the licensee, and the licensee shall be proceeded against as though it were present and had an active part in such unlawful, unauthorized, or prohibited act, and as if having been at the licensee's direction and with its knowledge.

- (b) In disciplinary proceedings, it shall be no defense that an employee or agent of a licensee acted contrary to an order, or that a licensee did not personally participate in the unlawful, unauthorized, or prohibited action or actions. However, mitigating factors as permitted under the Responsible Wine Vendor program may be considered by the Commission.
 - (c) In a disciplinary actions brought against a retail food store wine licensee, any suspension or revocation of a license shall suspend or revoke the ability of the retail food store to sell wine and accept deliveries of wine from wholesalers. A suspension or revocation of a license shall not affect the ability of the retail food store to remain open or to sell other items not regulated by the TABC, including food items, non-food items, and beer.
- (3) **Delivery of Wine.** A wholesaler may deliver wine to a retail food store wine licensee at any time the retail food store location is open to the public and shall deliver only to the business address of the retail food store licensee at its customary loading dock.
 - (4) **All Licensees Must Keep Records Available Three Years.** Each licensee shall keep, for at least three (3) years; all purchase orders, invoices and all other records of all purchases and sales of wine made by such licensee. All such orders, invoices, and all other books and records pertaining to the licensee's operation shall be open for inspection to any authorized representative of the Tennessee Alcoholic Beverage Commission or Department of Revenue and failure to make such available shall be deemed cause for revocation of its license. Such records may be maintained in electronic format, and will be deemed available and open for inspection if the Commission or the Department of Revenue can review such records at the licensed premises or, if such records are stored in a central office, can be supplied to the Commission or Department of Revenue within three (3) business days upon request.
 - (5) **Hours Licensee may Sell Wine.** A Retail Food Store may sell wine only between the hours of 8:00 a.m. and 11:00 p.m. on Monday through Saturday. A Retail Food Store may not make any sale of wine on Sunday or on Christmas, Thanksgiving, Labor Day, New Year's Day, or the Fourth of July.
 - (6) **Mandatory Carding.** Prior to making a sale of wine, a Retail Food Store certified clerk must inspect a valid unexpired government issued form of identification to ensure that the purchaser is over the age of 21. The inspection of the identification must take place in a face-to-face transaction. Any government-issued document that has expired shall not be deemed to be "valid" for purposes of T.C.A. § 57-3-808, and as such, a retail food store may not sell wine to a person who has not provided an unexpired government-issued document that meets the requirements of T.C.A. § 57-3-808.
 - (7) **Sales to Intoxicated Customers.** A retail food store shall not make a sale of wine to a customer who is visibly intoxicated or accompanied by a person who is visibly intoxicated.
 - (8) **Customer assistance.** An employee of a retail food store may assist customers with loading wine in their vehicles as long as the vehicle is parked in the parking area of the licensee and such parking area is identified in the application of the retail food store. A retail food store permitted clerk must check the identification of any person purchasing wine as part of the sale prior to assistance being given to that customer by an employee with loading of wine to a vehicle.
 - (9) **Managers.**
 - (a) Each retail food store wine licensee shall have at least one designated permitted manager, but may have two or more designated permitted managers. Only the retail food store wine licensee's designated permitted manager(s) may place orders for wine

with wholesalers. A designated permitted manager may not be assigned to more than one retail food store wine licensee.

- (b) A designated permitted manager of a retail food store may transfer his or her permit to another retail food store wine licensee by notifying the Commission in writing of the effective date of the transfer. All transfer notifications must be made prior to the designated permitted manager(s) involvement in the placement of wine orders at the new retail food store wine licensee's location.
- (10) **Free Access to Licensed Premises Without Warrant.** Immediate access, without a warrant, to all parts of a retail food store shall at all times be accorded agents, officers or representatives of the Commission.
- (11) **Refusal of Cooperation.** Any licensee, his agent, or employee who refuses to open or disclose records to, or furnish information to, or who furnishes false and/or misleading information to an agent, officer or representative of the Commission upon any matter relating to or arising out of the conduct of the retail food store premises shall subject the license to revocation or suspension.
- (12) **Licensee Responsible For Law and Order on Licensed Premises.** Each licensee shall maintain his establishment in a decent, orderly and respectable manner in full compliance with all laws of Tennessee, Commission rules and regulations, federal statutes, and ordinances and laws of the municipality and/or county where the licensed premises are located at all times. The renting or leasing of the licensed premises for an event to a non-licensed entity, person or corporation is specifically deemed not to be a defense for a violation of this rule and does not diminish licensee's responsibility to comply with this rule.
- (13) **Restriction as to Age of Licensee's Employees.** Nothing herein shall prohibit a licensee from hiring a person under the age of 18 years, however employees under the age of 18 shall not be permitted to sell wine, beer, malt beverages or hard cider in any establishment licensed under the provisions of T.C.A. § 57-3-803.
- (14) **Purchases.** Only the designated permitted manager(s) of a retail food store wine licensee may place orders for wine with wholesalers. No discounts for wine may take into account orders for wine at other locations owned by the licensee.

Authority: T.C.A. §§57-1-209, 57-3-104(c)(4) and (9), 57-3-404(i), 57-3-412, 57-3-803, 57-3-806, 57-3-808, 57-3-811, 57-3-812, and 57-3-815, **Administrative History:** *Original rule filed*

0100-11-04 Renewal

- (1) In addition to submitting a completed renewal application and the renewal fee, each retail food store wine licensee is required to submit an annual statement detailing its annual total sales revenue and its annual sales taxable sales revenue from the retail sale of food and food ingredients for human consumption. The report of such sales shall not include tax paid as part of the calculations of revenue.
- (2) A retail food store wine licensee shall keep sales and purchase records for a minimum of three years in a manner usual and customary in the industry. Such records may be maintained in electronic format.
- (3) In the event that the retail food store has failed to meet the requirement that 20% of its sales are from sales taxable sales of food and food ingredients for human consumption, the Commission shall notify the licensee that it has one year to come into compliance with the requirement. The licensee shall submit a plan to the Commission detailing its plan on compliance.

- (4) The failure of the retail food store to meet the requirement that 20% of its sales are from sales taxable sales of food and food ingredients for human consumption after the one (1) year period shall result in the Commission's revocation of its license to sell wine. In the event of a revocation and for a period of one (1) year following revocation, a subsequent license shall not be issued to the spouse, child or children, daughter-in-law, son-in-law or other person having any interest in the business of the licensee whose license was revoked. Additionally, for a period of one (1) year following revocation, no license shall be issued at the same location or in close proximity (within five miles) of the same location, and the Commission shall not renew a license to the same person, firm or corporation.

Authority: T.C.A. §§ 57-3-104(c)(4) and 57-3-806(d). **Administrative History:** Original rule filed;

0100-11-.05 Responsible Vendor Training Program.

Each retail food store wine licensee shall participate in the Responsible Wine Vendor Program, pursuant to T.C.A. §57-3-818 and be certified pursuant to TABC Rules 0100-12. There shall not be a requirement for a licensee to participate in both the Responsible Wine Vendor Program and the responsible vendor training program established in chapter 5, part 6 of title 57.

Authority: T.C.A. §57-3-104(c)(4) and 57-3-818. **Administrative History:** Original rule filed

0100-11-.06 Operation of Liquor By The Drink Establishments Within Retail Food Stores

- (1) A retail food store wine licensee may also hold a license for on-premises consumption within the location as a retail food store wine licensee. However, the premises of the on-premises consumption license must be physically separated from the retail food store wine licensee's premises. Physical separation may be accomplished by walls, fencing or other means, approved by the Commission, used to indicate that the two areas have been designated to operate separately.
- (2) A retail food store wine licensee must operate an area with an on-premises license as a separate entity from the retail food store. A retail food store may sublease its premises to a different person or entity for purpose of operating an establishment licensed pursuant to T.C.A. 57-4-101, et seq.
- (3) The comingling of the inventory of alcoholic beverages by any person holding a license under T.C.A. §57-3-801 and T.C.A. § 57-4-101 or by any different persons holding licenses pursuant to T.C.A. §57-3-801 and T.C.A. § 57-4-101, is cause for suspension or revocation of any and all licenses that is involved in such activity.

Authority: T.C.A. §§ 57-3-104(c)(4), 57-3-817. **Administrative History:** Original rule filed

0100-11-.07 Conduct of Industry Members with Retail Food Stores

- (1) The provisions of Rule 0100-06 shall apply to retail food stores, except as otherwise provided:
 - (a) An industry member may not provide stocking, rotating, or pricing services on the premises of a retail food store;
 - (b) An industry member may provide product displays, signs, point of sale advertising materials, equipment, supplies, and other items authorized by Rule 0100-06-.03, provided:

1. Such items are provided solely to a permitted manager; and
 2. The industry member may not set up any such display, sign, or item, or perform any service or action whatsoever regarding such item, other than the provision of such item to the permitted manager;
 3. An industry member or TABC permitted representative may provide routine business entertainment pursuant to Rule 0100-06-.03(5) and (6) and educational seminars pursuant to Rule 0100-06-.03(11) to be conducted only upon the industry member's non-bonded TABC licensed premises, provided that such routine business entertainment and educational seminars may only be provided to permitted managers and the licensee, if the licensee is an individual, and to no other employees or agents of the retail food store; and
 4. Samples of wine may not be provided upon the retail food store's premises pursuant to Rule 0100-06-.03(11). Samples may only be provided to a permitted manager or licensee, if licensee is an individual, as part of an educational seminar as authorized in this rule and Rule 0100-06-.03(11).
- (c) An industry member may not provide or sell to a retail food store any combination package containing wine as otherwise authorized by Rule 0100-06-.03(10).
- (2) The provision of any product display, sign, point of sale advertising material, equipment, supply, or other item by a licensed wholesaler solely with regards to beer or other items that are not alcoholic beverages may be provided pursuant to all local ordinances and federal law.
 - (3) No TABC licensed industry member or any employee, agent, representative or salesperson employed by or representing any such TABC licensed industry member shall provide any services to or for the benefit of a retail food store wine licensee including, but not limited to services involving shelving, dressing, displaying, or setting wine inventory owned or purchased by the retail food store licensee. This prohibition shall apply to its TABC licensed industry member if the service is being performed with relation to wine, or alcoholic beverages but not beer. This prohibition shall not apply to any wholesaler, manufacturer or importer of beer or non-alcoholic items that is not licensed by the Commission.

Authority: T.C.A. § 57-1-209, 57-3-104(c)(4) and (9), 57-3-815, and 57-3-907. **Administrative History:** Original rule filed

* 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)
MARY MCDANIEL	✓				<i>Mary McDaniel</i>
BRYAN KAEGI	✓				<i>Bryan Kaegi</i>
JOHN JONES	✓				<i>John A Jones</i>

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Alcoholic Beverage Commission (board/commission/ other authority) on 12/15/15 (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: 10/14/2015

Rulemaking Hearing(s) Conducted on: (add more dates). 12/09/2015

Date: 12/22/15

Signature: *E. Keith Bell*

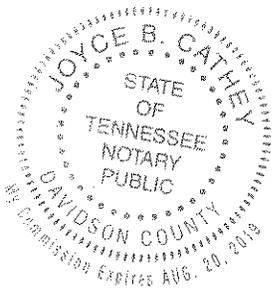
Name of Officer: E. Keith Bell

Title of Officer: Executive Director

Subscribed and sworn to before me on: 12/22/15

Notary Public Signature: *Joyce B. Cathey*

My commission expires on: 8/20/19



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

2/23/2016 Date

Department of State Use Only

Filed with the Department of State on: 2/29/16

Effective on: 5/29/16

Tre Hargett
Tre Hargett
Secretary of State

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PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

AGENCY: Tennessee Alcoholic Beverage Commission

SUBJECT: Responsible Beer Vendor Program

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 57-3-818

EFFECTIVE DATES: May 29, 2016 through June 30, 2017

FISCAL IMPACT: Minimal.

STAFF RULE ABSTRACT: The rulemaking hearing rule renames the current responsible vendor program as the responsible beer vendor program in order to differentiate that program from the new responsible wine vendor program. The rule also specifies that renewal applications must be submitted within 30 days of certification of expiration, clarifies that certain timelines within the current rules will be calculated based on calendar days, and requires that a certified clerk's name badge show the clerk's given first name but may omit the clerk's last name.

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.

A copy of a memorandum stating that no comments were received is attached.



STATE OF TENNESSEE
ALCOHOLIC BEVERAGE COMMISSION
DAVY CROCKETT TOWER
500 JAMES ROBERTSON PKWY, 3rd FLOOR
NASHVILLE, TENNESSEE 37243-0755



PHONE 615.741.1602

FAX 615.741.0847

MEMO

From: E. Keith Bell, Director

Re: Responses to comments made at public rulemaking hearing

Date: December 15, 2015

On November 20, 2015, a rulemaking hearing regarding revisions to Rule 0100-09 was held in accordance with the law. No public comments regarding this rule were made at the hearing.

Sincerely,

E. Keith Bell
Executive Director
Tennessee Alcoholic Beverage Commission
(615)741-7620

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making 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.

T.C.A. § 57-3-818 requires the Tennessee Alcoholic Beverage Commission (TABC) to create a Responsible Vendor Program for retail food stores selling wine and retail package stores that is similar to the Responsible Vendor Program for certain stores that sell beer for off-premises consumption pursuant to Rule 0100-09. The new program will be called the Responsible Wine Vendor Program. Rule 0100-09 is being revised primarily to rename the current program the Responsible Beer Vendor Program to distinguish it from the Responsible Wine Vendor Program and to revise the rule to ensure that the rule will apply to "beer" as defined in T.C.A. § 57-5-101(b). The changes in the rule are not expected to have any impact on small businesses. There are no state or federal counterparts for which this rule can be effectively compared to. The exemption of small businesses from this rule would exempt them from being able to participate in the voluntary program and receive the associated rewards for participation, and as such would be detrimental to 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://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed changes in the rule are not projected to have any impact on local governments.

**Department of State
Division of Publications**

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Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 02-29-16
Rule ID(s): 6129
File Date: 2/29/16
Effective Date: 5/29/16

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 Alcoholic Beverage Commission
Division:	
Contact Person:	E. Keith Bell (Keith Bell is also the disc acquisition contact)
Address:	500 James Robertson Parkway, 3 rd Floor, Nashville, TN
Zip:	37243
Phone:	615-741-7620
Email:	Keith.Bell@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
0100-09	Responsible Beer Vendor Program
Rule Number	Rule Title
0100-09-.01	Definitions
0100-09-.02	Application/Certification Process
0100-09-.03	Responsible Beer Vendor Training Program Format
0100-09-.04	Miscellaneous Provisions
0100-09-.05	Fines

Chapter 0100-09 Responsible Vendor Program is amended by deleting the chapter in its entirety and by substituting instead the following language:

**RULES
OF
TENNESSEE ALCOHOLIC BEVERAGE COMMISSION**

**CHAPTER 0100-09
RESPONSIBLE BEER VENDOR PROGRAM**

TABLE OF CONTENTS

0100-09-.01	Definitions	0100-09-.04	Miscellaneous Provisions
0100-09-.02	Application/Certification Process	0100-09-.05	Fines
0100-09-.03	Responsible Beer Vendor Training Program Format		

0100-09-.01 DEFINITIONS.

- (1) **Certified Clerk.** For the purposes of this chapter, a certified clerk is a certified responsible beer vendor employee who has successfully completed a certified training course and, if appropriate, has received required additional annual training as set forth in the rules.
- (2) **Clerk.** For the purposes of this chapter, a clerk is a certified responsible beer vendor employee who works in a capacity to sell, provide, distribute, and/or otherwise dispense beer of alcoholic content of not more than five percent (5%) by weight as defined at T.C.A. § 57-5-101(b) and whose duties include the opportunity to sell, provide, distribute and/or otherwise dispense such products. Clerks also include those certified responsible beer vendor employees who monitor self-scan or customer-scan check-out areas.
- (3) **Commission.** The Commission shall mean the Tennessee Alcoholic Beverage Commission.
- (4) **Hire Date.** The applicable hire date for a clerk is when that employee's duties and responsibilities include the opportunity to sell, provide, distribute and/or otherwise dispense beer of alcoholic content of not more than five percent (5%) by weight as defined at T.C.A. § 57-5-101(b).
- (5) **In-house Program.** An in-house program is a training program administered by a vendor for the vendor's employees.
- (6) **Public Program.** A public program is a training program administered to any individual by an entity other than a vendor. A public training program is also a training program administered by a vendor to both its own employees as well as other individuals.
- (7) **Training date.** The training date is the date on which a clerk successfully completes a vendor training program for a particular vendor.
- (8) **Valid Identification.** Valid identification means government issued identification that includes photograph and that has not expired. Such identification includes driver's licenses, military identification, passports and permanent resident cards.

Authority: T.C.A. § 57-5-605(b). **Administrative History:** Original rule filed March 10, 2010; effective June 8, 2010.

0100-09-.02 APPLICATION/CERTIFICATION PROCESS.

- (1) Application for Certification of a Responsible Beer Vendor Training Program. Any entity or individual seeking to have a responsible beer vendor training program certified shall complete and submit a written application on forms prescribed by the Commission. The application shall disclose the following information:
 - (a) The identity of the applicant seeking to have the program certified, including the address, names of all individuals responsible for beer vendor training, and the source of the curriculum utilized by the applicant.
 1. If the applicant is a corporation or LLC, a copy of the corporate charter, articles of organization, and/or certificate of authority must be submitted.
 2. If the applicant is a partnership, a copy of the certificate filed with the Tennessee Secretary of State's Office (if a limited partnership), or other document evidencing formation of such partnership is required.
 - (b) Each program applicant shall submit to the Commission a copy of all training materials (including video or audio materials used for their program). A true and exact copy of the curriculum, including tests, to be utilized in the responsible beer vendor training program must also be submitted. Prior to any modifications to the training materials, such proposed modifications shall be submitted to the Commission for approval. To be certified, a responsible beer vendor program must offer a curriculum which, at a minimum, contains the following items:
 1. The effect of alcohol on the human body focusing on these elements:
 - (i) The behavioral effects of alcohol: i.e., decrease in reaction and decision making capability;
 - (ii) Interaction and combined effects of mixing alcohol with legal and/or illegal drugs; and
 - (iii) Identification of possible intoxicated customers.
 2. Identifying situations in which clerk intervention is appropriate.
 3. Handling situations and people in a non-confrontational manner and identifying when support from co-workers is necessary.
 4. Suggested responses by clerks to situations involving intoxicated and/or underage persons.
 5. A review of current Tennessee laws, rules, and regulations promulgated by the Commission relating to the sale beer and/or malt beverages and the Tennessee Responsible Vendor Act of 2006.
 6. A review of appropriate identification including acceptable driver's licenses, military identification, passports, and other government issued photo identification cards; and
 7. A review of how to identify fake and/or altered identifications as described above.
 8. Advising attendees that local ordinances may exist affecting the sale of alcoholic and malt beverages.

- (c) If the responsible beer vendor training program conducts in-person training, then the program shall submit a TABC questionnaire for each trainer conducting their class to the Commission. Such completed questionnaire must be received by the Commission prior to that trainer conducting classes.
 - (d) Any other information requested by the Commission; and
 - (e) Appropriate certification fee.
- (2) If the training program is conducted through the use of the Internet or Intranet, then in addition to the items required above, the training program must provide verification acceptable to the Commission that the identity of the users may be authenticated.
- (3) Renewal of Responsible Beer Vendor Training Program Certification.
- (a) Responsible Beer Vendor Training Program Certification shall be valid for a period of one year from the date of issue.
 - (b) To prevent interruption of certification, the responsible beer vendor training program must fulfill the following requirements at least thirty (30) days prior to expiration date:
 - 1. Submit to the Commission a completed renewal application along with any amended or updated materials;
 - 2. List of all current trainers;
 - 3. Appropriate renewal fee.
- (4) Application for Certification of a Responsible Beer Vendor. Any entity or individual seeking to become a certified responsible beer vendor shall complete and submit a written application on forms prescribed by the Commission. The application shall disclose the following information:
- (a) The identity of the applicant seeking to achieve responsible beer vendor status, including the address, phone number, and any other information required by the Commission.
 - 1. If the applicant is a corporation or LLC, a copy of the corporate charter and/or certificate of authority must be submitted.
 - 2. If the applicant is a partnership, a copy of the certificate filed with the Tennessee Secretary of State's Office (if a limited partnership), or other document evidencing formation of such partnership is required.
 - (b) Names and identifying information of all clerks employed—such information shall be submitted on forms prescribed by the Commission;
 - (c) Name of beer board issuing beer permit to applicant, beer board address, and beer permit number;
 - (d) Any other information requested by the Commission;
 - (e) Identification of training program used; and
 - (f) Appropriate certification fees.

- (5) Application for Renewal of Certification of Responsible Beer Vendor.
 - (a) Program certification shall be valid for a period of one year from the date of issue.
 - (b) To prevent interruption of certification, the responsible beer vendor must fulfill the following requirements at least thirty (30) days prior to expiration date:
 1. Submit to the Commission a completed renewal application along with any amended or updated materials; and
 2. Each responsible beer vendor shall submit at least thirty (30) days prior to the expiration of the certification a renewal application; a current list of all clerks and their hire dates (such shall be submitted on forms prescribed by the Commission); the date that the certified clerks received their annual training; and the appropriate certification fee.
- (6) Neither program nor responsible beer vendor certifications are transferable. Before a transfer of ownership can occur, that new entity must first make application for certification to the Commission pursuant to the rules and regulations. The new business entity may not begin training and the vendor will not be certified by the Commission until an application for certification is approved. Once the location is certified as a responsible beer vendor, then the responsible beer vendor has 61 days to train its clerks.

Authority: T.C.A. § 57-5-605(b). **Administrative History:** Original rule filed March 10, 2010; effective June 8, 2010.

0100-09-.03 RESPONSIBLE BEER VENDOR TRAINING PROGRAM FORMAT.

- (1) Complete training program must be at least (2) hours of instruction, excluding breaks for attendees. Such training program must take place in a publicly accessible location, but may take place on the certified responsible beer vendor's premises. Training programs may not be conducted in private homes.
- (2) The training program must provide either printed materials to attendees or make training materials available online for review after completion of the training. Once a program has been certified by the Commission, the following statement shall be placed in bold type on the cover sheet of such written materials or manuals: **"This program has approved by the Tennessee Alcoholic Beverage Commission as currently satisfying the requirements contemplated by the Tennessee Responsible Vendor Act of 2006"**.
- (3) (a) At the beginning of each training program, attendees shall be advised that they must meet the following qualifications to be a certified clerk eligible to participate in the responsible beer vendor program:
 - i. Be at least 18 years of age;
 - ii. Must not have been criminally convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages within the past ten (10) years; and
 - iii. Must not have been convicted of any crime involving moral turpitude within the past ten (10) years.

- (b) A responsible beer vendor is not required to perform criminal background checks on employees or clerks; however, the responsible beer vendor should inquire on the application as to any convictions the employee or clerk has had for the past ten years.
- (4) Testing.
- (a) Upon completion of the training, the program must adequately test the comprehension and understanding of the attendees. Testing should be sufficiently randomized and conducted in such a manner as to prohibit prior knowledge of the answers by users. A passing score of at least seventy (70%) percent will be required from each person attending the training before a certificate may be issued-unless the certified beer vendor program requires a higher score.
 - (b) Any attendee failing to attain this passing score may contact the certified program licensee to schedule a second examination within thirty (30) days. A second examination shall be provided to the attendee by the responsible beer vendor program without additional charge.
 - (c) If the second examination is not scheduled and taken within this thirty day period, then the attendee shall be required to attend a second training program in its entirety and pass the test before being eligible to obtain the certificate. Nothing herein shall act to extend the original sixty-one (61) day grace period from the date of hire as a clerk.
 - (d) Within twenty-one (21) calendar days of the training date, the certified program must provide to the Commission a list of all clerks who have successfully completed the program along with the vendor for which each clerk completed the training.
 - (e) If the certified program and responsible beer vendor are the same entity (ie, i.e., if the responsible beer vendor has an in-house certified program), then a single notification to the Commission is sufficient.
- (5) Alcoholic beverages may not be consumed by the instructor or any attendee during the training program.
- (6) All training must be conducted in a professional manner: materials and comments may not be offensive in nature.
- (7) (a) All Certified Responsible Beer Vendor Training Programs shall issue a certificate of completion for any clerk who has successfully completed the training. The original certificate of completion shall be forwarded to the appropriate responsible beer vendor, and the clerk successfully completing the training shall receive a copy. Each certificate of completion shall include the following information:
1. Name and date of birth for clerk;
 2. Name of certified program providing the training;
 3. Date on which the clerk successfully completed the program; and
 4. Name and complete address of responsible beer vendor receiving the certificate of completion.
- (b) Any certified program or responsible beer vendor offering or submitting a fraudulent, fake and/or altered certificate of completion to a TABC representative or to the

Commission shall subject their certification to immediate disciplinary action—including, but not limited to, summary suspension and revocation.

- (8) All Certified Training Programs shall permit access to Commission representatives. Failure to permit access to a Commission representative will result in the program being required to show cause to the Commission why its certification should not be revoked.
- (9) A successful completion by a clerk of a responsible beer vendor training conducted by a certified training program within 61 days prior to the responsible beer vendor submitting its application to the Commission shall be valid. However, such training is valid only for one designated responsible beer vendor location.

Authority: T.C.A. § 57-5-605(b). **Administrative History:** Original rule filed March 10, 2010; effective June 8, 2010.

0100-09-.04 MISCELLANEOUS PROVISIONS.

- (1) Clerk Applicants with Special Needs. Persons with special needs (~~for example, an inability to read and/or write in English, hearing impairment, etc.~~) must contact the certified program at least ~~one week~~ seven (7) calendar days in advance of the training date to request specific assistance in completing that program. Notwithstanding any other provision of these rules, the certified program ~~and the Commission~~ shall endeavor to provide a reasonable accommodations when requested on a case by case basis in compliance with state and federal law.
- (2) (a) Within ten (10) calendar days of the training date, the responsible beer vendor training program must submit to the responsible beer vendor a list of all clerks who successfully completed the training program and received a certificate of completion. Responsible training beer vendor programs shall maintain records of those successfully completing the training program for a period of at least three years to be available for the Commission to review.
 - (b) (i) If a responsible beer vendor owns and operates several locations (operating under the same business name and corporate name) and is using the same responsible beer vendor program for each location, then clerks and/or employees attending a responsible beer vendor program may—upon the initial training course—designate the various locations within the same responsible beer vendor's operation. The successful completion of the training course will be sufficient for training requirements at each designated location. This option does not apply to individuals working at responsible beer vendor locations owned by different entities. The responsible beer vendor training program will issue a certificate to the clerk/employee for each location designated at the time of the class.
 - (ii) For the purposes of certification costs, employees described in the above paragraph will be counted as an employee for each location.
 - (iii) For clerks desiring to add new responsible beer vendor locations under the same ownership after the initial designation, then new training must occur for each location.
- (3) (a) Within twenty-one (21) calendar days of the training date, the responsible beer vendor must submit to the Commission a list of all clerks who have successfully completed the

training program and received a certificate of completion. Such list shall on be submitted on forms prescribed by the Commission.

- (b) If the certified program and responsible beer vendor are the same entity (i.e., if the responsible beer vendor has an in-house certified program), then a single notification to the Commission is sufficient.
- (4) Commission Training Program. To further implement the policy and standards of the Tennessee Responsible Vendor Act of 2006, the Commission may conduct its own training program for clerks. The cost to each clerk in attendance for this training program will be ~~\$2535.00, with a CPI inflation adjustment every three years beginning in 2010.~~ While attendance at a responsible beer vendor program for alcohol awareness is required for any clerk working at a responsible beer vendor location, it is not necessary that such clerk attend the Commission program.
- (5) Each responsible beer vendor shall maintain and have available for review by Commission representatives' employment and training records for all clerks. Such documentation shall include, but is not limited to, the following information for each clerk:
- (a) Name, address, and social security number;
 - (b) Date of hire;
 - (c) Date of training by certified responsible beer vendor program;
 - (d) Date of required annual training related to updated information, policies and procedures.
- (6) Loss of Clerk Certification.
- (a) A certified clerk shall lose their certification under the following circumstances:
 1. If the beer board determines that the clerk sold alcoholic beverages to a minor. The clerk shall lose their certification for a period of one year beginning on the date of the beer board's determination; or
 2. If the clerk receives a criminal conviction of a charge involving the sale of alcoholic beverages to a minor. The clerk shall lose their certification beginning on the date of the conviction, and is further subject to the provisions of T.C.A. § 57-5-301(a)(1); or
 3. Certified clerks must annually attend a meeting regarding updated statutory information as required by T.C.A. § 57-5-601 et seq. This annual meeting shall be held for all clerks within the last quarter of each calendar year. Within twenty-one days after the annual training, the responsible beer vendor shall notify the Commission in writing if the certified clerk has not attended the annual meeting regarding updated statutory information as required by T.C.A. § 57-5-601 et seq. Upon such notification by the responsible beer vendor to the Commission, the certification for identified clerk shall immediately become invalid. Such clerk shall not work in a capacity to sell beer directly to consumers for off-premise consumption until the clerk has received the required updated training; or
 4. If the clerk has not attended at least one annual meeting by the time set forth in these rules and received updated information disseminated by the responsible beer vendor.
 - (b) If a clerk loses their certification but continues to work as a clerk and subsequently, sells beer to an under-aged individual, then the responsible beer vendor shall not be

considered a responsible beer vendor for the purposes of disciplinary action taken by a beer board.

- (7) **Name Badge.** Each certified clerk is required to wear a name badge issued by the responsible beer vendor. Such name badge shall contain the clerk's legal first name, or "given name," but may omit the clerk's last name, or family name, and must be clearly visible to the general public.
- (8) **Grace Period.**
 - (a) Clerks have sixty-one (61) calendar days from their date of hire as a clerk to successfully complete responsible beer vendor training. During this 61 day grace period, if a sale to a minor takes place the Responsible Beer Vendor is treated as having responsible beer vendor status. Any criminal action against the clerk is not affected. If clerks have not received the appropriate training within 61 calendar days of their date of hire, then the responsible beer vendor temporarily loses its status as a responsible beer vendor immediately at the conclusion of the 61 calendar day period. However, if the situation is corrected within thirty (30) calendar days, then upon payment of a civil penalty to the Commission, the status of "responsible beer vendor" may be re-instated. If training does not occur to remedy the situation within thirty (30) calendar days, then the responsible beer vendor status is ~~permanent~~considered expired and the vendor permanently loses its status as a responsible beer vendor, and a new application must be submitted and training must re-occur.
 - (b) In scenario above, should a beer permittee be subject to disciplinary action by a local beer board for a violation involving the sale of alcoholic beverages to a minor, the Commission will, upon request, advise the beer board that the permittee is not a responsible beer vendor because all employees have not received adequate training in a timely manner.
 - (c) If a clerk who is not eligible to participate in the responsible beer vendor program (i.e., if the clerk is under the age of eighteen) sells alcohol to a minor, then the responsible beer vendor loses its status as a responsible beer vendor and is subject to the discretion of the local beer board as it relates to disciplinary action against the beer permit.
 - (d) Upon request, the Commission will issue an affidavit, signed by appropriate personnel, to certify the status of a clerk or responsible beer vendor. This affidavit will be sufficient in lieu of in-person testimony by a Commission representative before a local beer board.
- (9) **Refusal of Cooperation.** Any certified clerk, responsible beer vendor program, responsible beer vendor, ~~his~~ agent, or employee, who refuses to open or disclose ~~his~~ records to, or furnish information to, or who furnishes false and/or misleading information to ~~an~~ TABC special agent, regulatory officer or any representative of the Commission upon any matter directly and/or indirectly relating to the responsible beer vendor program, certification, employees, etc., shall subject the certification and participation in the responsible beer vendor program to suspension and/or revocation.
- (10) **Beer Boards and Local Law Enforcement.** Communication between city and/or county beer boards, local law enforcement and the Commission is vital for the success of the Responsible Beer Vendor program.
 - (a) When a vendor appears before a city or county beer board for an administrative charge of the sale of alcohol to a minor, the Commission will either:

1. Verify the vendor and/or clerk who sold the alcohol to a minor are certified and are eligible for mitigation in disciplinary action according to the statute; or
 2. Verify such vendor and/or clerk have not been certified, and are not eligible for mitigation in disciplinary actions by the regulating beer board.
- (b) Local beer boards should notify the Commission when disciplinary actions involving the sale of alcoholic beverages to a minor have been taken against an off-premise beer permittee within 15 days of such action.
- (c) If a beer permittee represents to a city or county beer board that they are a responsible beer vendor but are not, then the city or county beer board should notify the Commission of such misrepresentation. Such beer permittee shall be ineligible to participate in the responsible beer vendor program for a period of three (3) years from the date of misrepresentation.
- (d) Local law enforcement should notify the Commission when an employee of an off-premise beer permittee has been criminally convicted of a charge involving the sale of alcoholic beverages to a minor.
- (11) Notice of training sessions. The Commission must be notified seven (7) calendar days in advance of any training if the training will be conducted by an individual(s) at a location where clerks will be present. The notice must include the name of the training program, the instructor, the complete address of the training site, and the time and location of the training.
- (12) To obtain the benefits associated with being a certified responsible beer vendor, the beer permittee must actually be certified by the Commission as a responsible beer vendor at the time of the offense. Any application for certification as a responsible beer vendor submitted to the Commission with charges/offenses pending before the local beer board will not be reviewed until such charges/offenses are concluded: the approval or denial of the responsible beer vendor application will be made once the Commission has received notification of the result of the pending charges/offenses.
- (13) Once the Commission receives notification of a second offense sale of alcohol to a minor within a twelve month period, then the Commission shall revoke the responsible beer vendor's certification as a responsible beer vendor for a period of three years. Subsequent sales of alcohol to minors by the beer permittee do not receive protection under the responsible beer vendor training provisions.

Authority: T.C.A. § 57-5-605(b). **Administrative History:** Original rule filed March 10, 2010; effective June 8, 2010.

0100-09-.05 FINES.

- (1) ~~In any case where~~ The Commission is given the power and authority to suspend or revoke any license or permit issued pursuant to Title 57, Tennessee Code Annotated, for any violation thereof; however, the Commission may, in the alternative to suspension or revocation ~~its discretion~~, impose a fine as set out hereafter, in lieu of suspension or revocation of any license or permit.
- (2) Fines may be used to informally remedy a matter by written consent of all parties to the matter.
- (3) Any violation of the Rules and Regulations promulgated to implement and maintain the Responsible Vendor Act of 2006 may result in the imposition of a fine, suspension, or revocation of any certification, license, or permit issued by the Commission.
- (4) Providing false or misleading information in any required document, application, and/or investigation may result in the denial of that application, or the suspension or revocation of a program's or vendor's certification.
- (5) Fines may be assessed for the following violations:
 - a. Against a Responsible Beer Vendor:
 1. Misrepresentation of status as a Responsible Beer Vendor;
 2. Willful failure to comply with Tennessee statutes and Tennessee Alcoholic Beverage Commission Rules and Regulations;
 3. Failure to have Clerk certified within 61 calendar days of hire date;
 4. Failure to verify eligibility of clerk for certification prior to hiring with the Commission;
 5. Failure to maintain original certification of completion for clerk at Responsible Beer Vendor location;
 6. Failure to notify Commission within twenty-one (21) calendar days of training for certified clerk;
 7. Failure to provide or have clerk display name badge while on duty;
 8. Failure to provide instructions for its employee's as approved by the Commission;
 9. Failure to have certified clerk meet annual meeting requirements;
 10. Failure of Responsible Beer Vendor to disseminate updated information prescribed by the Commission and the Responsible Beer Vendor Policy and Procedures related thereto;
 11. Failure to notify Commission of clerk failure to attend annual meeting following original certification;
 12. Failure to maintain records of certified clerk required annual meeting;

13. Failure to disseminate information related to changes in State Law or Commission Rules and Regulations to certified clerks as required by the Commission;
 14. Failure to maintain employment records and all responsible training records of all clerks;
 15. Failure to cooperate by not providing information requested by the Commission;
 16. Failure to notify Commission of change in training program;
 17. Allowing a decertified clerk to continue to operate in a capacity to sell beer directly to consumer;
 18. Failure to have Responsible Beer Vendor certificate posted;
 19. Failure to Renew Responsible Beer Vendor Certification in a timely manner.
- b. Against a Training Program:
1. Failure to meet mandatory minimum class time;
 2. Not a TABC certified training program for Responsible Beer Vendor Training;
 3. Failure to adequately test the comprehension and understanding of the attendees of the Responsible Beer Vendor Training of off premise sale of beer;
 4. Failure to cover the required material;
 5. Failure to timely renew certification.

Authority: T.C.A. § 57-5-605(b). Administrative History: Original rule filed March 10, 2010; effective June 8, 2010.

* 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)
MARY MCDANIEL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>Mary McDaniel</i>
BRYAN KAEGI	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>Bryan Kaegi</i>
JOHN JONES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>John a Jones</i>

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Alcoholic Beverage Commission (board/commission/ other authority) on 12/15/15 (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: 9/28/2015

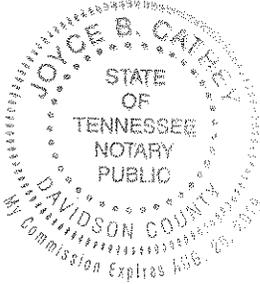
Rulemaking Hearing(s) Conducted on: (add more dates). 11/20/2015

Date: 12/22/15

Signature: *E. Keith Bell*

Name of Officer: E. Keith Bell

Title of Officer: Executive Director



Subscribed and sworn to before me on: 12/22/15

Notary Public Signature: *Joyce B. Cathey*

My commission expires on: 8/20/19

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

2/25/2016 Date

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Filed with the Department of State on: 2/29/16

Effective on: 5/29/16

Tre Hargett
Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: University of Tennessee

DIVISION:

SUBJECT: Use of University Property

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 49-9-209

EFFECTIVE DATES: May 4, 2016 through June 30, 2017

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: On August 19, 2015, the Joint Government Operations Committee of the General Assembly voted to request the University of Tennessee Board of Trustees to amend Chapter 1720-01-02-.05 (No-Trespass Notices). A no-trespass notice is a written directive requiring a person to leave and/or not enter all or part of University property.

In response to the Committee's request, the University of Tennessee Board of Trustees adopted the following amendments to Section .05:

Section .05 will apply only to non-affiliated persons (i.e., it will not apply to students and employees). Only a sworn law enforcement officer may issue a no-trespass notice.

A person who receives a no-trespass notice may appeal to the campus/institute chief of police.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making 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.

(If applicable, insert Regulatory Flexibility Addendum here)

The Regulatory Flexibility Addendum is 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://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The University of Tennessee anticipates that this rule change will have minimal to no impact on local governments.

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For Department of State Use Only

Sequence Number: 01-01-16
Rule ID(s): 6099
File Date: 1/5/16
Effective Date: 4/4/16

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207 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 sixty (60) days of the first day of the month subsequent to 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 twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission:	University of Tennessee
Division:	
Contact Person:	Matthew Scoggins, Deputy General Counsel
Address:	719 Andy Holt Tower, 1331 Circle Park, Knoxville, TN
Zip:	37996-0170
Phone:	865-974-3245
Email:	scoggins@tennessee.edu

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
1720-01-02	Use of University Property
Rule Number	Rule Title
1720-01-02-.05	No-Trespass Notices

**RULES
OF
THE UNIVERSITY OF TENNESSEE**

**CHAPTER 1720-01-02
USE OF UNIVERSITY PROPERTY**

1720-01-02-.01 DEDICATION OF UNIVERSITY PROPERTY. The University of Tennessee ("University") dedicates its property exclusively to the advancement of the University's principal missions of teaching, research, and service. The University regulates its property to preserve it for the advancement of the University's principal missions.

1720-01-02-.02 DEFINITIONS

- (1) The term "University property" means all land, grounds, structures, and any other physical property owned, controlled, or operated by the University of Tennessee.
- (2) The term "University unit" means any academic, administrative, or auxiliary department or division of the University or any other official entity of the University, functioning through University employees acting within the scope of their University employment.

1720-01-02-.03 AUTHORIZED USERS AND PERMISSIBLE USES.

- (1) The use of University property is limited to the following persons, subject to Section .03(2) and Section .05:
 - (a) University students;
 - (b) University employees;
 - (c) Members of the Board of Trustees;
 - (d) Government officials acting in their official capacities;
 - (e) A person or entity invited by a University unit, including but not limited to, a person or entity who has a contract to provide services to the University, provided that the use of University property shall not exceed the scope of the University unit's invitation;
 - (f) A person who has been invited by a University student, student organization, or employee in his/her personal capacity, to join the student, student organization, or employee in the use of University property (e.g., friends and family), but not including the use of University property for free expression activities, provided that the use of University property shall not exceed the scope of the invitation;
 - (g) A non-affiliated person using University property for free expression activities pursuant to Chapter 1720-01-12 (Use of University Property by Non-Affiliated Persons for Free Expression Activities);
 - (h) Volunteers of the University, as defined by University policy, within the scope of their volunteer work;

- (i) Prospective students visiting University property and persons accompanying prospective students for purposes reasonably necessary to evaluate the University as an educational institution;
 - (j) Alumni visiting University property and persons accompanying alumni;
 - (k) A person who has a right of access to University property under Tennessee Code Annotated § 8-50-1001 or any other statutory provisions permitting access to University property;
 - (l) Any person or entity engaged in one of the following uses of University property:
 1. The use of University property for the purpose of attending a University activity or event that is open to attendance by the members of the general public at a designated place and time (e.g., athletic contests, plays, lectures, concerts);
 2. The use of University-owned streets, or University-owned sidewalks bordering University-owned streets, as thoroughfares while traveling from one location to another location;
 3. The use of University property that is open to the general public (e.g., campus bookstore, library, museum);
 4. The use of University property consistent with the terms of a lease agreement with the University; or
 5. The use of University property for a purpose relating to obtaining medical treatment from the University.
- (2) The use of University property shall be consistent with the University's principal missions of teaching, research, and service. A person using University property shall not:
- (a) block or substantially impede vehicular, bicycle, pedestrian, or other traffic;
 - (b) block or substantially impede entrances or exits to University property;
 - (c) substantially disrupt or interfere with University operations, events, or activities;
 - (d) substantially disrupt or interfere with the ability of a student to sleep or study in a University residence hall between the hours of 10:00 p.m. and 6:00 a.m. during an academic term;
 - (e) substantially disrupt or interfere with the ability of a student to study in a University library;
 - (f) violate a federal, state, or local law, rule, regulation, or ordinance;
 - (g) violate University rules, policies, or procedures;
 - (h) engage in speech that is obscene; is defamatory; consists of fighting words; communicates an objectively serious expression of intent to commit an act of unlawful violence to a particular individual or group; or is directed to inciting or producing imminent lawless action and is likely to incite or produce such action;

- (i) engage in camping in violation of Tennessee law, the Equal Access to Public Property Act of 2012, unless the area on which camping occurs has been specifically designated by the University as available for camping;
 - (j) unreasonably threaten the health or safety of another person; or
 - (k) damage or deface University property, including, but not limited to, grass, shrubs, trees, or other landscaping.
- (3) Nothing in Section .03(2) shall be construed to prohibit a use of University property that has been expressly authorized by the University (e.g., a construction project that temporarily interferes with the use of a street);

1720-01-02-.04 USE OF UNIVERSITY PROPERTY FOR FREE EXPRESSION ACTIVITIES. Chapter 1720-01-12 (Use of University Property by Non-Affiliated Persons for Free Expression Activities) governs the use of University property for free expression activities by persons who are not affiliated with the University. To the extent of any conflict between this Chapter and Chapter 1720-01-12, Chapter 1720-01-12 shall control.

1720-01-02-.05 NO-TRESPASS NOTICES.

- (1) A No-Trespass Notice ("Notice") is a written directive requiring a person-non-affiliated person to leave and/or not enter all or part of University property.
- ~~(2)~~ The following persons are authorized to issue a Notice:
 - ~~(a)~~ The President of the University;
 - ~~(b)~~ The chief executive officer of a University campus or institute (e.g., Chancellor);
 - ~~(c)~~ The chief academic officer of a University campus or institute;
 - ~~(d)~~ The chief business officer of a University campus or institute;
 - ~~(e)~~ The chief human resources officer of a University campus or institute;
 - ~~(f)~~ The chief student affairs officer of a University campus or institute; and
 - ~~(g)~~ Sworn law enforcement officers employed by the University.
- ~~(3)~~(2) A sworn law enforcement officer employed by the University ~~University official~~ authorized under Section .05(2) may issue a Notice to a non-affiliated person:
 - (a) a ~~person~~ who is not authorized to use University property under Section .03(1), and who has refused to leave University property, or a specified part of University property, within a reasonable time after the person has received an oral request to leave by a University official;
 - (b) a ~~person~~ who has engaged in a use of University property that is prohibited by Section .03(2), and who has refused to cease the prohibited conduct within a reasonable time after receiving an oral request to do so from a University official;
 - (c) a ~~person~~ who, in the good faith judgment of the ~~University official~~ law enforcement

officer issuing the Notice, poses an unreasonable threat to the health, safety, or welfare of a person(s) affiliated with the University while on University property;
or

- (d) ~~a person who, in the good faith judgment of the University official law enforcement officer~~ issuing the Notice, has engaged in conduct that substantially disrupts or interferes with University operations, events, or activities, or is likely to cause such a disruption or interference;
- (e) ~~a University student who has been suspended or expelled from the University in accordance with the University's student conduct rules, policies, or procedures, and the suspension or expulsion has not been lifted;~~
- (f) ~~a University employee who, in accordance with the University's employment policies and procedures, has been temporarily suspended, has been placed on administrative leave, or whose employment is being terminated; or~~
- (g) ~~a person who is a former employee or volunteer whose employment or volunteer status was terminated by the University for misconduct in accordance with University rules, policies, or procedures, or who resigned in lieu of termination.~~

~~(4)~~(3) A Notice must specify: the reason for the Notice; the geographical scope of the restriction; the duration of the restriction, which may be for an indefinite period; the potential consequences of a violation of the Notice; and the process for appealing the issuance of the Notice. The scope and duration of the restriction imposed must be proportional to the underlying misconduct. In appropriate circumstances, with respect to conduct on University property, a Notice also may prohibit a non-affiliated person from contacting or being within a certain distance from a person affiliated with the University.

~~(5)~~(4) Appeals

- (a) A non-affiliated person to whom a Notice has been issued may appeal the decision to the chief of police for the University's campus/institute~~University official who issued the Notice.~~
- (b) A non-affiliated person must submit the appeal in writing. The written appeal must be received by the University official who issued the Notice~~chief of police~~ within twenty (20) calendar days of the date on which the Notice was provided to the non-affiliated person. A Notice mailed (or e-mailed) to a non-affiliated person shall be deemed to have been provided on the date on which it was mailed (or e-mailed). The written appeal should include the non-affiliated person's reason for being on University property, the non-affiliated person's future need to be on University property, and any other information the non-affiliated person wishes the University official who issued the Notice to consider.
- (c) Upon receipt of a written appeal, the University official who issued the Notice~~chief of police~~ will consult as needed with other University officials to verify the non-affiliated person's need for access to University property, to gather additional information or advice, or to review the impact that granting the appeal may have on persons affiliated with the University.
- (d) Within twenty (20) calendar days of the receipt of an appeal submitted in accordance with this Chapter, the University official who issued the Notice~~chief of~~

police will sustain, rescind or modify the Notice in a written decision that will be mailed to the address provided by the non-affiliated person. The decision of the University official who issued the Notice ~~chief of police~~ is final and not appealable within the University.

(e) The restrictions set forth in the Notice will remain in effect while an appeal of the Notice is pending.

(f) If the chief of police issued the Notice, then the non-affiliated person may appeal to the supervisor of the chief of police following the procedures set forth in Section .05(4)(a)-(d).

~~(e) Other University rules, policies and procedures, rather than this Section .05(5), shall govern appeals filed by University students or employees.~~

~~(6)(5) The University employee who issued a Notice~~ law enforcement officer who issued the Notice (or, if the Notice is appealed, the chief of police) may rescind or modify the Notice at any time. Notification of any such rescission or modification shall be provided to the non-affiliated person to whom the Notice was issued.

~~(7)(6) The issuance of a Notice for conduct relating to free expression activities shall be consistent with Chapter 1720-01-12 (Use of University Property by Non-Affiliated Persons for Free Expression Activities).~~

~~(8)(7) Failure to comply with a Notice may result in issuance of a citation or an arrest for trespassing pursuant to applicable state criminal trespass statutes or local ordinances. Nothing in this Section .05 shall limit or be construed to limit the exercise of the statutory authority of sworn law enforcement officers of a campus police department to arrest in accordance with the laws of this state or local ordinances. Nor shall anything in this Section .05 limit or be construed to limit the authority of sworn law enforcement officers of a campus police department to issue an oral request instructing a person to leave and/or not enter all or part of University property.~~

~~(9) Nothing in this Section .05 shall limit or be construed to limit the ability of a University official to issue a lawful directive to an employee whom he/she supervises not to enter certain parts of University property.~~

~~(10)(8) For purposes of this Section .05, the term "non-affiliated person" means any person who is not a University student, student organization, employee, or volunteer.~~

1720-01-02-.06 USE OF UNMANNED AIRCRAFT.

(1) The purpose of the restrictions in this Section .06 is to ensure the safe and orderly use of unmanned aircraft on, at, inside, or above University property.

(2) For purposes of this Section .06, the term "unmanned aircraft" means a device that is used or is intended to be used for flight in the air without an individual in or on the device (e.g., drone, model aircraft).

(3) Unmanned aircraft shall not be used:

(a) By a person who is not authorized to use University property under Chapter 1720-01-03.01;

- (b) At a time, in a place, or in a manner prohibited under Chapter 1720-01-03-.02;
 - (c) Inside University buildings or facilities;
 - (d) On or above University-owned streets or University-owned sidewalks;
 - (e) Above a human being who is either not directly participating in the operation of the unmanned aircraft or not located under a covered structure that can provide reasonable protection from a falling unmanned aircraft;
 - (f) On or above a University campus within four hours prior to the scheduled kickoff time of an intercollegiate football game on that campus, during the game, or within two hours after the conclusion of the game;
 - (g) Outside the hours of official sunrise and sunset; or
 - (h) In a manner that violates federal or state law, including, without limitation, regulations issued by the Federal Aviation Administration.
- (4) This Section .06 does not apply to unmanned aircraft used by a University unit, including faculty conducting research using unmanned aircraft, or a person or entity with whom the University has contracted to operate an unmanned aircraft; provided, however, that unmanned aircraft shall be used in accordance with federal and state law, including, without limitation, regulations issued by the Federal Aviation Administration.

University of Tennessee Rules
 Chapter 1720-01-02 Use of University Property

* 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)
Governor Bill Haslam				X	
Commissioner Julius Johnson	X				
Commissioner Candice McQueen	X				
Dr. Joe DiPietro	X				
Charles C. Anderson, Jr.	X				
Jalen K. Blue	X				
Shannon Brown				X	
George E. Cates	X				
Spruell Driver, Jr.	X				
Dr. William E. Evans	X				
J. Brian Ferguson	X				
John N. Foy	X				
D. Crawford Gallimore	X				
Dr. David Golden	X				
Vicky B. Gregg	X				
Raja J. Jubran	X				
Brad A. Lampley	X				
James L. Murphy, III	X				
Sharon J. Pryse	X				
Rhedona Rose	X				
John D. Tickle	X				
Julia T. Wells	X				
Charles E. Wharton	X				
Tommy G. Whittaker	X				

University of Tennessee Rules
Chapter 1720-01-02 Use of University Property

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the University of Tennessee Board of Trustees on 10/09/2015, 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 first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 12/11/2015

Signature: _____

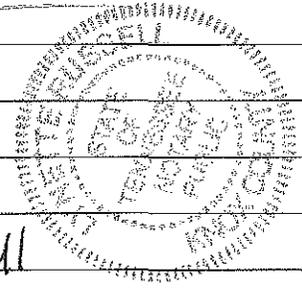
Name of Officer: Matthew Scoggins

Title of Officer: Deputy General Counsel

Subscribed and sworn to before me on: 12-11-15

Notary Public Signature: Lynette Russell

My commission expires on: 12-4-18



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
12/23/2015
Date

Department of State Use Only

Filed with the Department of State on: 1/5/16

Effective on: 4/4/16

Tre Hargett
Tre Hargett
Secretary of State

SECRETARY OF STATE
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For Department of State Use Only

Sequence Number: _____
 Rule ID(s): _____
 File Date: _____
 Effective Date: _____

Filing Form for Stay of Effective Date on Rules, Withdrawal of Stay, and Withdrawal of Rules

Agency/Board/Commission:	University of Tennessee
Division:	
Contact Person:	Matthew Scoggins, Deputy General Counsel
Address:	719 Andy Holt Tower, 1331 Circle Park, Knoxville, TN
Zip:	37996-0170
Phone:	865-974-3245
Email:	scoggins@tennessee.edu

Type of Action on Rule:

Stay of Effective Date of Rules

Rule Filing Date: 01/05/16
 Rule Original Effective Date: 04/04/16
 Length of Stay (not to exceed 75 days): 30 days
 New Effective Date of Rule Filing: 05/04/16

Notice of Withdrawal of Stay

Stay Filing Date: (mm/dd/yy)
 Stay Effective Date: (mm/dd/yy)
 New Effective Date of Rule Filing: (mm/dd/yy)

Notice of Withdrawal of Rules

Rule Filing Date: (mm/dd/yy)
 Rule Effective Date: (mm/dd/yy)

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 enter only **ONE** Rule Number/RuleTitle per row)

Chapter Number	Chapter Title
1720-01-02	Use of University Property
Rule Number	Rule Title
1720-01-02-.05	No-Trespass Notices

Date: 3/22/2016

Signature: 

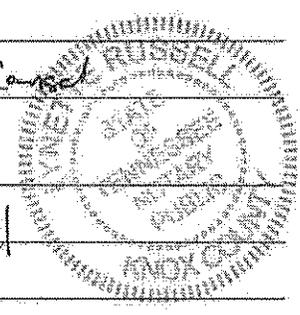
Name of Officer: Matthew Scaggins

Title of Officer: Deputy General Counsel

Subscribed and sworn to before me on: 3-22-16

Notary Public Signature: Lynette Russell

My commission expires on: 12-4-18



Department of State Use Only

Filed with the Department of State on: _____

Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: University of Tennessee

DIVISION:

SUBJECT: The Honor System for University of Tennessee Health Science Center

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 49-9-209

EFFECTIVE DATES: May 5, 2016 through June 30, 2017

FISCAL IMPACT: None

STAFF RULE ABSTRACT: The Honor Code of the University of Tennessee Health Science Center (UTHSC) guides students in behaving in a professional and ethical manner by establishing principles of appropriate behavior in the classroom, in the laboratory, and in clinical settings. UTHSC has completed a comprehensive review of its Honor Code for students, which included input from students and the UTHSC Committee on Academic and Student Affairs. As a result of that review, UTHSC proposes revisions to its Honor Code.

The proposed revisions change the name of the UAPA rule from "Honor Code" to "The Honor System." The term "Honor System" is a more accurate and complete term that encompasses the Honor Code, the Honor Code Pledge, and the procedures for investigating and resolving allegations of violations of the Honor Code.

The proposed revisions expand the list of specific types of violations of the Honor Code in order to comprehensively establish principles of appropriate behavior in the classroom, in the laboratory, and in clinical settings.

The proposed revisions also make various changes to the procedures relating to an alleged Honor Code violation, including:

- (1) Resolving potential ambiguities in the procedure for reporting suspected violations of the Honor Code;

(2) Adding e-mail to the methods by which a Notice of Charge will be sent to an accused student;

(3) Adding a right for the accused student to be assisted by an advisor who is a UTHSC student or employee;

(4) Adding a right for the accused student to request that a hearing panel member be replaced on the grounds of bias; and

(5) Clarifying issues relating to an accused student's class attendance and grades while an allegation is pending.

The proposed revisions provide each college within UTHSC with greater flexibility in establishing policies and procedures governing the membership of each college's Honor Council, including eligibility, how members are elected and removed, how alternates are elected and removed, how vacancies are filled, and which members may vote. Such policies and procedures will be published in the UTHSC student handbook.

All other changes are non-substantive grammatical, spelling, or structural, or reflect changes to titles of administrative offices responsible for administering the Honor Code.

University of Tennessee Rules
Chapter 1720-03-01 The Honor System

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making 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.

The rules are not anticipated to have an effect on small businesses.

University of Tennessee Rules
Chapter 1720-03-01 The Honor System

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)

The rules are not anticipated to have an impact on local governments.

2

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For Department of State Use Only

Sequence Number: 01-04-16
Rule ID(s): 6100
File Date: 1/6/16
Effective Date: 4/5/16

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 twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) 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).

Agency/Board/Commission:	University of Tennessee
Division:	
Contact Person:	Matthew Scoggins, Deputy General Counsel
Address:	719 Andy Holt Tower, 1331 Circle Park, Knoxville, TN
Zip:	37996-0170
Phone:	865-974-3245
Email:	scoggins@tennessee.edu

Revision Type (check all that apply):

- Amendment
- New
- Repeal

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

Chapter Number	Chapter Title
1720-03-01	The Honor System
Rule Number	Rule Title
1720-03-01-.01	Preamble and Purpose
1720-03-01-.02	The Honor Code
1720-03-01-.03	The Honor Code Pledge
1720-03-01-.04	Administration of the Honor System
1720-03-01-.05	Honor Code Violation Penalties
1720-03-01-.06	Appeals
1720-03-01-.07	College Honor Councils

RULES
OF
THE UNIVERSITY OF TENNESSEE
(HEALTH SCIENCE CENTER)

CHAPTER 1720-03-01
HONOR CODE/THE HONOR SYSTEM~~CODE~~

1720-03-01-.01 PREAMBLE AND PURPOSE.

- (1) The University of Tennessee Health Science Center ("UTHSC") expects and requires all students to exemplify personal integrity and responsibility in the classroom, laboratory, clinics, and other academic endeavors. UTHSC also expects and requires UTHSC students to interact with patients, colleagues, and other members of the university community in a professional and ethical manner. These expectations and requirements provide the foundation for the UTHSC Honor System ("Honor System").
- (2) The Honor System is composed of the following:
 - (a) The Honor Code, Chapter 1720-03-01-.02, which sets forth expected behaviors in the classroom, laboratories and clinical settings;
 - (b) The Honor Code Pledge, Chapter 1720-03-01-.03, which all students sign as a condition of enrollment;
 - (c) Rules relating to the administration of the Honor System, Chapter 1720-03-01-.04;
 - (d) Rules relating to penalties associated with violations of the Honor Code, Chapter 1720-03-01-.05;
 - (e) A process for appealing a finding of a violation of the Honor Code, Chapter 1720-03-01-.06; and
 - (f) The composition and functioning of the College Honor Councils, Chapter 1720-03-01-.07.

~~1720-3-1-.01 THE HONOR CODE.~~

~~(1) PREAMBLE AND PURPOSE.~~

- ~~(a) The Honor Code of The University of Tennessee Health Science Center is promulgated so that student academic affairs are conducted under the~~

highest standards of individual responsibility. The Honor Code promotes personal honor and integrity, in the best traditions of the health science professions. The Honor Code promotes academic honesty and integrity in the classroom, laboratory, clinics and other academic endeavors. The Honor Code requires students to uphold its principles of fairness, professionalism, and ethical behavior, and it also provides procedures to adjudicate alleged violations. By their pledge to subscribe to and uphold this Honor Code, UT Health Science Center students assume the responsibility for the effective application of the Honor Code, and their own academic and professional honesty and integrity. Students are required to sign the honor code pledge as a condition for enrollment at UT Health Science Center.

(b) Faculty and staff also have a responsibility to participate in the application, enforcement, and procedures of the Honor Code.

(2) PRINCIPLES OF THE HONOR CODE

(a) All UT Health Science Center students are bound by this Honor Code and pledge to act in accordance with the highest principles of ethical and professional conduct. These principles condemn any act of dishonor relating to the academic, clinical, research and professional programs at UT Health Science Center. The pledge states that any knowledge of a violation shall be reported in accordance with the provisions and procedures of the Honor Code.

(b) The principles of this Honor Code apply to all:

1. Tests or examinations.

2. Oral, written, or practical reports that are a part of a student's academic and research program.

3. Clinical and laboratory experiences.

4. Scientific research.

5. Other student activities relating to the academic, clinical, and research programs of UT Health Science Center.

(3) VIOLATIONS OF THE HONOR CODE

(a) It is a violation of the Honor Code for a student to:

1. Use, give, or receive any unauthorized aid during any test or examination, in the preparation of oral, written or practical reports, or in clinical or laboratory work, that are a part of a student's academic program.
 2. Record or report fraudulent data relating to patient care, willfully neglect clinical responsibilities, or otherwise compromise patient treatment through lack of professional integrity.
 3. Plagiarize—present another person's work as one's own.
 4. Falsify data in scientific research and reports.
 5. Collaborate with others in assigned out of class activities, if directions or instructions, written or verbal, specify only individual application and effort is permitted.
 6. Falsify academic or clinical records.
 7. Maliciously and falsely accuse another student of an Honor Code violation.
 8. Assist another student in committing any of the specified violations.
 9. Fail to report a violation reasonably believed to have been committed.
 10. Discuss or reveal confidential information or materials relating to allegations, investigations, charges and Honor Court hearings.
 11. Engage in other similar acts of dishonesty.
- (b) Students, faculty, staff and/or test administrators must report observed violations to a member of the college Honor Council, in accordance with Honor Code procedures.
1. Any alleged violation under Article III, Section A.2 or A.1 [Rule 1720-3-1-01(3)(a) 2 or 4] shall be immediately reported by the President or Faculty Advisor of the Honor Council to the principal clinician or investigator after the alleged violation is received.
- (c) Suspicious Activity: If someone witnesses suspicious behavior, but is uncertain of a Honor Code violation, the person may informally report

the behavior to a college Honor Council member. The Honor Council member will counsel with the suspected student and advise the student that such actions are suspicious and, if continued, may lead to a formal complaint. A Honor Council member receiving a report of suspicious behavior must notify the Honor Council President before counseling the student.

~~(4) ADMINISTRATION OF THE HONOR CODE~~

~~(a) PARTICIPANTS~~

~~1. STUDENTS: The Honor Code pledge is signed by all students enrolled at the UT Health Science Center. This signed pledge is a student's pledge of honesty and integrity. The pledge obligates the student to support the ethics and provisions of the UT Health Science Center Honor Code and to participate in its procedures and actions.~~

~~2. FACULTY AND STAFF: The faculty and staff participate in the Honor Code by endorsing and supporting the principles of the Code and by applying its rules and procedures.~~

~~3. ADMINISTRATION: Offices relating to student affairs are responsible for providing advice to students regarding Honor Code procedures.~~

~~(i) Faculty advisors to college Honor Councils support the Honor Code by providing advice and counsel to Honor Council members regarding rules, procedures and the appropriate methods of administering the rules and procedures.~~

~~(ii) The Office of Student Life provides advice and orientation to College Honor Council members, faculty advisors, and other students.~~

~~(iii) The UT Health Science Center Registrar (1) makes available to each new student a printed copy of the Honor Code prior to matriculation, (2) insures that the Honor Code pledge is signed by each new student, and (3) retains the signed Honor Code pledge as a part of each student's official file.~~

~~4. HONOR COUNCILS OF THE COLLEGES: Each college has an~~

~~Honor Council that functions under the rules delineated in this Honor Code. Alleged violations of the Honor Code are processed by the Honor Council of the college in which the alleged violation occurred.~~

1720-03-01-.02 THE HONOR CODE.

(1) UTHSC students must exhibit personal integrity and responsibility and conduct themselves in a professional and ethical manner with respect to:

(a) The classroom, including without limitation:

1. Tests and examinations;
2. Oral, written, and practical reports and assignments in a student's academic or research program;
3. The use of electronic technology; and
4. Classroom requirements set by UTHSC, a college within UTHSC ("College"), or a UTHSC faculty member.

(b) Laboratory work, including without limitation:

1. Completing individual and group assignments;
2. Reporting laboratory results;
3. Acknowledging contributions from other individuals and sources; and
4. Laboratory requirements set by UTHSC, a College, or a faculty member.

(c) Clinical work, including without limitation:

1. Attendance and participation in clinical teams;
2. Use of patient records;
3. Timely completion of reports;
4. Patient care; and

5. Clinical work requirements set by UTHSC, a College, or a faculty member.

(2) Section .02(1) shall be referred to as the "Honor Code."

(3) Violations of the Honor Code include, without limitation:

- (a) Using, receiving, or providing unauthorized assistance or possessing unauthorized information or materials; during tests, examinations, academic assignments, or scholarship; in the preparation of oral, written, or practical reports; or in clinical or laboratory work in the student's academic or research program.
- (b) Recording or reporting fraudulent data relating to patient care, willfully neglecting clinical responsibilities, or otherwise compromising patient treatment through a lack of professional integrity.
- (c) Plagiarizing (presenting another person's ideas, words, projects, creations, or work as the student's own).
- (d) Falsifying, fabricating, or misrepresenting data, laboratory results, research results, citations, or other information in connection with academic assignments or clinical, field, or laboratory records.
- (e) Substituting for another student or have another student substituting for oneself to take an exam or perform an academic, laboratory, clinical, or field assignment.
- (f) Collaborating with others in assigned out-of-class activities, laboratory work, field work, scholarship, or other academic assignment when the instructions require individual effort.
- (g) Altering grades, answers, marks, or documents in an effort to change academic records, the earned grade, or credit.
- (h) Submitting without authorization the same assignment for credit in more than one course.
- (i) Forging a signature or allowing forgery on any class- or university-related document, such as a class roll or drop/add sheet. Such forgeries could involve false identification by electronic, paper, or other means.
- (j) Failing to follow a faculty member's instructions about the integrity of an exam or academic assignment.

- (k) Engaging in an activity that unfairly places another student at a disadvantage, such as taking, hiding, or altering resource material or manipulating a grading system.
- (l) Maliciously and falsely accusing another student of violating the Honor Code.
- (m) Assisting another student in violating the Honor Code.
- (n) Failing to report to UTHSC in a timely manner one's reasonable belief that another person has violated the Honor Code.
- (o) Discussing or revealing confidential information or materials relating to allegations, investigations, charges, or hearings of a College Honor Council or the University Honor Court.
- (p) Engaging in unauthorized or inappropriate distribution or use of course materials (e.g., podcasts/lecture recordings), including without limitation:
 1. Sharing materials with individuals not enrolled in the UTHSC course;
 2. Posting lectures or portions of lectures to external sites;
 3. Creating clips for online video repositories; and
 4. Posting recordings of patient encounters in simulated or actual clinical settings.
- (q) Engaging in other similar acts of academic dishonesty.

~~1720-3-1-.02 PROCEDURES AND HEARING OPTIONS.~~

~~(1) PROCEDURE FOR REPORTING ALLEGED VIOLATIONS~~

- ~~(a) A complaint against any student may be filed by a student, faculty or staff member observing a suspected violation. Each complaint must be written and signed by the accuser and presented to any member of the appropriate Honor Council.~~
- ~~(b) Signed complaints are given or forwarded to the college Honor Council president and shall not be discussed with other students.~~

- ~~(c) The signed complaint of one individual is sufficient to initiate an investigation of charge(s) against a student.~~
- ~~(d) The president of the Honor Council appoints a council member to investigate alleged violation of the Honor Code. The investigator investigates the facts of the alleged violation(s). If the investigator finds probable cause to believe that a violation has been committed, the investigator recommends issuing a Notice of Charge. The president, upon the recommendation of the investigator, issues a Notice of Charge to the accused. The Notice of Charge is sent to the accused via certified mail. If the investigator determines there is no violation, the allegation is dismissed.~~
- ~~(e) The identity of the person(s) who reported the allegation is confidential throughout the initial investigation. In the event that a Notice of Charge is issued, the accused is notified of the name(s) of the accuser(s) upon request.~~
- ~~(f) Allegations, investigations, charges and Honor Court hearings are confidential.~~
- ~~(g) Role of the Investigator:~~
- ~~1. Upon receipt of a signed complaint, the college Honor Council president appoints an investigator who is charged with investigating the allegation.~~
 - ~~2. The investigator makes a recommendation to the college Honor Council president within seven (7) University working days after the investigator receives the assignment to investigate the allegation. The investigator's report, either oral or written, recommends whether a formal charge of violation should be issued by the Honor Council president. The investigation period is advisory and not mandatory due to administrative closings, holidays and class schedules.~~
 - ~~3. The investigator is responsible for prosecuting charge(s) before the College or University Honor Court if the accused requests a Honor Code hearing. A council member does not vote in any proceedings for which the member served as the investigator.~~
- ~~(2) RIGHTS AND PROCEDURES OF THE ACCUSED~~

~~(a) Notice of Charge. A student charged with a violation of the Honor Code receives written notice of charge(s) stating the following:~~

- ~~1. The substance of the charge(s).~~
- ~~2. The possible penalties.~~
- ~~3. The right to a hearing if the student contests the charge(s) or action.~~
- ~~4. The name and address of the person to whom a request for a hearing should be directed.~~
- ~~5. A statement indicating that a request for a hearing must be made within five (5) University working days of receipt of this notice.~~

~~(b) Procedure for the Accused.~~

- ~~1. On receipt of the Notice of Charge, the accused student, within five (5) University working days, must respond to the college Honor Council president indicating either
 - ~~(i) An intent to plead guilty to the violation and willingness to accept the penalty assigned by the Dean; or~~
 - ~~(ii) A denial of the charge and indicating a desire to make an appeal of the charge under one of the following hearing options:
 - ~~(I) Uniform Administrative Procedures Act (UAPA);~~
 - ~~(II) College Honor Court;~~
 - ~~(III) University Honor Court~~~~~~
- ~~2. The student who does not respond in writing within five (5) University work days, waives the option of having the case heard in a College or University Honor Court, and the charge will be adjudicated under the provisions of the UAPA.~~
- ~~3. Rights of the Accused:
 - ~~(i) The student has a right to a hearing in accordance with the~~~~

contested case provisions of the Uniform Administrative Procedures Act (UAPA), T.C.A. §§ 4-5-301 through 4-5-325. The hearing will be held under the provisions of the UAPA in the absence of a voluntary written waiver of this right. If the student waives the right to a hearing under UAPA, the hearing will be held in accordance with the UT Health Science Center Honor Council Hearing procedures listed under Article VII, Hearing Court Options 2 and 3. [Rule 1720-3-1-02(3)(a) 2 and 3].

~~(ii) For UAPA Hearings, students may be represented by Legal Counsel. The option to obtain Legal Counsel is at the student's expense. If representation by Legal Counsel is desired, the student must provide notice of intent to be represented by Counsel concurrent with the request for the UAPA hearing. In College Honor Court and University Honor Court hearings, students may not be represented by legal counsel.~~

~~(iii) In College Honor Court and University Honor Court hearings, the College Honor Council President or the Director of Student Life will make available to an accused student, an advisor (student, faculty, or staff) knowledgeable of the Honor Code and hearing procedures. The advisor will be available to the accused prior to, and during the hearing.~~

~~(3) HEARING COURT OPTIONS~~

~~(a) An accused student who wishes to have a hearing on a charge has a choice of hearing options.~~

~~1. Uniform Administrative Procedures Act (UAPA). This act provides students a hearing under the State of Tennessee mandatory hearing option. A hearing under this law is held by a hearing officer appointed by the Vice President for Health Affairs of UT Health Science Center. The Office of General Counsel will prosecute the charge in UAPA hearings, even if the accused student is not represented by legal counsel. This hearing procedure is used in the absence of a voluntary written waiver of this right.~~

~~2. College Honor Court. Each UT Health Science Center college has an Honor Court. Rules of membership, assembly, quorum, and~~

voting are defined in each college's addendum. All proceedings of the college Honor Court hearing follow the procedures described in the Honor Code and in the respective college addendum. The college Honor Council president is responsible for administering the hearing, including selecting the date, appointing the Honor Court panel, notifying all parties, and recording and maintaining records of the college Honor Court hearings. The selection and service of the college Honor Court members shall follow the guidelines and procedures stated in the respective college Honor Court addendum. Members of the panel shall be impartial and members who believe they cannot be impartial shall recuse themselves from serving on the panel. The accused student may request the removal of any panel member he/she thinks might not be impartial. Decisions for such removal will be made by the college Honor Court president.

3. University Honor Court. The panel shall be composed of students from all colleges at the UT Health Science Center. Each college nominates two Honor Council members to the University Honor Court pool. The Director of Student Life will appoint seven (7) hearing panel members, from a pool of nominees, with at least two (2) panel members from the college of the accused. A chairperson will be selected from the panel and will be responsible for conducting the hearing. Members of the panel shall be impartial and members who believe they cannot be impartial shall recuse themselves from serving on the panel. The accused student may request the removal of any panel member he/she thinks might not be impartial. Decisions for such removal will be made by the Chairperson of the Hearing Court or by the Director of Student Life. The Director of Student Life or designee will be responsible for making the appropriate arrangements and notifying all parties of the time, date and place of the hearing. The Director of Student Life or designee shall also be responsible for tape recording the hearings and maintaining the records of the University Honor Court hearings.

(b) Guidelines for Honor Court Hearings. The following guidelines shall apply to College and University Honor Court hearings:

1. The hearing is held as soon as possible following receipt of the accused request for a hearing under the Honor Code system.

2. The accused has the right to be present at all times during the hearing, except during the deliberation of the Honor Court, and is

~~afforded a full and fair opportunity to present all evidence, including witnesses, reasonably relating to the charge or action at issue. Evidence that is irrelevant, immaterial, repetitious, or cumulative may be limited. Judicial rules of evidence and procedure do not apply.~~

- ~~3. The accused, the investigator and Honor Court members have the right to question all witnesses.~~
- ~~4. An appropriate record is made of the hearing procedures. However, defects in the record do not invalidate the proceedings. (A tape recording system is available and should be used).~~
- ~~5. The investigator has the responsibility of proving, by a preponderance of the evidence, the truth of the charge(s) at issue.~~
- ~~6. A majority vote of the panel is required for any decision.~~
- ~~7. Following the conclusion of the hearing, the hearing panel considers the evidence and presents written findings, conclusions, and recommendations to the dean of the college in which the violation occurred.~~
- ~~8. A faculty member will be notified of the outcome of any Honor Code investigation or hearing if they were an accuser or witness in the matter.~~

~~(4) PENALTIES~~

- ~~(a) Penalties for violating the UT Health Science Center Honor Code are assigned by the respective college Dean. Penalties may be probation, suspension, dismissal, or any other action deemed appropriate by the dean of the college in which the violation occurred. The Honor Court may make advisory recommendations or suggestions to the dean regarding the consequence and severity of the punishment.~~
- ~~(b) The Dean will determine the penalty to be assigned, if the accused is found guilty. The Dean considers the evidence, written findings, conclusions, and recommendations of the Honor Court in determining a punishment.~~
- ~~(c) The Dean must respond with a decision within 10 University working days of receipt of the hearing court decision. In instances in which the Dean is unavailable, a designee will be appointed.~~

~~(5) APPEALS~~

~~(a) The accused may appeal the action of the Dean by submitting an appeal in writing to the Vice President for Health Affairs within 10 days of receipt of the decision of the Dean. Where a charge is found to be true, the student charged has the burden of proving that the disciplinary action proposed is unreasonable.~~

~~1. Any appeal to the Vice President for Health Affairs can be only for the penalty assigned by the Dean. The decision of the Honor Court can not be appealed to the Vice President for Health Affairs.~~

~~(b) The Vice President for Health Affairs, or designee, must respond with a decision within ten (10) University working days of the request for the appeal.~~

1720-03-01-.03 THE HONOR CODE PLEDGE.

~~(1) All UTHSC students must sign the following pledge ("Honor Code Pledge") within two (2) weeks of the start of classes:~~

~~*I have read carefully the provisions of the Honor Code of the University of Tennessee Health Science Center and fully understand its meaning and significance, and I agree to abide by the Honor Code while a student enrolled at this institution and agree to accept all of its implications without reservation.*~~

~~(2) A student's signature under Section .03(1) indicates the student's pledge of personal integrity and responsibility and professional and ethical conduct and obligates the student to comply with the UTHSC Honor Code and the UTHSC Honor System.~~

~~1720-3-1-.03 HONOR COUNCILS, REPORTS AND AMENDMENTS.~~

~~(1) COLLEGE HONOR COUNCILS~~

~~(a) Composition and Elections: The composition of the Honor Council and the procedure for election of the Honor Council members/officers are determined by each college. Information describing the college councils provisions is provided in the Addenda.~~

~~(b) Officers of the Honor Councils:~~

~~1. Elections: Each Honor Council elects officers from its members for~~

the following offices: president, vice-president and secretary:

- ~~(i) President. The president (a) presides at all meetings of the Honor Council, (b) arranges for the hearing of any accused student, and (c) performs other duties as specified in this Honor Code.~~
- ~~(ii) Vice president. The vice president assumes the duties of the president in that officer's absence.~~
- ~~(iii) Secretary. The secretary (a) manages the correspondence of the Honor Council, (b) notifies all members of Honor Council meetings, (c) records attendance at meetings, and (d) keeps records of all meetings.~~
- ~~(c) Removal from Council: A member may be removed by two-thirds vote of the Council members for the following reasons:
 - ~~1. Absence from two consecutive meetings of the Honor Council.~~
 - ~~2. Failure to fulfill responsibilities in accordance with this Honor Code.~~~~
- ~~(d) Vacancies in an Honor Council are filled in accordance with college rules and regulations governing election of members.~~
- ~~(e) General Duties of the Honor Council:
 - ~~1. To administer the Honor Code, the Honor Council meets at least once during the first month of each fall term and thereafter at its discretion.~~
 - ~~2. Conducts hearings of alleged violations.~~
 - ~~3. Keeps adequate records of all hearings that result from alleged violations of the Honor Code and reports findings to the Director of Student Life.~~
 - ~~4. Forwards findings and recommendations in Honor Code violation proceedings to the Dean of the college.~~
 - ~~5. Ensures that the information contained in this Honor Code is promulgated, discussed, and made readily available to all students of the college.~~~~

~~_____~~ (2) ~~REPORTS~~

~~_____~~ (a) ~~Information regarding the number of alleged Honor Code violations, hearings, and decisions resulting from these hearings must be kept by Honor Council presidents and reported to the Director of Student Life at the end of each academic term.~~

~~_____~~ (3) ~~AMENDMENTS~~

~~_____~~ (a) ~~A proposed amendment to this Honor Code shall be presented in writing to the President of each UT Health Science Center Honor Council. Amendments must be approved by a majority vote of the Council of each college, and by the College Honor Council Presidents, prior to submitting to the SGABC, the UT Health Science Center Chancellor and the University's Board of Trustees.~~

~~_____~~ (b) ~~Approved amendments to a college addendum shall be presented in writing to the President of the Honor Council of the college affected by the proposed amendment and need only to be approved by a majority vote of that college Honor Council. Upon approval, and concurrence by the college Dean, the amendment shall be submitted to the Chancellor and to the University's Board of Trustees.~~

~~_____~~ (4) ~~PLEDGE~~

~~_____~~ (a) ~~Each UT Health Science Center student, before matriculation, or during the new student orientation period, is required to sign the following pledge: "I have read carefully the Honor Code of the University of Tennessee Health Science Center and fully understand its meaning, significance and application. I agree to abide by this Honor Code while a student in this institution and agree to accept all of its implications without reservation."~~

Signature _____ Date

Social Security Number _____ College

1720-03-01-.04 ADMINISTRATION OF THE HONOR SYSTEM.

(1) Responsibility and Procedures for Reporting Violations.

(a) UTHSC students, faculty, staff, and/or test administrators must timely report a reasonable belief that a student has violated the Honor Code, in accordance with the procedures outlined in Section .04(1)(b)(2).

(b) The procedures for reporting a violation of the Honor Code are as follows:

1. Informal Notification. Faculty, staff, students, and/or test administrators who become aware of suspicious behavior but are uncertain whether the behavior violates the Honor Code may informally report the behavior to a College Honor Council member. The Honor Council member must notify the Honor Council president and then advise the suspected student that such actions are suspicious and, if continued, may lead to a formal complaint.

2. Formal Complaints. Faculty, staff, students, and/or test administrators who reasonably believe that a student has violated the Honor Code must file a formal complaint against the student. A formal complaint is written and signed by the person alleging that a student has violated the Honor Code. A formal complaint is presented to a member of the appropriate College Honor Council. A formal complaint by one individual is sufficient to initiate an investigation against a student. Signed complaints shall be forwarded to the College Honor Council president and shall not be discussed with other students.

(c) The president or faculty advisor of the College Honor Council must immediately report any alleged violation of the Honor Code (under Section .01(b)(2)) to the faculty member/clinical supervisor/researcher at the site where the alleged violation occurred (assuming that the allegation was not initiated by this individual).

(2) Responsibilities for Administering the Honor System.

(a) UTHSC offices relating to student affairs are responsible for providing guidance to students regarding Honor System procedures.

(b) A representative of each College will discuss the Honor System with entering students during orientation and ensure that they sign the Honor Code Pledge. The signed pledge will be sent to the Registrar's office and becomes a part of the student's official UTHSC file.

- (c) Colleges are responsible for informing students of an appropriate style manual for citations.
 - (d) Each College has an Honor Council composed of current students that functions as a body for hearing cases of alleged violations of the Honor Code. UTHSC also has a University Honor Court composed of College Honor Council members. The University Honor Court also serves as a hearing body for Honor Code violation cases.
 - (e) Faculty advisors to College Honor Councils provide guidance to College Honor Council members regarding rules, procedures, and the appropriate methods of administering the Honor System.
 - (f) The Office of Vice Chancellor for Academic, Faculty and Student Affairs ("VCAFSA") provides guidance and orientation to College Honor Council members, faculty advisors, and other students.
 - (g) Any proposed change to the Honor System shall be presented in writing to the president of each College's Honor Council. A majority vote of each College Honor Council and the College Honor Council presidents must approve changes before they are submitted to the Student Government Association Executive Committee, the UTHSC Chancellor, and the University of Tennessee Board of Trustees for approval.
 - (h) Changes to a College Honor Council's procedures shall be presented in writing to the College's Honor Council president and must be approved by a majority vote of the College's Honor Council. Upon approval and concurrence by the Dean of the College, the change shall be submitted to the Chancellor for approval.
- (3) Procedures for Handling Alleged Violations of the Honor Code.
- (a) Upon receipt of a formal complaint, the president of the College Honor Council appoints a College Honor Council member to investigate and determine the facts of the alleged violation(s). The student investigator shall make an oral or written recommendation to the College Honor Council president concerning whether the president should issue a notice accusing a student of violating the Honor Code ("Notice of Charge"). A seven (7) university business day investigation period is recommended but is not mandatory.
 - (b) If the student investigator determines that a preponderance of the evidence does not support a finding that a violation of the Honor Code occurred, then the student investigator will recommend that the president

dismiss the formal complaint. The president will review the student investigator's factual findings and assess the appropriateness of this recommendation. If the president agrees that a preponderance of the evidence does not support a finding that a violation of the Honor Code occurred, then the president will dismiss the formal complaint.

(c) If the student investigator concludes that a preponderance of the evidence supports the allegation, then the student investigator will recommend the president issue a Notice of Charge. The president will review the investigator's factual findings and determine whether to accept the recommendation. If the president concludes that a preponderance of the evidence supports the allegation that the student committed a Honor Code violation, then the president shall send the accused student a Notice of Charge in accordance with Section .04(4). The president shall also send a copy of the Notice of Charge to the VCAFSA.

(d) The identity of the person(s) who reported the allegation is confidential throughout the student investigator's investigation. If a Notice of Charge is issued, then the accused student will be notified of the name(s) of the accuser(s) upon request to the president of the College Honor Council.

(4) Notice to the Accused Student and the Response from the Accused Student.

(a) A student charged with violating the Honor Code shall be given a Notice of Charge(s) that states the following:

1. Factual basis of the charge(s);
2. The penalties that could be recommended to the Dean of the student's College;
3. The student's right to a hearing if the student contests the charge(s) and/or proposed penalties;
4. The name and address of the person to whom a request for a hearing should be directed;
5. A statement indicating that a request for a hearing must be made within seven (7) university business days of the date that the Notice of Charge was sent; and
6. A statement indicating the right to consult with a faculty advisor recommended by the College.

- (b) The accused student must respond to the Notice of Charge in writing within seven (7) university business days of the date the Notice of Charge was sent. The accused student's response must indicate either:
1. That he/she acknowledges a violation of the Honor Code and agrees to accept the penalty imposed by the Dean; or
 2. That he/she denies violation of the Honor Code and requests a hearing to contest the charge(s) under one of the hearing options outlined in Section .04(5).
- (c) If the accused student does not respond to the Notice of Charge in writing within seven (7) university business days of the date the Notice of Charge was sent, then the accused student will be found responsible for the charges indicated in the Notice of Charge and a penalty will be imposed by the Dean of the student's College.
- (d) A Notice of Charge will be sent to a student by:
1. U.S. mail or courier service to the address UTHSC's Registrar has on file for the student, in which case the notice is effectively sent upon mailing or delivery to the courier service; and
 2. Electronic means (e.g., e-mail) to the student's UTHSC e-mail account, in which case the notice is effectively sent upon transmission.
- (e) In computing a period of time that is referenced in the Honor System, the day of the event that triggered the period is excluded, and the last day of the period is included unless the last day of the period is a Saturday, Sunday, or legal holiday, in which case the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.
- (5) Hearing Options and Guidelines. An accused student who wants to contest a charge has the following hearing options:
- (a) UAPA Hearing. If it is reasonably likely that the penalty of suspension or expulsion will be imposed if the accused student is found responsible for violating the Honor Code, then the accused student has a right to a hearing under the University of Tennessee's rules for conducting contested cases under the Uniform Administrative Procedures Act, Chapter 1720-01-05 ("UAPA Hearing"). In accordance with Chapter 1720-01-03, whenever an accused student who is entitled to a UAPA hearing

requests a hearing, that hearing will be conducted in accordance with Chapter 1720-01-05 unless the accused student executes a waiver of right to proceed under Chapter 1720-01-05 and elects a hearing under Section .04(5)(b) or Section .04(5)(c). An accused student who elects a UAPA hearing shall have no right to be heard on the same matter in a College Honor Council hearing or a University Honor Court hearing.

(b) College Honor Council Hearing. This hearing is held by members of the College Honor Council from the accused student's College. The composition of the College Honor Councils is set forth in Section .07. College Honor Council hearings shall be conducted in accordance with the following guidelines:

1. A hearing panel is convened from among the members of the College Honor Council.
2. The president of the College Honor Council serves as the chair of the hearing panel. The president of the College Honor Council may appoint another member of the College Honor Council to serve as the chair of the hearing panel if the president is unavailable.
3. The hearing should be scheduled as soon as possible following receipt of the accused student's request for a hearing.
4. At least five (5) calendar days before the hearing, the student investigator should provide the accused and the College Honor Council hearing panel with all documents the investigator reasonably anticipates presenting during the hearing.
5. Both the accused student and the student investigator have the right to request the participation of witnesses. Any individual who is a member of the UTHSC community (student, faculty or staff member) is expected to participate if such a request is made. If a witness is unable to participate for some reason, the accused student or the student investigator may ask the witness to provide a written statement documenting the witness' knowledge of the case. Then, the hearing panel will determine whether to consider the written statement as evidence, balancing the potential value of the information with the fact that the witness will not be questioned as part of the hearing process.
6. If he/she feels that a member of the College Honor Council may be biased, the accused student may request that the member be

replaced by an alternate. Decisions for such removal will be made by the president of the College Honor Council in consultation with the faculty advisor to the College Honor Council. Unresolved disputes regarding such requests will be resolved by the VCAFSA.

7. Before the hearing, the College Honor Council hearing panel should meet to review the documentation, determine which (if any) witnesses should be invited to participate, discuss the procedure for the hearing, and determine the date of the hearing. After the details have been settled, the president/chairperson should schedule the hearing, inviting the accused student, his/her advisor, the student investigator, and witnesses as appropriate.
8. The student investigator will present the charge(s) to the hearing panel.
9. The accused student has the right to attend all parts of the formal hearing except the deliberation of the hearing panel. In addition, the accused has the right to question all witnesses and is afforded a full and fair opportunity to present all evidence, including witnesses, reasonably relating to the charge or action at issue. The accused student may have one (1) advisor present. This advisor shall be a member of the UTHSC community (e.g. a student, faculty or staff member) but shall not be an attorney. The advisor is allowed to provide advice to the accused student during the hearing but is not allowed to question any witness or hearing panel member, introduce evidence, raise objections, present arguments, or otherwise participate in the hearing.
10. College Honor Council hearings are not open to the public; family members, supporters and any other interested party who is not an advisor to the accused student will be provided with a waiting area but are not allowed to listen to, or otherwise participate in, the formal hearing.
11. Evidence that is irrelevant, immaterial, repetitious, or cumulative may be limited. Judicial rules of evidence and procedure do not apply.
12. Allegations, investigations, charges and hearing records are confidential and shall be treated as student records that are protected by federal privacy laws (i.e., the Family Educational Rights and Privacy Act of 1974 - FERPA).

13. A verbatim record shall be made of the hearing procedures. However, defects in the record do not invalidate the proceedings.
 14. After the hearing, the College Honor Council hearing panel will consider the evidence and present written findings, conclusions, and recommendations of possible penalties to the Dean of the College in which the violation occurred. The faculty advisor to the College Honor Council may attend these deliberations but should only provide advice on procedural issues.
 15. At least five (5) College Honor Council members are required for a quorum. A majority vote of the hearing panel is required for any decision. The student investigator does not vote.
 16. A finding of responsibility requires that the truth of the charge(s) at issue be supported by a preponderance of the evidence. The student investigator has the burden of proof.
 17. If the verdict is that the student did not violate the Honor Code, then the Notice of Charge is dismissed and no penalty is imposed on the accused student.
 18. Irrespective of the outcome of the hearing, all documents and recordings related to the case shall be transferred to the Office of Student Affairs as part of the official student file.
 19. The president/chairperson shall notify the accused student, Dean of the College, the student investigator, and the Office of Student Affairs of the outcome of the case.
- (c) University Honor Court Hearing. The University Honor Court is composed of students from all Colleges at UTHSC. Each College nominates two (2) College Honor Council members to the University Honor Court pool. For each hearing, the VCAFSA will appoint a hearing panel of seven (7) members from the pool of nominees with at least two (2) panel members from the College of the accused student. The VCAFSA will select a chairperson from the panel members for the hearing. University Honor Court hearings shall be conducted in accordance with the same guidelines outlined in Section .04(5)(b).
- (6) Enrollment of Students During the Notice of Charge and Hearing.
- (a) Normally, an accused student may continue attending classes after the

issuance of a Notice of Charge, assuming that the case does not extend for more than one (1) complete academic term after the alleged violation occurred. Should the case continue into the next academic term, the Grades for courses taken during that term will be listed as "I" (incomplete) until the case is finally adjudicated, converting to the grade earned if the finding of the hearing panel is that the student did not violate the Honor Code. If the student is found responsible for violating the Honor Code, the Dean of that student's College will determine the type of penalty to impose, which could include denying credit for courses attended while the case was being adjudicated. Depending on individual circumstances, students who are involved in clinical training when a Notice of Charge is filed may not be able to continue their clinical activities. The Dean (or designee) from the student's College will decide whether the student can continue attending clinical training while the case is being adjudicated. If a case extends into a second academic term following the issuance of a Notice of Charge, then the accused student will normally not be allowed to continue coursework until the case has been resolved.

- (b) If an accused student leaves the University prior to the resolution of the case, the College Honor Council president shall send a letter to the Dean describing the accusation and stating the case was not resolved before the accused's departure from school. A copy of this letter with all accompanying documents related to the case shall be forwarded to the Office of Student Affairs to be placed in the accused student's permanent record.
- (c) If an accused student leaves the University without resolving a Notice of Charge and is later readmitted, the accused student will be required to appear before the College Honor Council and resolve the Notice of Charge. If the College Honor Council finds that the student did not violate the Honor Code, then the Dean shall inform the Office of Student Affairs and request removal of the letter and all accompanying documents from the student's permanent record.

~~1720-3-1-.04 — ADDENDUM (COLLEGE HONOR COUNCILS).~~

~~(1) COLLEGE OF GRADUATE HEALTH SCIENCES HONOR COUNCIL (including the School of Biomedical Engineering)~~

~~(a) Composition. The Honor Council of the College of Graduate Health Sciences consists of the Graduate Student Executive Council, who are voting members, and their alternates with voice but not vote. An alternate member may vote in the absence of a voting member for that~~

department.

- ~~(b) Election of Members. The members of the Honor Council are selected according to the Constitution of the Student Government Association of the UT Health Science Center College of Graduate Health Sciences, Articles IV and V.~~
- ~~(c) Vacancy. In the event of a vacancy occurring in the Honor Council, the alternate member from the department in which the vacancy occurs becomes the voting representative for that department.~~
- ~~(d) Faculty Advisor. Each year the Dean selects one advisor, with voice but not vote, and who may be present at hearings. The advisor is an ex officio member of the Graduate Student Executive Council.~~
- ~~(e) Quorum. Five members of the Honor Council are required for a quorum for an Honor Court hearing.~~

~~(2) COLLEGE OF ALLIED HEALTH SCIENCES HONOR COUNCIL~~

- ~~(a) Composition. The Honor Council of the College of Allied Health Sciences shall consist of at least one voting representative from each class of each program. Classes with more than forty (40) students enrolled shall be represented by two voting representatives. Each class in each program shall have one alternate representative with voice but no vote except when serving in the absence of a voting representative from the particular class. Both voting representatives and alternate representatives shall attend regular Honor Council meetings. The Honor Council president shall preside over all regular meetings and Honor Court hearings. The executive officers (President, Vice President, Secretary and Treasurer) of each class governed by the Honor Code, and those of the Student Government Association Council, are ineligible to be members of the Honor Council.~~
- ~~(b) Election of Members. Each class shall elect its Council representatives within four weeks of the first day of the beginning of classes in the first academic term. Council members shall serve a term of one academic year and may be reelected at the discretion of a class. It is recommended that Honor Council representatives be reelected, if satisfactory, to provide continuity.~~
- ~~(c) Vacancy. In the event of a vacancy occurring in the Honor Council, the particular class in which the vacancy occurs shall elect a replacement within four weeks of the vacancy. The class may, for continuity, select the~~

~~alternate representative to fill a vacancy and elect a new alternate representative.~~

- ~~(d) Faculty Advisor. There shall be two faculty advisors with voice but no vote, one selected annually by the Dean of the College, to serve staggered two-year terms. The faculty advisor shall be permitted to attend all proceedings of the Honor Council with voice but no vote.~~
- ~~(e) Quorum. A quorum of (2/3) two-thirds of the currently elected and enrolled representatives, or their designated alternates, will be required to be in attendance for proceedings concerning an Honor Code violation.~~
- ~~(f) Proctoring. Faculty may be present during student tests or examinations, in accordance with the Honor Code of the University of Tennessee, Health Science Center.~~

~~(3) COLLEGE OF DENTISTRY HONOR COUNCIL~~

- ~~(a) Composition. The Honor Council of the College of Dentistry consists of three elected representatives from each class and one elected alternate representative from each class. The alternate representative attends all regular meetings and participates in hearings in the absence of a representative from that class or if needed in order to constitute a quorum of the Honor Council for a hearing. During the interval between the graduation of senior representatives and the installation of new freshmen representatives, the alternates function as full Council members and participate in hearings held during this period.~~
- ~~(b) Election of Members~~
 - ~~1. Each new class elects its Council members within eight weeks of the first day of the beginning of classes.~~
 - ~~2. The Honor Council representatives may be reelected at the discretion of a class. However, it is recommended that Honor Council representatives be retained, if satisfactory, to provide continuity.~~
- ~~(c) Vacancy. If any Council member is, for any reason, unable to sit in judicial capacity at the hearings, the respective class is represented by the elected Honor Council alternate representative, who assumes all the regular powers of a Council member. Should a regular Council member be removed from office, the vacant position is filled by the alternate member from that class and a new alternate member is elected by the~~

class.

- ~~(d) Faculty Advisors: Two Faculty Advisors are appointed by the Dean to assist the Council in its operation.~~
- ~~(e) Quorum. Two thirds of the active voting membership of the Honor Council shall constitute a quorum. Honor Court decisions are decided by a majority vote of the Hearing Court. A quorum may be established regardless of class distribution or alternate status.~~
- ~~(f) Letter of Warning: The purpose of this letter is to notify and warn a student that his/her behavior is raising concern among his/her classmates, staff and faculty and that the activity in question may be in violation of the Honor Code. If the activity or behavior continues, a formal notice of charge may follow.~~
- ~~(g) Advocacy. The associate Dean for student affairs shall also be available as the student's advocate and will assist and advise any student(s) charged with an Honor Code violation.~~

~~(4) COLLEGE OF MEDICINE HONOR COUNCIL~~

- ~~(a) Composition. The Honor Council of the College of Medicine consists of three elected representatives from each class and one elected alternate representative from each class. The alternate representative attends all regular meetings and participates in hearings in the absence of a representative from that class or if needed in order to constitute a quorum of the Honor Council for a hearing. During the interval between the graduation of senior representatives and the installation of new freshmen representatives, all alternates function as full Council members and participate in hearings held during this period.~~
- ~~(b) Election of Members~~
 - ~~1. Each new class elects its Council members within 6 weeks of the first day of the beginning of classes.~~
 - ~~2. The Honor Council representatives may be reelected at the discretion of a class. However, it is recommended that Honor Council representatives be retained, if satisfactory, to provide continuity.~~
- ~~(c) Vacancy. If any Council member is, for any reason, unable to sit in judicial capacity at the hearings, the respective class is represented by the~~

~~elected Honor Council alternate representative, who assumes all the regular powers of a Council member. Should a regular Council member be removed from office, the vacant position is filled by the alternate member from that class and a new alternate member is elected by the class.~~

~~(d) Faculty Advisor. The faculty advisor is appointed by the Dean, assists the Council in its operation, but shall not be present during Council hearings.~~

~~(e) Quorum. A quorum of two-thirds (2/3) of the currently elected and enrolled representatives, available on campus, or their designated alternates, will be required to be in attendance for proceedings concerning an Honor Code violation.~~

~~(f) Letter of Warning. The College of Medicine Honor Council reserves the option to issue a letter of warning to a student in the event of multiple complaints describing suspicious behavior, but without a guilty verdict. The purpose of this letter is to notify and warn a student that his/her behavior is raising concern among his/her classmates that the activity in question may be in violation of the Honor Code. If the activity of behavior continues, a formal Notice of Charge may follow.~~

~~(g) Proctoring. Faculty are welcomed and appreciated during the beginning and conclusion of examination periods to answer questions concerning test proceedings and to supervise test administration. An avenue should be available to contact the course director or his/her representative during the exam in the event of problems. However, in the spirit of the Honor Code as a student-run system, proctoring of written examinations is not allowed unless directed by an outside testing agency or certifying board. This "no proctoring" provision does not apply to practical examinations or examinations requiring proctoring.~~

~~(5) COLLEGE OF NURSING HONOR COUNCIL~~

~~(a) Composition. The Honor Council of the College of Nursing consists of one president, representing all classes, and two representatives from each of the following: a) entering four semester BSN option, b) four semester senior BSN option, c) entering three semester BSN option, d) three semester Senior BSN option, e) RN to BSN option, f) eleven month BSN option, and, g) the graduate program. The Honor Council President presides over all regular meetings and over Honor Council hearings. Both representatives from each class attend regular Honor Council meetings as voting members. In the event of an Honor Court hearing, one representative from each class is selected by the Honor Council president to serve as a member of the hearing panel, and the other representative~~

serves as an alternate.

- ~~(b) Election of Members. The Honor Council president must be a member of the four-semester senior class and is appointed by the president of the College of Nursing SGA. The two representatives are elected by each class during the fall election period. The executive officers of each class are ineligible to serve as members of the Honor Council.~~
- ~~(c) Vacancy. In the event of a vacancy occurring in the Honor Council, a class election is held within 4 weeks of the vacancy to elect a new representative. In the event of a vacancy of the Honor Council president, a new president is reappointed by the president of the College of Nursing SGA.~~
- ~~(d) Faculty Advisor. The Assistant Dean for Student Affairs shall be the College of Nursing Honor Council faculty advisor. The faculty advisor shall be permitted to attend all proceedings of the Honor Council with voice but not vote.~~
- ~~(e) Quorum. Two thirds of the active voting membership of the Honor Council shall constitute a quorum. Honor Court decisions are decided by a majority vote of the Hearing Court. A quorum may be established regardless of a class distribution or alternate status.~~

~~(6) COLLEGE OF PHARMACY HONOR COUNCIL~~

- ~~(a) Composition. The Honor Council of the College of Pharmacy consists of three elected representatives from each class governed by the Honor Code who shall be voting members and one alternate member from each class with voice but not vote. The alternate member may vote in the absence of a voting member from that particular class. The executive officers (president, vice-president, secretary and treasurer) of each class governed by the Honor Code, and those of the SGA Council, are ineligible to be members of the Honor Council.~~
- ~~(b) Election of Members. The first year class elects its council members within 6 weeks of the first day of the beginning of classes in the first academic term. The other three classes elect their Council members in the spring Semester of each year, after class elections. Honor Council representatives may be reelected at the discretion of a class, but only at the reelection times specified above and only by majority vote. It is recommended that Honor Council representatives be reelected, if satisfactory, to provide continuity.~~

- ~~(c) Vacancy. In the event of a vacancy occurring in the Honor Council, the alternate member from the class in which the vacancy occurs becomes the voting representative for that class.~~
- ~~(d) Faculty Advisor. One faculty advisor, with voice but not vote, is not present at hearings unless at the request of the Honor Council. The faculty advisor is selected each year by the Dean of the college. This advisor must be satisfactory to both the Dean and the student body.~~
- ~~(e) Quorum. Two thirds of the membership of the Honor Council shall constitute a quorum. Honor Council decisions are decided by a majority vote of the Honor Council. A quorum may be established regardless of class representation or alternate status.~~

1720-03-01-.05 HONOR CODE VIOLATION PENALTIES.

- (1) If a hearing panel finds that an accused student violated the Honor Code, then the hearing panel will report its findings to the Dean of the accused student's College and recommend possible penalties, including probation, suspension, dismissal, or any other action deemed appropriate by the hearing panel.
- (2) The Dean will consider the evidence, written findings, conclusions, and recommendations of the hearing panel and determine the penalty within ten (10) university business days of the Dean's receipt of the hearing panel's decision. If the Dean is not available to provide a timely penalty determination, then he/she may appoint a designee to make the penalty determination.
- (3) The Dean's decision on the penalty will be sent to the student by:
 - (a) U.S. mail or courier service to the address UTHSC's Registrar has on file for the student, in which case the notice is effectively sent upon mailing or delivery to the courier service; and
 - (b) Electronic means (e.g., e-mail) to the student's UTHSC e-mail account, in which case the notice is effectively sent upon transmission.
- (4) A copy of the Dean's (or designee's) decision will be sent to the president/chairperson of the hearing panel and to the Office of Student Affairs, which will file the decision as part of the student's permanent record.
- (5) Penalties in UAPA hearings will be determined by the administrative judge, hearing examiner, and/or Agency Head in accordance with Chapter 1720-01-05.

1720-03-01-.06 APPEALS.

- (1) The accused student may appeal the Dean's penalty determination in writing to the Chancellor within ten (10) university business days of receipt of the Dean's penalty determination. The accused student has the burden of proving that the penalty assigned by the Dean is unreasonable. Any appeal to the Chancellor may only address the penalty assigned by the Dean and not the decision of the College Honor Council or the University Honor Court.
- (2) The Chancellor (or designee) generally will respond to the student with a decision within ten (10) university business days of the receipt of the request for the appeal. A copy of the Chancellor's (or designee's) decision will be sent to the Office of Student Affairs and maintained in the student's permanent record.
- (3) Appeals in UAPA cases will be handled in accordance with Chapter 1720-01-05.

1720-03-01-.07 COLLEGE HONOR COUNCILS.

- (1) The general duties of a College Honor Council are to:
 - (a) Conduct hearings of alleged violations of the Honor Code;
 - (b) Keep adequate records of all hearings and transfer all case records of the case to the Office of Student Affairs; and
 - (c) Forward findings and recommendations in Honor Code violation proceedings to the Dean of the College.
- (2) Each College will establish policies and procedures governing the membership of the College Honor Council, including eligibility, how members are elected and removed, how alternates are elected and removed, how vacancies are filled, and which members may vote. Such policies and procedures described in Section .07(2) shall be published in the UTHSC student handbook.
- (3) The associate dean for student affairs may assist and advise any student(s) charged with an Honor Code violation.
- (4) The Dean of a College shall appoint one faculty advisor at each of its campuses to assist the College Honor Council. The Dean will determine whether a faculty advisor will be permitted to attend all College Honor Council proceedings and whether the faculty advisor may vote.
- (5) A College Honor Council may issue a letter of warning to a student in the event of multiple complaints describing suspicious behavior but no guilty verdict. A

letter of warning would warn the student his/her behavior is raising concern among classmates, staff, and faculty that the activity in question may violate the Honor Code. If the activity or behavior continues, a formal Notice of Charge may follow.

* 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)
Governor Bill Haslam				x	
Commissioner Julius Johnson	x				
Commissioner Candice McQueen				x	
Dr. Joe DiPietro				x	
Dr. Russ Deaton (non-voting)					

SS-7038 (November 2014)

11

RDA 1693

University of Tennessee Rules
Chapter 1720-03-01 The Honor System

Charles C. Anderson, Jr.	x				
Jalen Blue	x				
Shannon Brown	x				
George E. Cates				x	
Dr. Brian Donavant (non-voting)					
Spruell Driver, Jr.	x				
Dr. William E. Evans				x	
John N. Foy	x				
Crawford Gallimore				x	
Dr. David Golden	x				
Vicky B. Gregg	x				
Raja J. Jubran	x				
Brad A. Lampley	x				
James L. Murphy, III	x				
Sharon J. Miller Pryse	x				
Miranda N. Rutan (non-voting)					
Rhedona Rose	x				
Julia T. Wells	x				
Charles E. Wharton	x				
Tommy G. Whittaker	x				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the University of Tennessee Board of Trustees on 06/25/2015, 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: 11/20/2015

Signature: _____

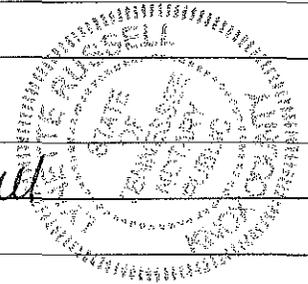
Name of Officer: Matthew Scoggins

Title of Officer: Deputy General Counsel

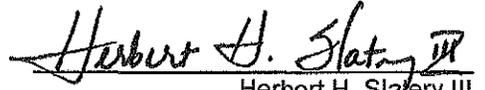
Subscribed and sworn to before me on: 11-20-15

Notary Public Signature: _____

My commission expires on: 12-4-18



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
12/11/2015
Date

Department of State Use Only

Filed with the Department of State on: 1/6/16

Effective on: 4/5/16


Tre Hargett
Secretary of State

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Sequence Number: _____
 Rule ID(s): _____
 File Date: _____
 Effective Date: _____

Filing Form for Stay of Effective Date on Rules, Withdrawal of Stay, and Withdrawal of Rules

Agency/Board/Commission:	University of Tennessee
Division:	
Contact Person:	Matthew Scoggins, Deputy General Counsel
Address:	719 Andy Holt Tower, 1331 Circle Park, Knoxville, TN
Zip:	37996-0170
Phone:	865-974-3245
Email:	scoggins@tennessee.edu

Type of Action on Rule:

Stay of Effective Date of Rules

Rule Filing Date: 01/06/16

Rule Original Effective Date: 04/05/16

Length of Stay (not to exceed 75 days): 30 days

New Effective Date of Rule Filing: 05/05/16

Notice of Withdrawal of Stay

Stay Filing Date: (mm/dd/yy)

Stay Effective Date: (mm/dd/yy)

New Effective Date of Rule Filing: (mm/dd/yy)

Notice of Withdrawal of Rules

Rule Filing Date: (mm/dd/yy)

Rule Effective Date: (mm/dd/yy)

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 enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1720-03-01	The Honor System
Rule Number	Rule Title
1720-03-01-.01	Preamble and Purpose
1720-03-01-.02	The Honor Code
1720-03-01-.03	The Honor Code Pledge
1720-03-01-.04	Administration of the Honor System
1720-03-01-.05	Honor Code Violation Penalties

1720-03-01-.06	Appeals
1720-03-01-.07	College Honor Councils

Date: 3/22/2016

Signature: 

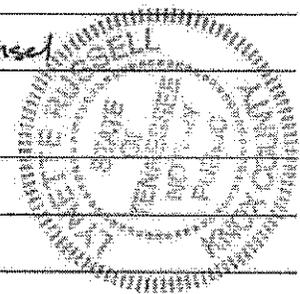
Name of Officer: Matthew Stiggins

Title of Officer: Deputy General Counsel

Subscribed and sworn to before me on: 3-22-16

Notary Public Signature: Lynette Russell

My commission expires on: 12-4-18



Department of State Use Only

Filed with the Department of State on: _____

Tre Hargett
Secretary of State