I. INSTITUTION POLICY STATEMENT

A. Students enrolled in Middle Tennessee State University (“MTSU,” “the Institution” or “the University”) are citizens of their civic communities as well as the academic community. As such, they are expected to conduct themselves as law-abiding members of each community at all times. Admission to an institution of postsecondary education carries with it special privileges and imposes special responsibilities apart from those rights and duties enjoyed by non-students. In recognition of the special relationship that exists between the Institution and the academic community which it seeks to serve, the Tennessee Board of Regents (“TBR” or “the Board”) has authorized the President of MTSU to take such action as may be necessary to maintain campus conditions and preserve the integrity of the Institution and its educational environment.

B. Pursuant to this authorization and in fulfillment of its duties to provide a secure and stimulating atmosphere in which individual and academic pursuits may flourish, the Institution has developed the following policy which is intended to govern student conduct. This policy is implemented consistent with directives of the TBR and is subject to Board approval. In addition, students are subject to all federal, state and local laws and ordinances. If a student’s violation of such laws or ordinances also adversely affects the Institution’s pursuit of its educational objectives, the Institution may enforce its own policies regardless of the status or outcome of any external proceedings instituted by other civil or criminal authorities.

C. With the exception set out in (D) below, the responsibility for the administration of student discipline at MTSU is a function of the Dean of Student Life’s office and/or the appropriate adjudicating body. The Dean of Student Life’s designee is the Office of Judicial Affairs and Mediation Services, specifically the Assistant Dean for Judicial Affairs and the Judicial Coordinator (“University officials”). The Assistant Dean and/or Judicial Coordinator is authorized to make the determination and/or recommendation of the method of hearing each complaint or allegation and to provide other opportunities for conflict resolution outside of the judicial process consistent with these policies. The Assistant Dean and/or Judicial Coordinator shall implement policies and procedures for the administration of the judicial
program and procedures for the conduct of hearings which are consistent with those in the General Policies on Student Conduct.

D. Matters concerning academic misconduct are the responsibility of the Office of the University Provost and/or the Academic Misconduct Committee. This process is set out in detail in MTSU Policy III:00:08 Academic Misconduct.

E. For the purpose of these policies, a “student” shall mean any person who is admitted and/or registered for study at MTSU for any academic period. This shall include any period of time following admission and/or registration, but preceding the start of classes for any academic period. It will also include any period which follows the end of an academic period through the last day for registration for the succeeding academic period, and during any period while the student is under suspension from the Institution. Finally, “student” shall also include any person subject to a period of suspension or removal from campus as a sanction which results from a finding of a violation of the policy governing student conduct. Students are responsible for compliance with Institutional policies at all times.

F. Disciplinary action may be taken against a student for violations of the policy which occur on Institutionally owned, leased, or otherwise controlled property, while participating in international or distance learning programs, and off campus, when the conduct impairs, interferes with, or obstructs any Institutional activity or the mission, processes, and functions of the Institution. MTSU may enforce its policy regardless of the status or outcome of any external proceedings instituted in any other forum, including any civil or criminal proceeding.

G. This policy, and related material incorporated herein by reference, is applicable to student organizations as well as individual students. Student organizations are subject to discipline for the conduct and actions of individual members of the organization while acting in their capacity as members of, or while attending or participating in any activity of, the organization.

H. Confidentiality of Discipline Process. Subject to the exceptions provided pursuant to the Family Educational Rights and Privacy Act of 1974 (FERPA), 20 U.S.C. 1232g and/or the Tennessee Open Records Act, T.C.A. § 10-7-504(a)(4), a student’s disciplinary files are considered “educational records” and are confidential within the meaning of those Acts.

II. DISCIPLINARY OFFENSES

A. Institutional disciplinary measures shall be imposed, through appropriate due process procedures, for conduct which adversely affects the Institution’s pursuit of its educational objectives, which violates or shows a disregard for the rights of other members of the academic community, or which endangers property or persons on property owned or controlled by the Institution.

B. MTSU has adopted the following non-exclusive list providing notice of offenses for which both individuals and organizations may be subject to disciplinary action:
1. Threatening or Disruptive Conduct. Any conduct, or attempted conduct, which poses a threat to the safety of others or when the student’s behavior is disruptive of the institution’s learning environment.

2. Hazing. Hazing, as defined in T.C.A. § 49-7-123(a)(1), means any intentional or reckless act, on or off the property, of any higher education institution by an individual acting alone, or with others, which is directed against any other person(s) that endangers the mental or physical health or safety of that person(s), or which induces or coerces a person(s) to endanger such person(s) mental or physical health or safety. Hazing does not include customary athletic events or similar contests or competitions, and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization.

3. Disorderly Conduct. Any individual or group behavior which is abusive, obscene, lewd, indecent, violent, excessively noisy, disorderly, or which unreasonably disturbs institutional functions, operations, classrooms, other groups, or individuals.

4. Obstruction of or Interference with Institutional Activities or Facilities. Any intentional interference with or obstruction of any Institutional program, event, or facility including the following:
   a. Any unauthorized occupancy of facilities owned or controlled by the Institution or blockage of access to or from such facilities;
   b. Interference with the right of any Institution member or other authorized person to gain access to any activity, program, event, or facilities sponsored or controlled by the Institution;
   c. Any obstruction or delay of a campus security officer, public safety officer, police officer, firefighter, EMT, or any official of the Institution, or failure to comply with any emergency directive issued by such person in the performance of his/her duty;
   d. Leading or inciting others to disrupt scheduled and/or normal activities of the University;
   e. Participating in behavior that disrupts the scheduled and/or normal activities of the University;
   f. Interference of either: (1) the instructor’s ability to conduct class; or (2) the ability of other students to participate in and profit from instructional activity.

5. Misuse of or Damage to Property. Any act of misuse, vandalism, malicious or unwarranted damage or destruction, defacing, disfiguring or unauthorized use of
property belonging to another including, but not limited to, any personal property, fire alarms, fire equipment, elevators, telephones, Institution keys, library materials, and/or safety devices.

6. Theft, Misappropriation, or Unauthorized Sale of Property. Any act of theft, misappropriation, or unauthorized possession or sale of Institution property, or any such act against a member of the Institutional community or a guest of the Institution, including identity theft.

7. Misuse of Documents or Identification Cards. Any forgery, alteration of, or unauthorized use of Institutional documents, forms, records or identification cards, including the giving of any false information, or withholding of necessary information, in connection with a student’s admission, enrollment or status in the Institution.

8. Firearms and Other Dangerous Weapons. The possession or use of firearms, explosives, fireworks, inflammables, dangerous chemical mixtures, and/or dangerous weapons of any kind, including, but not limited to, tasers, asp batons, tactical or telescoping batons, brass knuckles, whips, BB guns, pellet guns, propelled missiles and/or stun guns is prohibited. The possession or use of ammunition, which includes, but is not limited to, bullets, paint balls, pellets, and BBs is prohibited. Any possession or use of firearms or replica/toy guns, including, but not limited to, BB guns or cap guns, pellet guns, paintball guns, water guns, “Super Soakers,” toy knives, slingshots or other items that simulate firearms or dangerous weapons is prohibited.

9. Explosives, Fireworks, and Flammable Materials. The unauthorized possession, ignition or detonation of any object or article which would cause damage by fire or other means to persons or property or possession of any substance which could be considered to be and used as fireworks.

10. Alcoholic Beverages. The use and/or possession of alcoholic beverages on Institution owned or controlled property. This offense includes the violation of any local ordinance, state, or federal law concerning alcoholic beverages, on or off Institution owned or controlled property, where an affiliated group or organization has alcoholic beverages present and available for consumption.

A student who is under the influence of alcohol should not be reluctant to seek assistance in the event of a health or safety emergency for fear of being sanctioned. The Office of Judicial Affairs and Mediation Services will generally not pursue disciplinary violations against a student (or against a witness) for his/her improper use of alcohol (e.g., underage drinking) under that circumstance. This practice only applies to amnesty from violations of the Student Code of Conduct. It does not grant amnesty for criminal, civil or legal consequences for violations of federal, state, or local law;
11. Drugs. The unlawful possession or use of any drug or controlled substance (including, but not limited to, any stimulant, depressant, narcotic or hallucinogenic drug, or marijuana), sale or distribution of any such drug or controlled substance. This offense includes the violation of any local ordinance, state, or federal law concerning the unlawful possession or use of drugs, on or off Institution owned or controlled property.

A student who is under the influence of drugs should not be reluctant to seek assistance in the event of a health or safety emergency for fear of being sanctioned. The Office of Judicial Affairs and Mediation Services will generally not pursue disciplinary violations against a student (or against a witness) for his/her improper possession or use of drugs under that circumstance. This practice only applies to amnesty from violations of the Student Code of Conduct. It does not grant amnesty for criminal, civil or legal consequences for violations of federal, state, or local law;

12. Drug Paraphernalia. The use or possession of equipment, products or materials that are used or intended for use in manufacturing, growing, using or distributing any drug or controlled substance. This offense includes the violation of any local ordinance, state, or federal law concerning the unlawful possession of drug paraphernalia, on or off Institution owned or controlled property.

13. Public Intoxication. Appearing on Institution owned or controlled property or at an Institutional sponsored event while under the influence of a controlled substance or of any other intoxicating substance.

A student who is under the influence of alcohol should not be reluctant to seek assistance in the event of a health or safety emergency for fear of being sanctioned. The Office of Judicial Affairs and Mediation Services will generally not pursue disciplinary violations against a student (or against a witness) for his/her improper use of alcohol (e.g., underage drinking) under that circumstance. This practice only applies to amnesty from violations of the Student Code of Conduct. It does not grant amnesty for criminal, civil or legal consequences for violations of federal, state, or local law;


15. Financial Irresponsibility. Failure to meet financial responsibilities to the Institution promptly including, but not limited to, knowingly passing a worthless check or money order in payment to the Institution.

16. Unacceptable Conduct in Disciplinary Proceedings. Any conduct at any stage of an Institutional disciplinary proceeding or investigation that is contemptuous, disrespectful, threatening, or disorderly, including false complaints, retaliation, testimony or other evidence, and attempts to influence the impartiality of a member of a judicial body, verbal or physical harassment or intimidation of a judicial board member, complainant, respondent or witness.
17. Failure to Cooperate with Institutional Officials. Failure to comply with directions of Institutional officials acting in the performance of their duties.

18. Violation of General Policies. Any violation of the general policies or procedures of the Institution as published in an official Institutional publication, including the intentional failure to perform any required action or the intentional performance of any prohibited action.

19. Attempts, Aiding and Abetting. Any attempt to commit any of the offenses listed under this section or the aiding or abetting of the commission of any of the offenses listed under this section (an attempt to commit an offense is defined as the intention to commit the offense coupled with the taking of some action toward its commission). Being present during the planning or commission of any offense listed under this section will be considered as aiding and abetting. Students who anticipate or observe an offense must remove themselves from the situation and are required to report the offense to the Institution.

20. Violations of State or Federal Laws. Any violation of state or federal laws or regulations proscribing conduct or establishing offenses, which laws and regulations are incorporated herein by reference.

21. Violation of Imposed Disciplinary Sanctions. Intentional or unintentional violation of a disciplinary sanction officially imposed by an Institution official or a constituted body of the Institution.

22. Sexual Misconduct. Sexual misconduct is defined as dating violence, domestic violence, stalking and sexual assault. See MTSU Policy I:01:23 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation and Gender Identity/Expression for more detailed definitions of those terms along with the University process for investigating allegations of sexual misconduct. Also note that disciplinary matters involving incidents of sexual misconduct will proceed through the process set out in MTSU Policy I:01:23 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression rather than the process specified in Section V of this policy.

A student who is a victim of sexual misconduct and who was under the influence of alcohol or drugs during the sexual misconduct incident should not be reluctant to seek assistance for fear of being sanctioned for his/her improper use of alcohol or drugs. The Office of Judicial Affairs and Mediation Services will generally not pursue disciplinary violations against the victim (or against a witness) for his/her improper use of alcohol or drugs (e.g., underage drinking) if the victim or witness is making a good faith report of sexual misconduct. Amnesty for improper use of alcohol or drugs will not be accorded to a student charged with sexual misconduct. This practice only applies to amnesty from violations of the Student Code of Conduct. It does not grant
amnesty for criminal, civil or legal consequences for violations of federal, state, or local law.

23. Harassment or Retaliation. Any act by an individual or group against another person or group in violation of TBR or MTSU policies, as well as federal and/or state laws prohibiting discrimination, including, but not limited to, TBR Policies 5:01:02:00 Equal Employment Opportunity and Affirmative Action, 6:02:00:00 Sex Discrimination, Sexual Harassment or Sexual Misconduct and TBR Guideline P-080 Discrimination and Harassment — Complaint and Investigation Procedures; and MTSU Policies I:01:10 Equal Opportunity, Affirmative Action, and Nondiscrimination, I:01:22 Discrimination and Harassment Based on Protected Categories Other Than Sex, and I:01:23 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression.

Retaliation also includes, in this context, an act intended or reasonably likely to dissuade a person from participating in the student disciplinary process or pursuing a complaint about a violation of MTSU or TBR policies and state or federal law.

24. Academic Misconduct. Academic misconduct may consist of acts of plagiarism, cheating, or fabrication. For purposes of this section the following definitions apply:

a. Plagiarism. The adoption or reproduction of ideas, words, statements, images, or works of another person as one’s own without proper attribution. This includes self-plagiarism, which occurs when an author submits material or research from a previous academic exercise to satisfy the requirements of another exercise and uses it without proper citation of its reuse.

b. Cheating. Using or attempting to use unauthorized materials, information, or aids in any academic exercise or test/examination. Cheating includes unapproved collaboration which occurs when a student works with others on an academic exercise without the express permission of the faculty member.

c. Fabrication. Unauthorized falsification or invention of any information or citation in an academic exercise.

25. Unauthorized Duplication or Possession of Keys. Making, causing to be made, or the possession of any key for an Institutional facility without proper authorization.

26. Litter. Dispersing litter in any form onto the grounds or facilities of the campus.

27. Pornography. Public display of literature, films, pictures or other materials which an average person applying contemporary community standards would find (1) taken as a whole, appeals to the prurient interest, (2) depicts or describes sexual conduct in a
patently offensive way, and (3) taken as a whole, lacks serious literary, artistic, political or scientific value.

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

   a. Use of another person’s identification to gain access to Institutional computer resources;

   b. Use of Institutional computer resources and facilities to violate copyright laws, including, but not limited to, the act of unauthorized distribution of copyrighted materials using Institutional information technology systems;

   c. Unauthorized access to a computer or network file, including but not limited to, altering, using, reading, copying, or deleting the file;

   d. Unauthorized transfer of a computer or network file;

   e. Use of computing resources and facilities to send abusive or obscene correspondence;

   f. Use of computing resources and facilities in a manner that interferes with normal operation of the Institutional computing system;

   g. Use of computing resources and facilities to interfere with the work of another student, faculty member, or Institutional official;

   h. Violation of any published information technology resources policy;

   i. Unauthorized peer-to-peer file sharing.

29. Unauthorized Access to Institutional Facilities and/or Grounds. Any unauthorized access and/or occupancy of Institutional facilities and grounds is prohibited, including, but not limited to, gaining access to facilities and grounds that are closed to the public, being present in areas of campus that are open to limited guests only, being present in academic buildings after hours without permission, and being present in buildings when the student has no legitimate reason to be present.

30. Providing False Information. Giving any false information to, or withholding necessary information from, any Institutional official acting in the performance of his/her duties in connection with a student’s admission, enrollment, or status in the Institution.

31. Unauthorized Surveillance. Making or causing to be made unauthorized video or photographic images of a person in a location in which that person has a reasonable expectation of privacy, without the prior effective consent of the individual, or in the
case of a minor, without the prior effective consent of the minor’s parent or guardian. This includes, but is not limited to, taking video or photographic images in shower/locker rooms, residence hall rooms, and men’s or women’s restrooms, and storing, sharing, and/or distributing of such unauthorized images by any means.

32. Smoking Violations. Violation of [MTSU Policy 1:01:03 Tobacco-Free Campus Policy].

33. Fire Drills. Failure to evacuate University facilities or willfully disregarding any emergency or fire alarm signal.

34. Traffic and Parking Violations. Violation of [MTSU Policy 1:14:01 Traffic and Parking].

35. Sirens and Loudspeakers. Unauthorized use of sirens, loudspeakers, and other sound amplification equipment.

36. Student Identification Cards. (1) Failure to possess at all times a valid student identification card; (2) failure to surrender ID card to University official upon proper request.

37. Graffiti. Damage or defacement of MTSU property by painting, chalking, writing, stenciling, or by any other means of application on such property.

38. Violation of Housing Policies. The Office of Housing and Residential Life has established conduct expectations for residents of residence halls, apartment complexes and houses on the university campus. See [MTSU Policy III:00:05 Housing and Residential Life Rules].

C. Disciplinary action may be taken against a student for violations of the foregoing which occur at or in association with enrollment at the Institution for any academic period. Each student shall be responsible for his/her conduct from the time of application for admission through the actual awarding of a degree including periods prior to or between semesters. Conduct in violation of this policy occurring while a student is registered or enrolled at the Institution, but not discovered until after the awarding of a degree is actionable under these provisions and may result in the retroactive application of a disciplinary sanction. Should a student withdraw from the Institution with disciplinary action or academic misconduct action pending, the student’s record may be encumbered by the appropriate Institutional office until the proceedings have been concluded.

III. ACADEMIC AND CLASSROOM MISCONDUCT

A. The instructor has the primary responsibility for maintenance of academic integrity and controlling classroom behavior, and can order the temporary removal or exclusion from the classroom of any student engaged in disruptive conduct or conduct that violates the general policies of the Institution for each class session during which the conduct occurs.
Extended or permanent exclusion from the classroom, beyond the session in which the conduct occurred, or further disciplinary action can be effected only through appropriate procedures of the Institution. If an instructor wishes to remove a student from the classroom for a longer period of time or permanently, he/she must refer the student to the Office of Judicial Affairs and Mediation Services.

B. Disruptive behavior in the classroom may be defined as, but not limited to, behavior that obstructs or disrupts the learning environment (e.g., offensive language, harassment of students and professors, repeated outbursts from a student which disrupts the flow of instruction or prevents concentration on the subject taught, failure to cooperate in maintaining classroom decorum, etc.), text messaging, and the continued use of any electronic or other noise or light emitting device which disturbs others (e.g., disturbing noises from beepers, cell phones, palm pilots, lap-top computers, games, etc.).

C. Plagiarism, cheating, and other forms of academic dishonesty are prohibited. Students found responsible of engaging in academic misconduct, either directly or indirectly, through participation or assistance, are immediately responsible to the instructor of the class. In addition to other possible disciplinary sanctions which may be imposed through the process provided in MTSU Policy III:00:08 Academic Misconduct, the instructor has the authority to assign an appropriate grade for the exercise or examination, or to assign an F in the course, as is proportional to the nature and extent of the academic misconduct. When a student has engaged in academic misconduct, the faculty member shall ensure that the student is made aware of his/her appeal rights.

D. All matters involving academic misconduct will be processed as set out in MTSU Policy III:00:08 Academic Misconduct. If not resolved prior to a hearing, these matters will be heard by the Academic Misconduct Committee which will convene a hearing to determine whether the conduct constitutes academic misconduct and, if so, whether additional disciplinary sanctions should be imposed. If the Committee determines there was no academic misconduct, it will direct any grade assigned to be changed as it determines is appropriate. Courses may not be dropped pending the final resolution of an allegation of academic misconduct.

IV. DISCIPLINARY SANCTIONS

A. The following potential disciplinary sanctions are applicable to both individuals and organizations. Upon a determination that a student or student organization has violated any of the disciplinary offenses set forth in this policy or the general policies of the University, disciplinary sanctions may be imposed, either singly or in combination, by the appropriate Institution or school officials.

B. Definition of Sanctions:

1. Restitution. Restitution may be required in situations which involve destruction, damage, or loss of property, or unreimbursed medical expenses resulting from physical injury. When restitution is required, the student or student organization is
obligated by the appropriate judicial authority to compensate a party or parties for a loss suffered as a result of disciplinary violation(s). Any such payment in restitution shall be limited to actual cost of repair, replacement or financial loss.

2. Warning. The appropriate Institutional official may notify the student or student organization that continuation or repetition of specified conduct may be cause for other disciplinary action.

3. Reprimand. A written or verbal reprimand or censure may be given to any student or student organization whose conduct violates any part of these policies and provides notice that any further violation(s) may result in more serious penalties.

4. Service to the Institution or Community. A student, or student organization, may be required to donate a specified number of service hours to the Institution performing reasonable tasks for an appropriate Institution office, official(s), or the local community. The service required shall be commensurate to the offense (e.g., service for maintenance staff for defacing Institutional property). Community service hours must be approved by the Office of Judicial Affairs and Mediation Services prior to a student beginning the service.

5. Specified Educational/Counseling Program. A student or student organization may be required to participate in specified educational or counseling program(s) relevant to the offense, or to prepare a project or report concerning a relevant topic.

6. Apology. A student or student organization may be required to apologize to an affected party, either verbally or in writing, for the behavior related to a disciplinary offense.

7. Fines. Penalties in the form of fines may be imposed against a student or student organization whenever the appropriate Institutional authority deems appropriate. The sanction of fines may be imposed in addition to other forms of disciplinary sanctions. Failure to pay fines may result in further disciplinary action.

8. Restriction. A restriction upon a student’s or student organization’s privileges for a period of time may be imposed. This restriction may include, for example, denial of the ability to represent the Institution at any event, ability to participate in Institution or TBR sponsored travel, use of facilities, parking privileges, participation in extracurricular activities or restriction of organizational privileges.

9. Probation. Continued enrollment of a student or recognition of a student organization on probation may be conditioned upon adherence to these policies. Any student or organization placed on probation will be notified in writing of the terms and length of the probation. Probation may include restrictions upon extracurricular activities, or any other appropriate special condition(s). Any conduct in further violation of these policies while on probationary status or the failure to comply with the terms of the probationary period may result in the imposition of further disciplinary action.
10. Suspension. Suspension is the separation of a student or student organization from the Institution for a specified period of time and includes all instructional delivery methods (i.e., on ground, on-line, distance education, etc.). Suspension may be accompanied by special conditions for readmission or recognition. Any student receiving a sanction of suspension shall be restricted from the campus of MTSU during the period of separation unless on official business with the University verified in writing by the Dean of Student Life. A suspended student must submit a written request to be on campus to the Dean of Student Life a minimum of 48 hours in advance of the scheduled time of his/her business on campus. The request must specify the specific reason to be on campus and the location that the student wishes to visit. Students who have been suspended are not permitted to live or board in University facilities or housing unless otherwise approved or provided by the University.

11. Expulsion. Expulsion entails a permanent separation from the Institution. The imposition of this sanction is a permanent bar to the student’s admission, or a student organization’s recognition to the Institution. A student or organization that has been expelled may not enter Institution property or facilities without obtaining prior approval from an appropriate campus official with knowledge of the expulsion directive. Any student receiving a sanction of expulsion shall be restricted from the campus of MTSU unless on official business with the University verified in writing by the Dean of Student Life. An expelled student must submit a written request to be on campus to the Dean of Student Life a minimum of 48 hours in advance of the scheduled time of his/her business on campus. The request must specify the specific reason to be on campus and the location that the student wishes to visit. Students who have been expelled are not permitted to live or board in University facilities or housing unless otherwise approved or provided by the University.

12. Revocation of Admission, Degree, or Credential.

13. Any alternate sanction deemed necessary and appropriate to address the misconduct at issue.

14. Interim Involuntary Withdrawal or Suspension. As a general rule, the status of a student or student organization accused of violation of these policies should not be altered until a final determination has been made in regard to the charges. However, interim involuntary withdrawal or suspension, pending the completion of disciplinary procedures, may be imposed upon a finding by the appropriate Institutional official that the conduct or attempted conduct of the student poses a direct threat to the safety of any other member of the Institution, its guests, property, or if the student’s behavior is materially and substantially disruptive of the institution’s learning environment or other campus activities. In any case of interim involuntary withdrawal or suspension, the student, or student organization, shall be given an opportunity at the time of the decision, or as soon thereafter as reasonably possible, to contest the interim involuntary withdrawal or suspension. During an interim suspension, the
student shall be denied access to residence halls, campus (including classes), and/or all other University activities or privileges for which the student might otherwise be eligible, as the Dean of Student Life or a designee may determine to be appropriate. A preliminary hearing will be held by a designee of the Dean of Student Life in consultation with appropriate University officials and the Vice President for Student Affairs, within four (4) working days of the interim involuntary withdrawal or suspension to determine if the interim involuntary withdrawal or suspension should continue until a formal hearing of the charges by a University adjudicating body can be held. During this preliminary hearing, the student will be given notice of the allegations supporting the imposition of interim involuntary withdrawal or suspension against him/her and a summary of the evidence that supports the allegations. The student will be afforded an opportunity to respond to the allegations. If the interim involuntary withdrawal or suspension is upheld, the formal hearing concerning withdrawal, suspension or expulsion shall be held as soon as practical. The student also has the option of having the case adjudicated by a Student Life Dean.

15. Housing Probation. Continued residence in campus or student housing may be conditioned upon adherence to this policy as well as Institutional housing policies. Any resident placed on housing probation will be notified in writing of the terms and length of the probation. Probation may include restrictions upon the activities of the resident, including any other appropriate special condition(s).

16. Involuntary Reassignment. A student may be involuntarily moved to another housing assignment if warranted by his/her behavior.

17. Housing Suspension and Forfeiture. A resident suspended from housing may not reside, visit, or make any use whatsoever of a housing facility or participate in any housing activity during the period for which the sanction is in effect. A suspended resident shall be required to forfeit housing fees (including any unused portion thereof and the Housing Deposit). A suspended resident must vacate the housing unit. Housing suspension shall remain a part of the student resident’s disciplinary record.

C. The President is authorized, at his/her discretion, to intervene in order to negotiate a mutually acceptable resolution to any disciplinary proceeding, or, subsequently, to convert any sanction imposed to a lesser sanction, or to rescind any previous sanction, in appropriate cases.

V. TRAFFIC AND PARKING

See MTSU Policy I:14:01 Traffic and Parking.

VI. DISCIPLINARY PROCEDURES

A. Responsibility for Administration. The administration of discipline is a function of the Dean of Student Life’s Office and/or the appropriate adjudicating body with the exception
of matters concerning academic misconduct which is a function of the Office of the University Provost and/or the Academic Misconduct Committee, referenced in Section K below and set out with specificity in MTSU Policy III:00:08 Academic Misconduct. Also note that all matters involving sexual discrimination, sexual harassment or sexual misconduct will proceed pursuant to MTSU Policy I:01:23 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression rather than the process specified in this Part VI.

B. Disciplinary Referral. Reports of acts and incidents involving students may be referred for evaluation and possible disciplinary action by the University Police, residence hall staff members, faculty, students, and other members of the University community. Reports should be directed to the Assistant Dean for Judicial Affairs and Mediation Services located in Keathley University Center, Room 208. All referrals are required to be submitted in writing.

C. Preliminary Review and Investigation.

1. When an incident involving allegations of student misconduct is brought to the attention of the appropriate student personnel dean, an investigation shall be conducted. Such an investigation may include but not be limited to visiting the scene of an alleged incident, interviewing interested parties, and gathering relevant evidence;

2. A student or student organization (hereinafter referred to as “student”) alleged to have acted in violation of University policy/policies will be interviewed by the appropriate staff member. During this disciplinary conference, the student will be advised as to which University policy/policies have allegedly been violated and will be given an opportunity to explain his/her version of the act or incident, or to otherwise refute the allegations. The staff member will review the incident taking into account the information provided by the student. A determination will be made and the student will be advised as to whether or not sustained disciplinary proceedings are indicated, and if so, whether a sanction of suspension or expulsion will be sought by the University.

3. In the event that the alleged misconduct is such that the University seeks to impose a penalty of (1) suspension or expulsion of a student from the University, a program, or a course for disciplinary reasons, or (2) revocation of registration of a student organization during the term of registration, the appropriate staff members shall inform the student as follows:

   a. The student in such a case who desires to contest the charge(s) of misconduct is entitled to a hearing in accordance with the uniform contested case procedures adopted by the Tennessee Board of Regents in compliance with the Uniform Administrative Procedures Act.

   b. The student may elect to have the charge(s) against him/her disposed of in accordance with the University procedures or under the Uniform Administrative Procedures Act in accordance with the Board’s uniform contested case procedures.
D. Hearing Procedures. The following procedures are available to students who are subject to disciplinary sanctions:

1. Uniform Administrative Procedures Act. All cases which may result in: (a) suspension or expulsion of a student from the Institution for disciplinary reasons; or, (2) revocation of the registration of a student organization, are subject to the contested case provisions of the Uniform Administrative Procedures Act (UAPA), T.C.A. Sec. 9-8-301, et. seq., and shall be processed in accord with the Uniform Contested Case procedures adopted by the Board of Regents unless the student or student organization, after receiving written notice, waives those procedures and elects to have the case disposed of in accord with Institutional procedures or waives all right to contest the case under any procedure.

   a. In all cases involving a hearing under the UAPA contested case provisions, the president or his/her designee shall determine, based upon the nature of the case, whether the hearing shall be before a hearing officer alone or a Hearing Committee presided over by a hearing officer.

   b. The case will proceed pursuant to the provisions of the UAPA and TBR Policy 1:06:00:05 Uniform Procedures for Cases Subject to the Uniform Administrative Procedures Act.

2. Students subject to a sanction of suspension or expulsion who waive the option of a UAPA hearing in writing shall be accorded a hearing before the appropriate University adjudicating body. The following Institutional hearing procedures shall be observed:

   a. The respondent shall be advised in writing of the time and place of the hearing at least five (5) business days in advance of the hearing.

   b. The respondent shall be advised in writing of the breach of policies of which he/she is charged.

   c. The respondent shall be advised in writing of the following rights:

      (i) the right to present his/her case;

      (ii) the right to be accompanied by an advisor whose participation shall be limited to advising the respondent. The respondent may also be accompanied by legal counsel; however, counsel’s participation shall be limited to directly advising the student, i.e., legal counsel may not conduct direct or cross-examination, make opening or closing statements, or engage in argument. The respondent may be accompanied by more than one advisor at the discretion of the
adjudicating officer or body. The intent of the respondent to be accompanied by an advisor or counsel shall be indicated to the judicial coordinator in writing prior to the hearing;

(iii) the right to call witnesses on his/her behalf. It is the respondent’s responsibility to contact his/her witnesses and inform them of the hearing unless the witness is also a university witness. University witnesses are contacted by the Office of Judicial Affairs and Mediation Services;

(iv) the right to confront and question witnesses;

(v) the respondent shall be advised in writing of the adjudicating body’s decision and of the method of appeal, if applicable.

d. All hearings shall be closed unless the respondent and the complainant both elect in writing to have an open hearing.

e. Formal rules of evidence shall not be applicable. The adjudicating body may exclude evidence which in its judgment is immaterial, irrelevant, or unduly repetitious.

f. Decisions of the adjudicating body relative to the responsibility of the respondent involved in an alleged violation shall be by majority vote of members present and voting. The chair of the adjudicating body votes only in the case of a tie.

g. The standard of proof required for a finding of violation of the Student Code of Conduct shall be the preponderance of the evidence.

3. A student subject to suspension or expulsion may choose to have the appropriate staff member adjudicate the case. The following conditions must be met:

a. The student, in writing, requests the procedure and thereby waives his/her right to have the case heard pursuant to the UAPA and the Institutional hearing process;

b. The appropriate University official consents to adjudicate the case;

c. The student is willing to accept the appropriate University official’s adjudication as final and waives his/her right to appeal.

4. Students who are subject to imposition of disciplinary sanctions other than suspension or expulsion will be accorded a disciplinary conference with the appropriate university official. A preliminary review conference will be converted to a disciplinary conference at the student’s election or at the staff member’s discretion if a sanction of suspension or expulsion is not being sought. The university official may refer any case which is unduly complex or which contains a genuinely disputed issue of material
fact(s) for a hearing by the appropriate adjudicatory body. The following procedural protections will be afforded the student at and/or during the disciplinary conference:

a. The student shall be advised of the breach of policy/policies of which he/she is charged.

b. The student shall be given an opportunity to call witnesses or present other evidence on his/her behalf.

c. The student may be accompanied by an advisor of his/her choice;

d. The student will be advised in writing of the sanctions imposed.

5. Mediation. Students involved in conflict(s) with another individual(s) may elect to have the conflict(s) mediated with the assistance of a third party mediator assigned by the appropriate university official. Mediation may never be used for disciplinary matters concerning allegations of sexual assault. The following conditions must be accepted by the parties:

a. All parties involved must agree to the mediation process;

b. The resolution that results from the mediation process will be written, must be signed by all parties, and will bind the parties to abide by the agreed terms until such terms are completed or an alternative agreement is developed by the parties;

c. The agreement reached through mediation is not subject to any appeals process;

d. If no form of resolution can be determined by mutual consent, the staff member may recommend that the matter be referred to the appropriate judicial body.

6. Interim Involuntary Withdrawal or Suspension Hearings: Hearings conducted with regard to interim involuntary withdrawals or suspensions imposed prior to or pending the outcome of a disciplinary investigation or proceeding shall be conducted consistent with the minimum requirements of due process applicable to an institutional hearing, taking into account the need for a timely hearing. The evidence presented at the hearing shall be limited to that which is relevant to the basis asserted for imposition of the interim involuntary withdrawal or suspension.

a. In determining whether a student should be involuntarily withdrawn or suspended for threatening or disruptive conduct, the institution shall consider the nature, duration, severity, and probability of the threat posed and/or disruption caused by the student, relying on the best available objective evidence and, if applicable and obtainable, the most current medical evidence.

b. The institution shall also determine whether reasonable modifications of its policies, practices or procedures could sufficiently mitigate the risk.
c. Absent exigent circumstances creating an imminent risk of harm, the assessment will be made prior to a decision to involuntary withdraw or suspend based on the threat he/she poses to others.

d. If exigent circumstances warrant the immediate removal of a student from the institution, the student will receive, at a minimum, notice and an initial opportunity to present evidence immediately after being placed on the interim involuntary withdrawal or suspension, and the opportunity to initiate full due process within 30 days of the removal.

e. Failure of the student to appear for or cooperate with the mandated assessment will result in an involuntary withdrawal without further process.

f. Conditions may be placed on a student for his/her return to the University. The student may be required to provide documentation that he/she has taken steps to mitigate the previous behavior (e.g., followed a treatment plan, submitted periodic reports, granted permission for the University to talk to the treating professional).

E. Victim’s Rights. Students who are victimized by violations of the University policies shall be provided with certain rights. Additionally, although the victim’s input shall be sought during the disciplinary process, the right and responsibility for disposition of any individual complaint is reserved by the University. If a victim withdraws his/her complaint or refuses to offer testimony during the course of a disciplinary proceeding, the University reserves the right to proceed with a disposition of the allegations consistent with these policies. The rights referred to above are as follows:

1. The victim shall be advised in writing of the time and place of the hearing at least five (5) business days in advance.

2. The victim shall be given the opportunity to meet with the appropriate staff member to discuss the disciplinary process.

3. The victim shall be given an opportunity to submit a written account of the alleged incident.

4. The victim shall have the right to be accompanied at all stages of the disciplinary process by an advisor whose participation shall be limited to advising the victim. The victim may also be accompanied by legal counsel; however, counsel’s participation shall be limited to directly advising the victim, i.e., legal counsel may not conduct direct or cross-examination, make opening or closing statements, or engage in argument. The victim may be accompanied by more than one advisor at the discretion of the adjudicating officer or body. The intent of the victim to be accompanied by an advisor shall be indicated in writing to the judicial coordinator prior to the disciplinary conference.
5. The victim shall be afforded an opportunity to testify as a witness during a disciplinary hearing;

6. The victim may reserve the right to decline to testify during a disciplinary hearing, with the knowledge that such action could result in dismissal of allegations of University rules violations for lack of evidence.

7. In addition to the written account of the alleged incident, the victim shall be allowed to submit a written impact statement to the adjudicating body for their consideration during the sanction phase of the disciplinary hearing.

F. Effect of Noncooperation. Students alleged to have violated University policies shall be provided notice of the allegation(s). A student who fails to respond to a notice of allegations within the specified time frame will have a hold placed on his/her records and transcripts. The hold will be removed at such time as the student has appropriately responded to a notice of an alleged violation(s). In the event a student fails to cooperate, ignores, or otherwise does not respond after a reasonable amount of time, he/she may be referred for a hearing before the appropriate University adjudicating body and shall be deemed to have waived the election of a hearing pursuant to the UAPA. In this instance, a decision may be made in the student’s absence.

G. Retention of Records. Disciplinary files developed will be voided if the student is not found to be responsible for a policy violation. A permanent file will be maintained if a student is suspended or expelled as a result of his/her being found to be responsible for a policy violation. No reference to the suspension or expulsion will be made on the student’s transcript unless the sanction so specifies. Files developed in cases in which a lesser sanction has been imposed will be retained for a period of five (5) years after date of action unless sanctions specify that they should be retained for a longer period. Files developed in cases that are covered under the Clery Act will be retained for a period of seven (7) years after the date of action per federal requirements.

H. Procedure for Traffic Court. A student who receives a traffic citation that he/she believes was issued in error or was the result of actions by the student in response to a legitimate emergency may appeal such a citation in the SGA Traffic Court. The student will be afforded the opportunity for a hearing wherein the following procedures will be observed:

1. The student will be advised of the following rights:
   a. the right to present his/her cause;
   b. the right to call witnesses in his/her behalf;
   c. in the case of a moving violation or tow, the right to confront the officer who wrote the citation and/or authorized the tow.
2. The citation(s) issued will be considered sufficient on its face to establish the violation and will remain sufficient to support a judgment if not contradicted or rebutted.

I. Structure of Judicial System.

1. The student judicial system of MTSU is organized as follows:

   a. The Assistant Dean for Judicial Affairs and Mediation Services and/or the Judicial Coordinator shall review all disciplinary referrals and shall hear cases that are not subject to other conditions described herein.

   b. The Student Judicial Board shall consist of seven (7) members and three (3) alternates selected from eligible members of the student body. Members shall be selected for one (1) year terms, and are eligible to serve additional terms with reapplication and approval as prescribed herein. The chair and vice-chair of the Student Judicial Board will be selected by a majority vote of the committee members. Recruitment shall be campus-wide and the pool of candidates should reflect the diversity of the University community. The selection process includes an application and interview. Interviews for the Student Judicial Board will be conducted by a selection committee that shall be appointed by the Associate Vice President for Student Affairs or his/her designee and the President of the Student Government Association. The composition of the selection committee shall represent the diversity of the campus community.

   The Student Judicial Board shall hear cases referred to it by the Office of Judicial Affairs and Mediation Services. In these cases, the board makes its recommendation to the Dean of Student Life or his/her designee.

   c. The Student Traffic Court shall hear cases appealing traffic and parking citations. The decision of the Student Traffic Court will be final in such cases. Student Justices are appointed for an academic year term by the president of the Student Government Association with the consent of the Student Senate.

   d. The University Discipline Committee should be composed of one (1) faculty member from each undergraduate college, four (4) at-large faculty members, and six (6) students; four (4) undergraduates and two (2) graduates when possible. The Dean of Students should serve as an ex-officio member. Faculty representation on this committee should reflect as closely as is practical the ethnic and gender makeup of the University community. Faculty members of the University Discipline Committee are appointed for a two (2) year term by the University president. Student members of the University Discipline Committee are appointed for a one (1) year term by the University President.

   The University Discipline Committee hears cases referred to it by the Office of Judicial Affairs and Mediation Services and makes its recommendations to the
Vice President for Student Affairs and Vice Provost for Enrollment and Academic Services.

e. The Student Appeals Committee should be composed of one (1) faculty member from each undergraduate college, and four (4) students, three (3) undergraduates and one (1) graduate, when possible. The Assistant Vice President for Student Affairs, a representative from the Admissions Office, a representative from Graduate Admissions and a representative from Undergraduate International Admissions should serve as ex-officio members.

The Student Appeals Committee shall hear (a) appeals in cases heard by the University Discipline Committee, (b) appeals in cases initially heard by the Student Judicial Board, (c) adverse decisions regarding the initial or continued registration of student organizations, (d) appeals of decisions resulting from the interpretation and application of the Family Educational Rights and Privacy Act by Institutional agencies and officials, and (e) appeals of decisions regarding classification of students for fee-paying purposes. Members of the Student Appeals Committee are appointed by the University president.

2. Committee Recommendations. Recommendations by the Student Judicial Board and the University Discipline Committee will be reviewed by the appropriate approving authority and are subject to the following alternatives: (1) the recommended sanction may be affirmed, (2) the decision may be reversed (overruled), or (3) the case may be returned to the original judicial body for reconsideration of the sanction(s) only (a finding of responsibility will not be reconsidered).

J. All matters involving allegations of impermissible sexual misconduct, sexual discrimination, sexual harassment, or retaliation for bringing or participating in an investigation relating to a claim of sexual misconduct, discrimination or harassment will be governed by the procedures outlined in MTSU Policy I:01:23 Misconduct, Discrimination, and Harassment Based on Sex (Including Pregnancy, Sexual Orientation, and Gender Identity/Expression). Allegations of impermissible discrimination or harassment based on other protected categories, or retaliation for bringing or participating in an investigation relating to such a claim, will be governed by the procedures outlined in MTSU Policy I:01:22 Discrimination and Harassment Based on Protected Categories Other Than Sex.

K. Procedure for Academic Misconduct. The procedure for matters concerning academic misconduct is set out in MTSU Policy III:00:08 Academic Misconduct.

L. Appeals

1. Generally. A student who has been suspended or expelled as the result of disciplinary action has the right to appeal. It is the responsibility of the body of original jurisdiction to inform the student of the right to appeal and to whom the appeal should be presented. Disciplinary sanctions imposed through Institutional hearings do not become effective
until the sanctions assessed by the judicial body have been approved by the appropriate approving authority. (See “Committee Recommendations” above.) It is not the function of the appeals process to permit a rehearing of the factual issues presented to the adjudicating body, but rather it is to ensure that the disciplinary procedure has been implemented fairly and consistently with these policies.

2. Time Limitations. An appeal must be submitted in writing to the Dean of Students within forty-eight (48) hours of notice to the respondent or victim of the approving authority’s decision to affirm the sanction. The appropriate university official will attempt to contact the respondent or victim so that he/she may pick up the notification in person. An official email will also be sent to the student’s MTSU email account which shall serve as notice. A student cannot extend the time limitations by refusing to acknowledge the notice, ignoring the notice, and/or because he/she does not agree with the decision.

3. Grounds for Appeal. The appeal must specify grounds which would justify consideration. The written appeal must contain the substantive proof the appellant is basing the appeal on. Appeals that do not include the specific information that substantiates the appeal will be immediately denied. General dissatisfaction with the outcome of the decision shall not be accorded as a basis for consideration of an appeal. An appeal may be filed based on one or both of the following conditions:

   a. an error in procedural due process by the body of original jurisdiction which prejudiced the disciplined student to the extent that he/she was denied a fundamentally fair hearing as a result of the error; or

   b. the emergence of new evidence which could not have been previously discovered by the exercise of due diligence and which, had it been presented at the initial hearing, would have substantially affected the original decision of the adjudicating body.

4. Appellate procedure. The Dean of Students will review the written appeal to determine if the appellant has met the requirements for filing an appeal. Appeals which do not allege sufficient grounds shall be denied consideration and dismissed. Appeals which do allege sufficient grounds will be accepted for consideration and forwarded to the appellate body. The appellate body shall not conduct a de novo hearing (a re-hearing), but will consider only the record made by the adjudicating body. The appellate body may, at its own discretion, permit written or oral statements from the concerned parties in interest at the time the appeal is considered.

5. Action by appellate body. The alternatives available to the appellate body are:

   a. The recommended sanction may be affirmed;

   b. The decision may be reversed (overruled); or
c. The case may be returned to the original judicial body for reconsideration of the sanction(s) only (a finding of responsibility will not be reconsidered).

M. Authority of the president. The president of the University retains final authority on all campus matters, including disciplinary decisions. Therefore, any disciplinary action is subject to final review by the president of the University. At his/her discretion, the president may determine to intervene in order to negotiate a mutually acceptable resolution to any disciplinary proceeding, or subsequently, to convert any finding or sanction imposed to a lesser finding or sanction, or to rescind any previous finding or sanction, in appropriate cases.

Revisions: July 1, 2013 (original); March 29, 2014; March 27, 2015; August 24, 2015; ____________, 2016.

Cross-references: MTSU Policy III:00:08 Academic Misconduct; MTSU Policy I:01:10 Equal Opportunity, Affirmative Action, and Nondiscrimination; MTSU Policy I:01:22 Discrimination and Harassment Based on Categories Other Than Sex; MTSU Policy I:01:03 Tobacco-Free Campus Policy; TBR Policies 5:01:02:00 Equal Employment Opportunity and Affirmative Action; 2:02:10:01 Sex Discrimination and Sexual Harassment; 1:06:00:05 Uniform Procedures for Cases Subject to the Tennessee Uniform Administrative Procedures Act; TBR Guideline P-080 Discrimination and Harassment – Complaint and Investigation Procedure.