



Board of Trustees Winter Quarterly Board Meeting

**Regular Session Board Meeting
8:30 a.m.**

Tuesday
December 11, 2018

MEC Meeting Room – 2nd Floor
Miller Education Center
503 East Bell Street
Murfreesboro, Tennessee 37132



**Middle Tennessee State University
Board of Trustees**

Tuesday, December 11, 2018 – 8:30 a.m.

ORDER OF BUSINESS

Call to Order

Pledge of Allegiance

Introduction of Student-Veteran

Roll Call

Chairman's Welcome and Opening Remarks

President's Opening Comments

Approval of the Minutes Tab 1
September 18, 2018 Regular Session Board Meeting and
October 10, 2018 Special Called Board Meeting

Committee Reports and Action Items

Academic Affairs, Student Life and Athletics Committee – November 13, 2018 .. Tab 2

- Approval of New Academic Degree Program – B.S. Tourism and Hospitality Management
- Approval of Academic Degree under Consideration – B.S. Data Science
- Approval of Appointment of Chair of Excellence

Audit and Compliance Committee Meeting – November 13, 2018..... Tab 3

- Rule Promulgation and Related Policy Revision –
Public Records – Inspecting and Copying
Policy 120: Public Records – Inspecting and Copying

Executive and Governance Committee Meeting – November 13, 2018 and
November 27, 2018 Special Called Tab 4

- President’s Employment Contract

Finance and Personnel Committee – November 13, 2018..... Tab 5

- 2018-19 October Revised Budget
- Regional Scholars Program
- Tuition Transparency Act – Factors Considered When Developing
Recommendations to Increase Tuition and Mandatory Fees

New Business Tab 6
Approval of New Academic Program

Report of the Board Secretary..... Tab 7

President’s Report

Closing Remarks

Adjourn



**Middle Tennessee State University
Board of Trustees**

Tab 1

Approval of Minutes
September 18, 2018
Regular Session Board Meeting

And

October 10, 2018
Special Called Board Meeting



Middle Tennessee State University Board of Trustees

MEETING: December Quarterly Board Meeting

SUBJECT: [Minutes of September 18, 2018 Board Meeting
and October 10, 2018 Special Called Board
Meeting](#)

DATE: December 11, 2018

PRESENTER: Chairman Steve Smith

ACTION REQUIRED: Roll Call Vote

STAFF RECOMMENDATION: Approval

- September 18, 2018 Regular Session Board Meeting
- October 10, 2018 Special Called Board Meeting

MIDDLE TENNESSEE STATE UNIVERSITY

BOARD OF TRUSTEES

MINUTES

September 18, 2018

Call to Order and Pledge of Allegiance

The Middle Tennessee State University Board of Trustees met in regular session on Tuesday, September 18, 2018, in the Miller Education Center on the Middle Tennessee State University campus. Chairman Steve Smith called the meeting to order at 12:15 p.m. and requested retired Lt. Gen. Keith Huber to lead the Pledge of Allegiance.

Introduction of Student Veteran

Gen. Huber introduced student veteran, Navy Petty Officer Derrick Jones. Mr. Jones enlisted in the Navy at the age of 18 and served on active duty for twelve years. His specialty was in providing highly sensitive, critical information to operating forces, information that was gathered from satellites and electronic intelligence methods. He also dealt with the maps and the weather impact on operations of our naval forces. He served overseas in Cuba, Italy, and Qatar, and he provided support to critical combat operations in Iraq, Lebanon, Haiti, and Afghanistan. After 12 years on active duty, he continued as a contractor in Afghanistan working with the military on what was called "entry-control points" which, using iris scan, voice recognition and fingerprinting, biometrically allows individuals to enter highly sensitive classified sites. Last summer Mr. Jones completed his Bachelors of Science in Animal Science, and next summer he will complete his Bachelors of Science in Geoscience Analysis. He currently serves as a critical link as a student veteran worker in the Charlie and Hazel Daniels Veterans and Military Families Center.

Roll Call

Board Secretary Heidi Zimmerman called the roll. Trustees present were Andy Adams, Pete DeLay, Darrell Freeman, Sr., Joey Jacobs, Tony Johnston, Stephen Smith, Peyton Tracy, and

Pamela Wright. A quorum was declared. Also present were President Sidney A. McPhee; Alan Thomas, Vice President for Business and Finance; Mark Byrnes, University Provost; Joe Bales, Vice President for University Advancement; Andrew Oppmann, Vice President for Marketing and Communications; Bruce Petryshak, Vice President for Information Technology and Chief Information Officer; Deb Sells, Vice President for Student Affairs and Vice Provost for Enrollment and Academic Services; Brenda Burkhardt, Chief Audit Executive; Heidi Zimmerman, University Counsel and Board Secretary; and Kim Edgar, Assistant to the President and Chief of Staff.

Welcome and Opening Remarks

Chairman Smith welcomed those present to the sixth meeting of the Board of Trustees. Dr. Sidney A. McPhee, President, also welcomed those attending the meeting and thanked the Board members for attending today's groundbreaking ceremony for the New Academic Building.

Approval of the Minutes

Chairman Smith indicated that the next order of business concerned approval of the minutes of the June 12, 2018 Board of Trustees meeting. Trustee DeLay moved to approve these minutes; Trustee Wright seconded the motion. A voice vote on the motion to approve the minutes of the June 12, 2018 Board meeting was taken and the motion carried unanimously.

Committee Report: Academic Affairs, Student Life, and Athletics Committee

Chairwoman Pamela Wright gave the report from the August 28, 2018, meeting of the Academic Affairs, Student Life, and Athletics Committee. The meeting began with approval of the minutes from the May 30, 2018 Committee meeting. The Committee report contained three (3) informational items and three (3) recommendations to be considered and voted on by the Board. Materials from the Committee meeting were provided to the Board in its meeting materials.

Promulgation of Rule 0240-07-04 Academic Misconduct and revisions to Policy 312 Academic Misconduct; and, Promulgation of Rule 0240-07-03 Student Conduct and revisions to Policy 540 Student Conduct - Recommendations

Promulgation of two rules and revisions to the corresponding policies to ensure consistency were the first action items considered. There was unanimous approval of these rules and policy revisions by the Committee.

Approval of Expedited Tenure - Recommendation

Provost Mark Byrnes recommended expedited tenure for Professor Anne Anderson in Economics and Finance, and Professor Cathy McElderry in Social Work.

Bachelor of Science in Data Science Program - Informational

Provost Byrnes notified the Committee that a Bachelor of Science in Data Science program is under consideration. Pending the results of feasibility studies, the University may submit Letters of Notification to THEC.

Fall 2018 Enrollment - Informational

Vice President Deb Sells provided a preliminary overview of enrollment for Fall 2018. The final cut-off for enrollment was September 8, and official numbers will be provided soon.

Athletics Department – Informational

Athletic Director Chris Massaro took an opportunity to share some highlights and accomplishments of the Athletics Department during the 2017-18 academic year.

Motion on Promulgation of Rule 0240-07-04 Academic Misconduct and revisions to Policy 312 Academic Misconduct; and, Promulgation of Rule 0240-07-03 Student Conduct and revisions to Policy 540 Student Conduct.

Chairman Smith asked to postpone votes on the rules and policy revisions until the next meeting, stating there are serious consequences and he wants to make sure each Board member has a special chance to review those and will approve at the next meeting. Motion was made to defer these two action items until the next Board meeting by Trustee Freeman, seconded by Trustee DeLay. A voice vote was taken; the motion to defer carried.

Motion on Expedited Tenure

A motion to approve the recommendations on expedited tenure was made by Trustee Johnston and seconded by Trustee DeLay. A voice vote was taken; the motion to approve expedited tenure carried.

Committee Report: Audit and Compliance Committee

In the absence of Committee Chair Chris Karbowiak, Andy Adams provided the report for the Audit and Compliance Committee which met on August 28, 2018 and today, September 18, 2018. Materials from the public portions of the Committee meetings were provided to the Board in its meeting materials.

August 28, 2018 Committee Meeting

Because there was not a quorum at this meeting, the Committee reviewed only informational items which included: Annual report of Audit and Consulting Services; Results of the Internal Audit Quarterly Report; and Compliance and Enterprise Risk Management updates including European Union's General Data Protection Regulation; Records Management Reporting; Unmanned Aircraft Systems/Drones Policy and Process; Ethics Compliance; Institutional Compliance and Risk Management Tools; and, Monitoring and Testing.

Non-Public Executive Session - Information

The public meeting of the Committee adjourned and the Committee went into executive session to discuss audits and investigations.

September 28, 2018 Committee Meeting

Minutes from the May 30, 2018 and August 28, 2018 meetings were approved. The Committee approved two (2) recommendations to be considered and voted on by the Board.

Annual Audit Plan – Recommendation

The 2019 Annual Audit Plan was presented.

Risk Assessment Reporting – Recommendation

Risk Assessment reporting was presented.

Non-Public Executive Session - Information

The public meeting of the Committee adjourned and the Committee went into executive session to discuss audits and investigations.

Motion to Approve - Audit and Compliance Committee Actions

A motion to approve actions taken by the Audit and Compliance Committee was made by Trustee Freeman and seconded by Trustee Wright. A voice vote was taken; the motion to approve the action items of the Audit and Compliance Committee passed unanimously.

Committee Report: Finance and Personnel Committee

Chairman Joey Jacobs provided the report for the Finance and Personnel Committee and stated that this Committee met on August 28, 2018. Minutes from the May 30, 2018 Committee meeting were approved. The Committee report contained several informational items. Materials from the meetings were provided to the Board in its meeting materials.

THEC Meeting - Informational

Vice President for Business and Finance, Alan Thomas, provided a brief overview of the THEC meeting held on July 26, 2018, where all the Locally Governed Institutions, the University of

Tennessee system, and the Tennessee Board of Regents' system presented information to the Commission on their budget and tuition fee setting processes.

Philanthropic Activity - Informational

Vice President for University Advancement, Joe Bales, provided an update on philanthropic activating including:

- Five-year fundraising results, national trends and comparisons
- Individual unit performance
- Foundation assets and endowment management
- Current challenges and opportunities
- Trustee Fund update

Capital Project Updates - Informational

Assistant Vice Presidents Joe Whitefield and Bill Waits concluded the meeting with reports on five capital project disclosures, updates on the Academic Classroom Building project, and an overview of the capital maintenance project process.

Report of the Board Secretary

Ms. Zimmerman reviewed four (4) minor formatting revisions made to policies since the last Board meeting.

Report of the President

Fall Faculty Meeting

Dr. McPhee reported on the institution's annual Fall Faculty Meeting held on August 23, 2018, in advance of classes beginning on August 27. There, he provided the State of the University address, a tradition at that meeting. Many colleges and departments were recognized for their accomplishments during the prior academic year. The highlight of the meeting was the presentation of the MTSU Foundation's Career Achievement Award, this year going to Dr.

Judith Iriarte-Gross, a professor of Chemistry at MTSU since 1996, who is nationally-known for her advocacy for girls and women in the sciences. Several Board members attended the meeting.

Convocation

On August 25, Convocation, an annual rite of the fall semester, was held to welcome new students into the learning community and to immediately engage them in the learning process. Alabama attorney and founder and executive director of the Equal Justice Initiative, Bryan Stevenson, left thousands of new and returning students and others with a message of hope and mercy. More than 5,000 people attended the formal ceremony. Dr. McPhee thanked Trustee Pam Wright for her attendance who sent greetings on behalf of the Board.

Delta Propel

On August 31, an overflow crowd of over 300 very interested Dept. of Aerospace professional pilot majors, plus students majoring in other areas, heard the Delta Propel pitch that could ultimately land them with career positions with the major airlines. The official launch of the Delta Propel Pilot Career Path Program was held in the Student Union Ballroom, where a team of Delta executives outlined the program guidelines and encouraged students to apply for the fast-track program.

9/11 Remembrance Ceremony

MTSU commemorated the 17th anniversary of 9/11 with a 9/11 Remembrance Ceremony. Gold Star mothers Jan Edens and Tammy Bass spoke of what the anniversary means to them in light of both having lost sons who were serving their country. Cadets in the ROTC program, now led by U.S. Army Maj. Carrick McCarthy, helped share the timeline of September 11, 2001 events. Keith Huber, who is MTSU's Senior Advisor for Leadership Initiatives and a retired U.S. Army Lieutenant General, offered insights from his perspectives as a general, officer, husband and father.

Presentation to City Council

Just before the football home opener, Chris Massaro, David Blackburn and Dr. McPhee gave a briefing to members of the Murfreesboro City Council, including the City Manager, on the MTSU Blue Raider Athletic Facility Plan and the role it will play in enhancing the University and the city. Athletic Director Chris Massaro shared with the attendees that this visionary proposal will make MTSU an attractive destination for athletics, and cultural and social events, all benefitting the entire community. Dr. McPhee expressed the hope that the Council will see the value of this plan and will be a major partner in financially supporting this endeavor, just as they have done in the past.

SCORE

On September 5, representatives from SCORE (State Collaborative on Reforming Education) visited the campus to present their Teacher Preparation Report and MTSU's Latest Teacher Preparation Report Card Data in the College of Education. Dr. McPhee stated that he and Chairman Smith had previously met with SCORE personnel and Majority Leader Bill Frist to talk about how the University can partner with SCORE to make the College of Education the best, not just in the state, but in the nation. The meeting on September 5 was a follow-up to that meeting. Present were Jamie Whitson, Executive Chairman and Chief Executive Officer, Mary Cypress Metz, Vice President of Programs, and Indira Dammu, Senior Policy and Research Analyst. Dr. Lana Seivers, Dean of the College of Education, and her colleagues shared a presentation called "Improving Schools, One Teacher at a Time: A Look at MTSU Teacher Preparation Program." The meeting ended with an agreement that MTSU and SCORE will draft an MOU to solidify their partnership.

Fall Enrollment

The Fall 2018 total enrollment this year is 21,630, 1.29% less than the Fall 2017 enrollment which was 21,913. While progress is being made toward enrollment goals, this remains a challenge. Dr. McPhee stated that he knows that University recruiters, faculty, and staff continue to work to reach that goal.

Special Presentation: Highlighting the Jones College of Business

Dr. David Urban, Dean of the Jennings A. Jones College of Business, made a presentation about the exciting things going on in the College. Dean Urban explained that five years ago the decision was made that what needed to be done most was to pursue a strategy of “national prominence and regional dominance.” This is being done by trying to develop the College’s students, faculty, friends and brand. Progress had been made on national prominence as the Business and Accounting accreditations from AACSB International were reaffirmed in 2016. The College is one of only 1.4% of the business schools in the world that have that double accreditation. Another review will take place in about two years. The College has received six top-50 national rankings in the last two years. MTSU Accounting students have gotten more scholarship money from the Tennessee Society of CPAs for the last couple of years than students from any other university in the state. The TVA Investment Challenge team once again beat the S&P 500 total return, having achieved this several years in a row. The College received the Dale Carnegie Global Leadership Award in recognition of its leadership in human relations and community development. Dean Urban explained that in terms of program development the MBA program was completely re-engineered and is now the Flex MBA. The program is available on ground or online, and can be completed in 12 months. In Fall 2019, an online partner will be brought on to really help push the online program. Five accelerated Bachelors/Masters programs have been developed so that students coming out of high school can get an undergraduate degree and a masters degree in five years. The College has also built up executive continuing education programs; these are housed in the Miller Education Center. The Dale Carnegie program is required as part of the curriculum because it is believed this adds to the soft skills students need to be able to compete in the marketplace. The College is the only business school in the country that does that, and about 1,900 students have been through that program. Starting this fall, a BS in Commerce is being offered, aimed at adult and veteran students. This degree is also completely online, allowing the College to reach out to an even greater degree to nontraditional students. The College now has a Risk Management Insurance major and concentrations in Supply Chain and Professional Selling in order to capitalize on the

need for those types of professionals in the area. Special events continue to get a lot of press and a lot of notoriety. Professionalism Week is next week, sponsored by Murfreesboro Young Professionals. Ethical Leadership Week, sponsored by Tom and Martha Boyd, will take place next spring. Pam Wright has helped with the business plan and Strategic Management Case Competitions which are great hands-on learning tools for students. Blue Raider Realty and Mortgage is a real estate company that sells houses, manages property and helps people with their mortgages. There is a tremendous professional development program with 30 IGNITE events this fall. The College puts on six career fairs that are special purpose, including a graduate career fair. The advising manager and her staff are very busy throughout the year with their own special events which have really helped improve retention within the College. The College has taken on a leadership position with faculty in IT and Business Analytics, one of the growing programs at the graduate level. Research leadership is improving as well. The 1.2 billion dollar economic impact in Rutherford County from the University is based on a study that was done through the Business and Economic Research Center. The Political Economy Research Institute, is just getting started and is designed to pull people together from across the University to talk about research and problem areas that cut across different disciplinary boundaries. Pam Wright will be meeting the new chair holder of the Pam Wright Chair in Entrepreneurship. The College is currently working really hard to fill the Jacobs Chair of Excellence in Accounting; and, the Weatherford Finance Chair was filled this year. Tenured faculty has turned over about 40% since 2013, due largely to natural turnover, but resulting in bringing in a lot of enthusiastic people who really want to do good things to help propel the College forward. Five major gifts in the Developing Friends category of over one million dollars have been made since July 2013. Among other major gifts are: the "Wink" Midgett Recognition Wall; the Mel Adams/State Farm Agents Sales Lab dedicated just last month; and a gift from Larry and Martha Tolbert to help celebrate ethical leadership in the College. The TSBDC, the Tennessee Small Business Development Center, continues to get great support. It just brought in a grant from SBA of over two million dollars to help the small business development lead center here in Murfreesboro. The College has brought in many new scholarships, including contributions from faculty and staff. The College has won the Provost

Cup five years in a row for the greatest percentage of charitable givers in the college across the University, a point of pride. In terms of developing the brand, Dean Urban provided some examples: world class speakers John O'Leary and Mel Robbins will be at the 2018 Leadership Summit put on by the College. After 5 years of work, with help from Andrew Oppmann and his staff, the College is finally getting some traction in the Nashville Business Journal. The College is running advertisements for its programs all the time, and Dean Urban shared a new advertisement in the Nashville Business Journal highlighting the Supply Chain Management and Professional Selling programs. In summary, Dean Urban stated that the College is working hard to try and move ahead on all four fronts highlighted – developing its students, its faculty, its trends, and its brand.

Concluding Remarks

Chairman Smith thanked all those who helped put the meeting on. He indicated that by the December meeting there will be a schedule for next year and maybe even the next 18 months. He stated that on July 31 a retreat dinner with leadership was held. Also on July 31, a Trustees Fund was announced to help with students who need financial assistance. So far this academic year, the Fund has helped about 44 students. Each trustee has given \$5,000 to the Fund. Chairman Smith indicated that a lot of good things are happening but that there is a lot of work to do between now and next year because they must constantly be looking for organized ways of savings - not cuts – but savings as required of the Board's fiduciary duty.

President McPhee expressed his thanks to all who attended the groundbreaking of the New Academic Building. He reminded the Board that now that the fall semester has started, the major annual recruiting event, the True Blue Tours, have just begun. These events require a team effort with the deans, faculty, administrators, academic advisors, financial aid and admissions officers joining him to share, with thousands of prospective students and their families, information about the incredible educational experiences MTSU offers. This year, there are tour stops in 14 locations including 9 in Tennessee and 5 out of state (2 in Kentucky, 2 in Alabama, and 1 in Georgia); plus 13 luncheons throughout Tennessee and the surrounding

states for high school guidance counselors and community college advisors. Dr. McPhee offered to share a tour schedule with the trustees and extended an invitation for them to attend any tour stop to observe how the best and brightest are recruited.

Chairman Smith adjourned the meeting at 12:53 p.m.

The next scheduled board meeting is December 11, 2018.

Respectfully Submitted,



Heidi Zimmerman

Board Secretary

MIDDLE TENNESSEE STATE UNIVERSITY

BOARD OF TRUSTEES

MINUTES

SPECIAL CALLED MEETING

OCTOBER 10, 2018

Call to Order

The Middle Tennessee State University Board of Trustees met in a special called meeting on Wednesday, October 10, 2018, in the Miller Education Center on the Middle Tennessee State University campus. Chairman Steve Smith called the meeting to order at 10:40 a.m.

Roll Call and Statement of Necessity

Chairman Smith requested that Board Secretary Heidi Zimmerman call the roll. Trustees physically present were Andy Adams and Peyton Tracy. Trustees participating electronically were J.B. Baker, Pete DeLay, Darrell Freeman, Joey Jacobs, Tony Johnston, Steve Smith and Pam Wright. Also present at the meeting were President Sidney A. McPhee; Alan Thomas, Vice President for Business and Finance; Mark Byrnes, University Provost; Joe Bales, Vice President for University Advancement; Andrew Oppmann, Vice President for Marketing and Communications; Bruce Petryshak, Vice President for Information Technology and Chief Information Officer; Deb Sells, Vice President for Student Affairs and Vice Provost for Enrollment and Academic Services; Brenda Burkhart, Chief Audit Executive; Heidi Zimmerman, University Counsel and Board Secretary; and Kim Edgar, Assistant to the President and Chief of Staff.

As several trustees were participating in the meeting electronically, pursuant to T.C.A. § 8-44-108(b)(1), these trustees were asked the following questions: (1) Can you hear those present in the meeting room and others participating via phone so that you can participate in the meeting; and, (2) Is anyone else present in the room with you; if so, please identify each person. Each trustee indicated being able to clearly hear those in the meeting room and those on the phone. Trustees Freeman, Jacobs, Johnston and Wright indicated there were no other

individuals present at their locations. Trustees Smith, Baker and DeLay all indicated they were present in the same room together. Ms. Zimmerman then asked those present at the meeting location if they were able to hear the trustees participating electronically. Those present answered in the affirmative. Ms. Zimmerman asked if there were other individuals on the phone line; there were no responses.

Ms. Zimmerman stated that a physical quorum was not present at the meeting location; however, a quorum did exist with the inclusion of those trustees participating by electronic means. Because there was no physical quorum present, pursuant to T.C.A. § 8-44-108(b)(2), a determination that necessity for the meeting to take place was needed. Ms. Zimmerman offered the following facts to support the meeting's necessity:

1. The agenda items include consideration of a new academic program proposal and creation of a new academic unit.

It is necessary for the Board of Trustees to meet in order to consider these matters and recommendations and vote upon them. The Board of Trustees is meeting in a Special Called meeting following the conclusion of the Academic Affairs, Student Life, and Athletics Committee meeting to consider these matters.

The new academic program proposal and creation of a new academic unit must be approved by the Tennessee Higher Education Commission.

Therefore, these matters must be considered and voted upon so that they may be presented to the Tennessee Higher Education Commission.

2. There was not adequate time for our trustees to make arrangements to be physically present at this meeting to form a quorum.

Based on the stated reasons, Chairman Smith requested a motion be made and a roll call vote be taken for a determination on the necessity of holding the meeting. Trustee Wright made the motion that there is necessity established for the meeting and Trustee Freeman seconded that motion. Chairman Smith asked if there was any discussion. Hearing none, he reiterated that a motion had been made and seconded that the necessity has been established to hold the meeting. He clarified that a vote in the affirmative would signify that necessity exists and the meeting will proceed; a negative vote would signify that a necessity does not exist. Chairman Smith requested a roll call vote be taken. The vote was eight (8) Aye; zero (0) Nay. Chairman Smith indicated the motion carried unanimously and the motions carries.

Committee Report: Academic Affairs, Student Life, and Athletics Committee

Chairman Pamela Wright gave the report from the October 10, 2018, meeting of the Academic Affairs, Student Life, and Athletics Committee. Material from that meeting were provided to the Board in its meeting materials. The Committee report included one (1) informational item and two (2) recommendations to be considered and voted on by the Board.

Information on an Educational Collaboration Agreement; and, Recommendations on a New Academic Program Proposal and Creation of a New Academic Unit.

Dr. Mark Byrnes, University Provost, and Dr. Sidney McPhee, University President, presented information regarding an educational collaboration agreement; and, presented recommendations concerning a new academic program proposal and creation of a new academic unit. These matters are needed in order to successfully complete the transfer of the Valparaiso University Law School to Middle Tennessee State University. These items were approved unanimously by the Committee.

Motion to Approve Committee Actions

Chairman Smith asked for a motion to approve the Academic Affairs, Student Life, and Athletics Committee recommendations. Trustee DeLay made this motion; Trustee Baker seconded that

motion. A roll call vote was taken. There were eight (8) Aye votes and zero (0) Nay votes. Chairman Smith stated that the motion passed, noting that this was an historic event.

Closing Remarks

Dr. McPhee stated that the action just taken was transformative, not only for the University, but the region. He reiterated that there is no public accredited law school in the middle Tennessee area, one of the fastest-growing areas in the country. The action is consistent with the mission of the University and it is needed. Two feasibility studies were conducted that demonstrated this need. This action will be forwarded to the Tennessee Higher Education Commission for consideration at its meeting on Monday, October 15, 2018.

Chairman Smith adjourned the meeting at 10:50 a.m.

Respectfully submitted,



Heidi Zimmerman
Board Secretary



**Middle Tennessee State University
Board of Trustees**

Tab 2

Academic Affairs, Student Life, and
Athletics Committee Meeting
November 13, 2018



**Middle Tennessee State University
Board of Trustees**

MEETING: December Quarterly Board Meeting

SUBJECT: *Academic Affairs, Student Life, and
Athletics Committee*

DATE: December 11, 2018

PRESENTER: Committee Chair Pam Wright

ACTION REQUIRED: Roll Call Vote

STAFF RECOMMENDATION: Approval

- Approval of New Academic Degree Program – B.S. Tourism and Hospitality Management
- Approval of Academic Degree under Consideration – B.S. Data Science
- Approval of Appointment of Chair of Excellence



**Middle Tennessee State University
Board of Trustees**

MEETING: Winter Quarterly Board Meeting

SUBJECT: **Approval of New Academic Degree
Program – B.S. Tourism and Hospitality
Management**

DATE: December 11, 2018

BACKGROUND INFORMATION:

THEC has the statutory responsibility to review and approve new academic programs (THEC Policy A 1.0).

Before submission to THEC, the proposal for a new academic program must be approved by the MTSU Board of Trustees.

The proposal to create a B.S. in Tourism and Hospitality Management is attached for review and approval.

**MIDDLE TENNESSEE STATE UNIVERSITY
NEW ACADEMIC PROGRAM PROPOSAL
B.S. in Tourism and Hospitality Management**

Submitted September 2018

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LETTER OF NOTIFICATION

Submitted: November 2017

Proposed Program Name:

Tourism and Hospitality Management

Proposed Degree Designation:

Bachelor of Science (B.S.)

Proposed CIP Code:

52.0901 - Hospitality Administration/Management, General

Definition: A program that prepares individuals to serve as general managers and directors of hospitality operations on a system-wide basis, including both travel arrangements and promotion and the provision of traveler facilities. Includes instruction in principles of operations in the travel and tourism, hotel and lodging facilities, food services, and recreation facilities industries; hospitality marketing strategies; hospitality planning; management and coordination of franchise and unit operations; business management; accounting and financial management; hospitality transportation and logistics; and hospitality industry policies and regulations.

Proposed implementation date:

Fall 2019

Academic Program Liaison (APL) name and contact information:

Dr. Peter H. Cunningham
Vice Provost for Academic Programs
Middle Tennessee State University
Cope Administration Building, Rm: 111
Murfreesboro, TN 37132
Office: 615-494-7611
Email: Peter.Cunningham@mtsu.edu

Purpose and Nature of Program:

We propose to establish a program of study that leads to a baccalaureate degree in Tourism and Hospitality Management. The Tourism and Hospitality industry is a primary driver of the economy in the state of Tennessee. As the tourism and hospitality industry continues to grow, it is struggling to find and employ qualified professional staff. The geographic location of Middle Tennessee State University, our nationally recognized Leisure, Sport, and Tourism Studies program, and the resources of our AACSB

accredited College of Business combine to create an environment within which a high quality program of study that prepares individuals for career opportunities in this dynamic and growing industry sector can be established. In addition to local and regional employers, national and international tourism and hospitality employers will also benefit from the graduates produced by this major at MTSU.

The Tourism and Hospitality Management degree at Middle Tennessee State University will prepare students for a variety of careers in this fast growing multi-trillion-dollar industry. The major will be characterized by an industry-informed curriculum based on corporate partnerships, best practices, and accreditation standards. The curriculum will consist of a core of foundational courses with opportunities for a specialized focus based on student's career goals in areas such as travel and tourism, hotel and resort management, and convention and special event planning. Students will combine campus-based academic courses with supervised industry experiences through required internships and field experiences. Furthermore, this degree will attract both traditional and adult learners, offering opportunities to raise the educational attainment levels of Tennesseans and supporting the Governor's Drive to 55 initiative.

Alignment with state master plan and institutional mission:

The Master Plan for Tennessee Postsecondary Education 2015-2025¹ calls for a statewide strategic development of higher education programs that increases the educational attainment levels of Tennesseans; addresses the state's economic development, workforce development, and research needs; and calls for institutional mission differentiation to realize statewide efficiencies through institutional collaboration, minimized redundancy, a focus on location, and research.

The proposed Tourism and Hospitality Management degree meets the State Master Plan in the following ways:

- *Creates an undergraduate degree program and associated curriculum that focuses on one of Tennessee's largest economic sectors: tourism and hospitality.*

As reported by the U.S. Travel Association (USTA)², Tennessee tourism's direct domestic and international travel expenditures reached an all-time record high of \$19.3 billion in 2016, a 4.7 percent increase over the previous year. The travel industry generated \$1.7 billion in state and local tax revenue, 176,500 jobs and \$4.3 billion in travel related payroll income.

While the entire state has experienced growth in the tourism and hospitality industry, middle Tennessee has far outpaced all other regions of the state. Nashville alone accounts for roughly a third of the major travel and tourism market in Tennessee and is the number one job provider (65,050) among 95 counties. The location of Middle Tennessee State University, in the heart of this region, ideally positions the university to supply highly trained professionals for the tourism and hospitality work force.

- *Provides Tennesseans with the opportunity to prepare for careers in and be part of a growing and sustained workforce in the tourism and hospitality industry.*

The Tennessee Department of Labor and Workforce Development rates all three major occupational clusters for this sector as having a “Very Good” or “Excellent” employment outlook. All are expected to be in demand over the long-term. Their 2014 to 2024 projection is that there will be 820 job openings annually³ National data from the Bureau of Labor Statistics supports these local analyses. It projects between five and eleven percent growth in jobs associated with hospitality and tourism between 2016 and 2026.⁴

The Proposed Tourism and Hospitality Management degree also aligns with the mission of Middle Tennessee State University as expressed in the goals of the university’s Academic Master Plan.⁵

- *MTSU will advance academic Quality through excellence in teaching, scholarship, and service and the celebration of MTSU’s strengths:*

This degree will be offered through the Department of Health & Human Performance in collaboration with the Jones College of Business. The quality of the LSTS program is well documented by its continuous national accreditation for over 35 years and the Jones College of Business is among the five-percent of institutions world-wide holding AACSB accreditation in both Business and Accounting. Incorporating new and existing coursework, this degree will challenge students in the classroom, offer opportunities to participate in undergraduate research, and engage in field-based learning, including through required internships.

- *MTSU will develop purposeful and sustainable partnering relationships and outreach:*

The B.S. in Tourism and Hospitality Management will be developed in close collaboration with industry partners and will include an advisory committee of individuals with leadership experience in the industry. In addition to the advisory board, this degree provides an almost ideal opportunity for field study and internship experiences that place students in direct contact with tourism professionals, providing students with “real world” experiences that prepare them to enter the workforce during their college study as well as immediately upon graduation.

Program Feasibility:

A comprehensive study of the feasibility of offering a baccalaureate degree in Tourism and Hospitality Management was conducted by the MTSU Business and Economic Research Center (BERC) during fall 2017. The final report for the study is attached as Appendix A. Pertinent findings are provided below.

Student interest for the proposed academic program.

Student interest was examined from four perspectives: national trends, state experience, local interest and “feeder” institutions, and surveys of current MTSU students.

National Trends: National evidence of student interest in a Tourism and Hospitality Management major comes from two sources: the NSF’s dataset on degrees by major and the UCLA Higher Education Research Institute’s (HERI) annual survey “The American Freshman: National Norms.” Extrapolating data from the HERI survey⁶ (which first included Hospitality/Tourism in 2013), and including only institutions with tourism and hospitality programs, produces corresponding estimate of enrollment at MTSU of over 400 students. Using the NSF dataset, nationally 12,199 bachelor’s degrees were awarded in the tourism and hospitality field (CIP 52.09) in 2015, the last reported year. There has been a steady annual increase in degrees awarded.⁷ These degrees were awarded by 182 universities and four-year colleges having programs in this area.⁸ This is an average of sixty-seven degrees awarded annually per institution.

Evidence from Tennessee: Tennessee has one private university with a degree program in this area (Christian Brothers) and two public universities, the University of Tennessee at Knoxville (“Hotel, Restaurant, and Tourism”) and the University of Memphis (“Hospitality and Resort Management”). Western Kentucky University also has a concentration in Hotel, Restaurant, and Tourism Management within its Hospitality Management and Dietetics major. This out-of-state institution is the closest baccalaureate program of study in this field to residents of middle Tennessee.

Degree programs in the three regional public institutions that currently offer the major consistently maintain over one hundred majors per academic year. The program at the University of Memphis has had majors numbering between 114 and 177 per year since 2011. Approximately forty bachelor’s degrees a year have been awarded in this major at Memphis. The UT/Knoxville program has had a very similar experience, with majors totaling between 117 and 174 over the past five years. It has awarded an average of just over fifty bachelor’s degrees per year. Western Kentucky, also offers a major, though it was recently reorganized into a concentration within a “Hospitality Management and Dietetics” major. It, too, averages over 100 majors.

Note that the number of majors and degrees awarded in this field in Tennessee exceeds what one would calculate from simple national averages. This offers support for an expectation that MTSU majors in a Tourism and Hospitality Management Program would do so as well.

Regional and “Feeder Institution” Pipelines: Chattanooga State, Columbia State, Nashville State, Pellissippi State, and Southwest Tennessee Community College all offer AA or certificate programs in this area. In 2016, the Columbia State and Southwest programs each had more than one hundred students, while fifty-four were in the Chattanooga program. Lastly, thirteen high schools in Rutherford, Davidson, Wilson, and Williamson counties have courses in culinary arts, another source of potential students for the MTSU program.

MTSU Survey: A survey instrument was delivered to students enrolled in six different undergraduate courses within the Colleges of Behavioral and Health Sciences and Business to assess student reaction to a Tourism and Hospitality Management program. One hundred and thirty-four students participated. About twenty five of these students (nineteen percent) indicated they would have been “very likely” to have considered majoring in this program had it been offered, or would now major in it if it were offered. Another thirty-three of the respondents (twenty-five percent) indicated they would have been “likely” to have considered the major while thirty-seven (27.6 percent) would now consider the major. While we cannot extrapolate these results to the entire population of MTSU undergraduates they do reflect the high degree of interest in the potential program.

When considering all four perspectives, it is evident that significant interest in a tourism and hospitality management program exists among potential students and both enrollment and degree production will far exceed the numbers needed to launch and maintain a successful degree program.

Local and regional need/demand for the proposed academic program.

The THEC’s 2017 report on Academic Supply and Occupational Demand identifies “Hospitality and Tourism” as one of the state’s twenty-five “highest demand fields.”⁹ It estimates that more than 2,000 jobs will be added by 2024 with about 730 new openings a year. It projects a deficit of over 400 workers to fill those jobs. The Tennessee Department of Labor and Workforce Development reports substantial employment growth in the leisure and hospitality industry across Tennessee, but particularly within the Nashville area. Its figures show the Nashville metro area to have added almost 20,000 jobs in this sector since 2012. There are now some 105,600 individuals working in this industry in the Nashville area.

Employer need/demand

The Tennessee Department of Labor and Workforce Development rates all three major occupational clusters for this sector as having a “Very Good” or “Excellent” employment outlook. All are expected to be in demand over the long-term. Their 2014 to 2024 projection is that there will be 820 job openings annually.¹⁰

In the hotel sector alone, we project that 2,600 jobs will be added within the Nashville area simply from completion of the hotels currently under planning or construction.¹¹ National data from the Bureau of Labor Statistics supports these local analyses. It projects between five and eleven percent growth in jobs associated with hospitality and tourism between 2016 and 2026.¹²

The hospitality and tourism programs of the University of Memphis and the University of Tennessee/Knoxville together produced 106 graduates in 2016.¹³ Assuming this degree production is stable, there are fewer degrees being produced than jobs available. The supply/demand ratio is .81, meaning that about twenty percent of the bachelor’s level job openings in the Tennessee Hospitality and Tourism sector cannot be filled with the existing number of students graduating from state programs.

Over the previous four years, just about sixty percent of all state jobs added in the tourism and hospitality sector were in Middle Tennessee. New hotels alone in this area will require some 270 college or university graduates in the coming few years.

Future sustainable need/demand as evidenced in letters from employers. The planning and development of this Letter of Notification follows numerous inquiries from and encouragement by employers in the surrounding region who experience difficulty in filling positions in the tourism / hospitality sector. Evidence of this need / demand is found in the attached letters of support provided by leaders and organizations in the tourism and hospitality industry including the Tennessee Hospitality & Tourism Association, Nashville Chamber of Commerce, Nashville Convention & Visitors Corp., Rutherford County Convention & Visitors Bureau, and the Rutherford County Hospitality Association (Appendix E). These organizations recognize the need for increased post-secondary education opportunities for persons in these fields and have offered their support of the proposed baccalaureate program at MTSU. The common theme expressed by each of these industry leaders is reflected by Butch Spyridon, President/CEO of the Nashville Convention & Visitors Corp when he states, “Currently, there are hundreds of job vacancies throughout the hospitality industry, each providing strong and creative career options with tremendous growth opportunities.... It would be ideal to have a hospitality-focused program at Middle Tennessee State University that directly links our residents to vibrant, rewarding careers in this region.”

Program Costs/Revenues:

This degree will not require special facilities or equipment. MTSU already offers many of the tourism and hospitality management courses and has full-time faculty qualified to instruct and lead this program. In addition, the Jones College of Business offers a number of courses that will be incorporated in the curriculum. However, we have budgeted for additional full-time and adjunct faculty during the first five years of the proposed program to ensure the implementation of a high quality program that will meet the projected demand.

A complete accounting of one-time and recurring costs, as well as revenue projections are provided in Attachment A (THEC Financial Projections Form). Expenses include salaries for additional full-time and adjunct faculty as the program grows as well as funds to support recruitment and program promotion during and after implementation. The proposed degree will be funded entirely through tuition and fee revenue. For purposes of this Letter of Notification, we have calculated tuition and fee revenue based on a conservative enrollment projection and have used a 3 percent annual increase for recurring expenses as well as for tuition.

Existing programs offered at public and private Tennessee institutions:

There are currently only two public institutions in Tennessee with baccalaureate degree programs within the 52.09 CIP series. The University of Tennessee-Knoxville offers a

bachelor of science (B.S.) with a major in Hotel, Restaurant & Tourism and the University of Memphis offers a bachelor of business administration (B.B.A.) with a major in Hospitality and Resort Management. Tennessee State University and Christian Brothers University both offer undergraduate concentrations in Hospitality and Tourism Management within their Business Administration majors but not in this CIP classification. (both in CIP Classification 52.0201).

Several Tennessee Board of Regents community colleges (e.g., Nashville State, Columbia State, Chattanooga State, Pellissippi State) have implemented hospitality and tourism programs and while not at the same level, these programs are noted as they have the potential to be an additional source of students through transfer pathways.

Sources

- ¹ Postsecondary Attainment in the Decade of Decision: The Master Plan for Tennessee Postsecondary Education 2015-2025. Tennessee Higher Education Commission.
- ² http://industry.tnvacation.com/sites/default/files/2016_Economic_Impact.pdf
- ³ Tennessee Department of Labor and Workforce Development, <https://www.jobs4tn.gov>.
- ⁴ <https://data.bls.gov/projections/occupationProj>
- ⁵ The Reach to Distinction: Middle Tennessee State University Academic Master Plan, 2015-2025
- ⁶ <https://heri.ucla.edu/heri-data-archive/> and <https://ncesdata.nsf.gov/webcaspar/index.jsp?subHeader=WebCASPARHome> respectively.
- ⁷ Data is from NSF “National Center for Science and Engineering Statistics,” <https://ncesdata.nsf.gov/webcaspar/>
- ⁸ The College Board, “Big Future. <https://bigfuture.collegeboard.org/> college-search?major=1765_Hospitality%20Administration%20and%20Management
- ⁹ THEC, *Academic Supply and Occupational Demand in Tennessee: Workforce Needs and Degree Production*. January 15, 2017.
- ¹⁰ Tennessee Department of Labor and Workforce Development, <https://www.jobs4tn.gov>.
- ¹¹ STR data for hotels under planning or construction. Estimates were derived using the average number of jobs per hotel using Tennessee data from the Census Bureau, *County Business Patterns*.
- ¹² <https://data.bls.gov/projections/occupationProj>
- ¹³ For UT/K, <https://oira.utk.edu/reports/fb.degrees-level>. For Memphis, <http://www.memphis.edu/oir/tools/graduationgenerator.php>

CURRICULUM - An adequately structured curriculum which meets the stated objectives of the academic program, and reflects breadth, depth, theory and practice appropriate to the discipline and the level of the degree. The curriculum should be compatible with disciplinary accreditation, where applicable, and meet the criteria for the general education core as well as articulation and transfer.

The proposed curriculum is in accordance with disciplinary standards and is similar to established baccalaureate tourism and hospitality curricula at similar institutions. The curriculum is designed to

- Provide students with principle knowledge of the interconnected sectors of tourism and the hospitality industry and to help them become trustworthy and ethical team players as well as independent and innovated frontrunners within this fast growing industry.
- Equip students with specialized skills and expertise by incorporating fundamental tourism and hospitality theories and concepts with hands-on projects, case studies, and field experiences to meet the needs of a growing and evolving job market.
- Prepare students through extensive training in marketing, management, business operation, finance, and legal issues for supervisory or executive positions where they will be effective decision-makers and be poised to assume leadership positions in the industry.
- Nurture students to become responsible global citizens who protect and treasure precious natural resources, preserve traditional culture and humanitarian values, improve quality of life, and make impact on local as well as international communities.

Program Requirements – *Include the minimum number of SCH overall, required curriculum, (course prefix and number, title, SCH) and any special requirements including theses, internships.*

Major Core				37 credits
	THM	3100	Introduction to the Tourism & Hospitality Industry	3 credits
	THM	3110	Sustainable Tourism & Hospitality Planning & Development	3 credits
	THM	3390	Travel & Entertainment Industry	3 credits
	THM*	3530	Program Planning in Leisure, Sport, and Tourism	3 credits
	THM	4200	Hospitality & Hotel Industry	3 credits
	THM	4210	Customer Service in Tourism & Hospitality	3 credits
	LSTS	4660	Research & Evaluation in Leisure, Sport, & Tourism Studies	3 credits
	LSTS	4890	Senior Seminar in Leisure, Sport, and Tourism	3 credits
	EXL	4000	Experiential Learning Seminar	1 credit
	Internship – (select one)			
	THM*	4904	Internship in Tourism Management	12 credits
	THM	4905	Internship in Hospitality Management	
	THM	4906	Internship in Event Planning	

Specialization – Student may select one of the following specializations				
Tourism Management Specialization				15 credits
	THM*	4850	Cross Cultural Perspectives in Leisure, Sport, & Tourism	3 credits

	THM	4220	International Tourism	3 credits
	MKT	3900	Social Media Marketing & E-commerce	3 credits
	Select six (6) hours of advised electives from the approved list of courses			6 credits
Hospitality Management Specialization				15 credits
	THM	4300	Current Issues in Hospitality Management	3 credits
	NFS	4100	Food Service Management for Culinary Arts	3 credits
	THM	4140	Food & Beverage Tourism	3 credits
	Select six (6) hours of advised electives from the approved list of courses.			6 credits
Event Planning Specialization				15 credits
	THM	4350	Special Event Planning	3 credits
	BCED	4300	Professional Meeting, Event, Exhibition, and Convention Industry	3 credits
	BCED	4400	Tools of the Professional Meeting, Event, Exhibition, and Convention Industry	3 credits
	Select six (6) hours of advised electives from the list of approved courses			6 credits
No Specialization				
Student electing not to specialize will, in consultation with their advisor, select 15 hours from the list of approved courses (Appendix C).				15 credits

Required Minor: Select one of the following minors				15-18 credits
	Business Administration Minor (18 hours)			
	Entrepreneurship Minor (15 hours)			

Electives				9 - 12
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			TOTAL HOURS REQUIRED FOR DEGREE	120
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*Cross-listed with Leisure, Sport, and Tourism Studies (LSTS).

+ **NOTE: No more than 30 hours taken in the College of Business may count toward the degree.**

Articulation with Tennessee Transfer Pathways

This program of study is designed to promote articulation with Tennessee Community Colleges. The following Tennessee Transfer Pathways have been identified as containing the requisite number of credit hours that could transfer as the general electives allotted for Bachelor of Science in Tourism and Hospitality Management, ensuring students can graduate with 120 credit hours.

TTP	Yes	No
Accounting	X	
Agriculture-AGBUS		X
Agriculture-Animal Science		X
Agriculture-Plant and Soil Science		X
Anthropology	X	

Art (Studio)		X
Biology		X
Business Administration	X	
Chemistry		X
Civil Engineering		X
Computer Science		X
Criminal Justice		X
Economics-Business	X	
Economics-Liberal Arts	X	
Electrical Engineering		X
English		X
Exercise Science	X	
Finance	X	
Foreign Language		X
Geography	X	
History	X	
Information Systems		X
International Affairs	X	
Kinesiology		X
Management	X	
Marketing	X	
Mathematics		X
Mass Communication	X	
Mechanical Engineering		X
Music		X
Philosophy	X	
Physics		X
Political Science	X	
Pre-Health (Pre-Dental, Vet, Med, OPT, Pharm)		X
PreK-12		X
Pre-Nursing		X
Pre-Occupational Therapy		X
Pre-Physical Therapy		X
Psychology	X	
Social Work	X	
Sociology	X	
Speech Communication	X	
Sport & Leisure management	X	
Theatre Arts	X	

Current Courses and Existing Programs- *List current courses and existing institutional programs which will give strength to the proposed program.*

The Department of Health & Human Performance offers bachelors, masters, and doctoral study in the areas of leisure, sport, and tourism studies. The B.S. in Leisure, Sport, and Tourism Studies has been continuously accredited by the Council on Accreditation of Parks, Recreation, Tourism and Related Professions (COAPRT) since 1994. Because this program already exists, many of the courses, academic resources, and industry relationships necessary

for successfully launch the B.S. in Tourism and Hospitality Management are already in place. In addition to core and specialization courses listed above, the LSTS program offers a number of other courses as well as an Accelerated Bachelor's – Master's program of study. Upon approval of the Tourism and Hospitality Management major, the department will submit the necessary curriculum change forms to rename the existing major to Leisure and Sport Management, matching the title of the current master's degree. The department will also submit a curriculum change to phase out the tourism focus of the existing degree with a termination date of fall 2021, allowing current students to complete their program of study.

The Jennings Jones College of Business at MTSU is one of the largest schools of business in the region and maintains AACSB accreditation of both business and accounting programs. Signature programs include the nationally ranked programs in accountancy (#39), Entrepreneurship (17) and Management (#21). Students in the Tourism and Hospitality Management program are required to complete a minor in Business or in Entrepreneurship. In addition to courses required for the minor, THM students may enroll in additional courses within the Jones College to complete a second minor or to fulfill elective requirements. The following courses are examples of existing courses that might be selected by THM students.

- ACTG 2110: Principles of Accounting I, 3 credits
- ACTG 2120: Principles of Accounting II, 3 credits
- ACTG 3000: Survey of Accounting for General Business, 3 credits
- BCED 4300: Professional Meeting, Event, Exhibition, and Convention (MEEC) Management, 3 credits
- BCED 4400: Tools of the MEEC Industry (Meeting, Event, Exhibition, and Convention [MEEC] Management), 3 credits
- BLAW 3400: Legal Environment of Business, 3 credits
- ENTR 2900: Entrepreneurship, 3 credits
- ENTR/MGMT 4920: Small Business Management, 3 credits
- FIN 3000: Survey of Finance, 3 credits
- FIN 3040: Finance for Entrepreneurs, 3 credits
- MGMT 3610: Principles of Management, 3 credits
- MGMT 3730: Management of Innovation, 3 credits
- MGMT 3810: Human Resources Management, 3 credits
- MGMT 3940: Business Ethics, 3 credits
- MGMT 4000: Not-for-Profit Management, 3 credits
- MGMT 4200: Leadership in Organizations, 3 credits
- MKT 3200: Marketing for Entrepreneurs, 3 credits
- MKT 3820: Principles of Marketing, 3 credits
- MKT 3900: Social Media Marketing and E-Commerce, 3 credits

Additional programs found in the departments of Human Sciences, Communication, and Global Studies and Human Geography, as well as the School of Agribusiness and Agriscience (including Fermentation Science) offer coursework and faculty expertise that will directly support the Tourism and Hospitality Management degree. The following are just a small sampling of related courses.

AGBS 4115: Agritourism, 3 credits
FCSE 4502: Food Production and Management, 3 credits
FERM 2500: Wine Appreciation, 3 credits
GS 4150: Ecotourism, Geotourism, and Sustainable Development, 3 credits
NFS 3100: Food and Culture in the United States, 3 credits
NFS 4260: Food Safety Issues from Production to Consumption, 3 credits
NFS 3100: Food and Culture in the United States, 3 credits
NFS 4100: Food Service Management for Culinary Arts, 3 credits
COMM 3500: Communication for Organizational Effectiveness, 3 credits
COMM 3650: Conflict in Communication, 3 credits

New Courses Needed- *List any new courses which must be added to initiate the program; include a catalog description for each of these courses.*

THM 4210 Customer Service in Tourism & Hospitality Management, 3 credits – Prepares students to meet and exceed customers' expectations within the tourism and hospitality industry. Review of customer service philosophy, theory, and techniques in tourism and hospitality. Service quality issues, service design and delivery, customer interactions and service recovery, customer relationships, and customer loyalty in tourism and hospitality are addressed.

THM 4220 International Tourism, 3 credits - Patterns, principles and management of international travel and tourism and examination of its role within the international hospitality industry. Focus on current and future trends in global travel; evaluation of the barriers to future development and expansion; and examination of the global impact of travel, tourism and hospitality services.

THM 4300 Current Issues in Hospitality Management, 3 credits – study of current issues and trends with the hospitality industry. Focus is on understanding causes and impacts of trends affecting the broad hospitality industry as well as specific sectors within the industry.

Distance Learning – *Indicate whether this program will be offered via distance learning and which courses are available via distance learning.*

The Tourism and Hospitality Management major is not being proposed as an online degree program. However, some courses may offer online sections. Depending on growth and demand, the major may consider offering courses via distance learning in the future.

Course Syllabi: Syllabi for existing courses are provided in Appendix G.

ACADEMIC STANDARDS – The admission, retention and graduation standards should be clearly stated, be compatible with institutional or governing board policy, and encourage high quality.

All Tourism and Hospitality Management majors must meet the established admission, retention, and graduation requirements of the university. Requirements for admission are found at:

http://catalog.mtsu.edu/content.php?catoid=23&navoid=4174#Requirements_for_Admission.

Policies governing academic performance requirements and retention standards are found at:
http://catalog.mtsu.edu/content.php?catoid=23&navoid=4176#Academic_Regulations.

Undergraduate degree requirements can be found at:
<http://catalog.mtsu.edu/content.php?catoid=23&navoid=4169>.

DIVERSITY – Provide information regarding how the proposed program will serve a diverse population of students (e.g., adult learners, students working and unable to relocate, students with preference for various delivery modes) or an underserved, historically underrepresented population of students or international students.

The proposed major will provide educational opportunities for adult learners and/or working students who seek employment and/or advancement in the tourism and hospitality industry, particularly those in the Nashville, Murfreesboro, and surrounding area. The Tourism and Hospitality program will provide opportunities for students to attend full-time and part-time. Since the proposed MTSU Tourism & Hospitality program promotes articulation with Tennessee community colleges via transfer pathways, and TN High School Hospitality programs this will provide an additional path for underserved populations, who often initially access higher education at the community-college level, to obtain the bachelor's-level credential through the MTSU program. Given the very nature of the tourism and hospitality industry, international students will be drawn to MTSU to study. Finally, we will work closely with the MTSU Veterans and Military Families Center to identify veterans whose career goals align with the THM degree.

PROGRAM ENROLLMENT AND GRADUATES – Provide the projected number of declared majors and graduates expected over the first three years (associate and certificate), 5 years (baccalaureate and master's programs) or 7 years (doctoral programs).

We assume a fall 2019 start for this program and use a conservative estimate of enrollment. Full-time enrollment is figured at 12 credits per semester and part-time enrollment is figured at 6 credits per semester with enrollment in fall and spring terms although many students will also enroll during summers. (Sample programs of study for full-time and part-time students are included as Appendix B). We also incorporate a 10 percent yearly attrition rate after the first year. This is comparable to the attrition rate in the existing Leisure, Sport, and Tourism Studies degree program.

Year	Full-Time Headcount	Part-time Headcount	Total Year Headcount	FTE	Graduates
1	10	2	12	11	0
2	20	4	24	22	0
3	30	6	36	33	2
4	40	08	48	44	5
5	50	10	60	55	10

ADMINISTRATIVE STRUCTURE – Provide the administrative unit and program director that will be responsible to ensure success of the proposed program.

The Tourism and Hospitality Management major will be part of the Leisure, Sport, and Tourism Studies division in the Department of Health & Human Performance, within the College of Behavioral and Health Sciences. Professor Nicky Wu (Ph.D. – Michigan State University) will serve as the director of the Tourism and Hospitality Management program.

FACULTY RESOURCES - Current and/or anticipated faculty resources should ensure a program of high quality. The number and qualification of faculty should meet existing institutional standards and should be consistent with external standards, where appropriate. The adequacy of the number of faculty should be paramount in the planning process as institutions build increasing numbers of interdisciplinary and cross-disciplinary academic programs. The student/faculty ratio for the proposed program should be included in the documentation.

Current Faculty – *List the name, rank, highest degree, primary department and estimate of the level of involvement of all current faculty members who will participate in the program. If the proposed program is at the graduate level, designate current graduate faculty status in relation to eligibility to chair thesis and/or dissertation. Attach a three page vita for each faculty member listed including relevant related activities for the past five years.*

Joey Gray	Associate Professor	PhD - Indiana University	Leisure, Sport, & Tourism Studies	50%
Nicky Wu	Assistant Professor	PhD - Michigan State Univ.	Leisure, Sport, & Tourism Studies	100%
Rudy Dunlap	Associate Professor	PhD – Univ. of Georgia	Leisure, Sport, & Tourism Studies	30%
Steve Estes	Professor	PhD - Ohio State University	Leisure, Sport & Tourism Studies	10%
Dawn Shelar	Professor	PhD – Univ. of Maryland	Leisure, Sport & Tourism Studies	10%
Tony Johnston	Professor	PhD – Univ. of Arkansas	Agribusiness & Agriscience	10%
Alanna Vaught	Instructor	EdD - Texas A&M Univ.	Agribusiness & Agriscience	20%
Mike Bowman	Adjunct Professor	BA - Freed-Hardeman Univ.	General Hospitality Services Corp.	20%
Sandra Poirier	Professor	EdD - Florida International University	Nutrition & Food Science	20%

Anticipated Faculty - *Describe the additional faculty needed during the next five years for the initiation of the program and list the anticipated schedule for addition of these faculty members.*

MTSU will search for an additional faculty member with expertise in hospitality during the planning year, to begin in year one of the program. Based upon projected growth in enrollment, an additional full-time tenure-track faculty member will be recruited during 2021 (year three) to start in fall 2022.

Both faculty lines are budgeted (see attachment A) and include a 3% inflation factor. In addition to full-time, tenure-track faculty members we have budgeted for adjunct faculty drawn from area business and industry organizations as the program grows and to provide specialized expertise. Adjunct faculty salaries are budgeted in attachment A as follows: year 2 - \$12,600 (6 courses), year 3 - \$16,800 (8 courses), year 4 - \$12,600 (6 courses) and year 5 - \$12,600 (6 courses).

LIBRARY AND INFORMATION TECHNOLOGY RESOURCES – Provide documentation to demonstrate adequate current and/or anticipated library and information technology resources to support a high quality program which meets recognized standards for study at a particular level or in a particular field.

Library and Information Technology Acquisitions Needed - *Describe additional library and information technology acquisitions needed during the first three years (associate and certificate), 5 years (undergraduate and master's programs) or 7 years (doctoral programs) for the successful initiation of the program.*

Because we already offer the B.S. in Leisure, Sport, and Tourism Studies and many of the courses that make up the curriculum of the proposed B.S. in Tourism and Hospitality Management we require minimal additional resources to support this program. Because we project continued growth in the industry and anticipate continuing increases in the cost of subscriptions we have included recurring dollars in the budget to supplement current library resources.

SUPPORT RESOURCES - Provide documentation to demonstrate adequate other existing and/or anticipated support resources including clear statements of support staff, student advising resources, arrangement for clinical or other affiliations, and professional development for faculty necessary for a successful program.

Evidence of willingness to partner - *Include government, education, health and business entities.*

We have received overwhelming support from local, regional, and statewide organizations as we initiated planning for this degree. We provided seven (7) letters of support at the time we submitted our initial Letter of Notification. These provide evidence of willingness on the part of business and industry to partner and are included as Appendix E.

Other Support Currently Available - *Include support staff, university and non-university assistance.*

The Department of Health & Human Performance is fully staffed and requires no additional resources in order to implement this degree. We have budgeted for a one course reassignment every semester to provide adequate time for the program director to carry out administrative duties.

In addition to resources in the HHP department, the College of Behavioral and Health Sciences employs 17 professional advisors who provide academic advising and the University Office of Student Success is nationally recognized for its focus on student success.

Other Support Needed -- *List additional staff and other assistance needed during the first three years (associate and certificate), 5 years (baccalaureate and master's programs) or 7 years (doctoral programs).*

No additional direct staff support is required for this program. While every faculty member

automatically receives funding support for professional travel, we have also budgeted an additional \$500 annually to support professional development activities during the first five years for each faculty member with primary responsibility in this program.

FACILITIES AND EQUIPMENT- Provide documentation to demonstrate adequate existing and/or anticipated facilities and equipment. New/or renovated facilities required to implement the program should be clearly outlined by amount and type of space, costs identified and source of funds to cover costs.

Existing Facilities and Equipment - *Assess the adequacy of the existing physical facilities and equipment available to the proposed program. Include special classrooms, laboratories, physical equipment, computer facilities, etc.*

Existing classroom and laboratory facilities are adequate to implement this proposed degree program and no additional laboratory or space needs are required.

It should be noted that the Governor's 2018 capital budget includes \$35,100,000 to construct a new classroom to house programs in the College of Behavioral and Health Sciences. Additional state of the art instructional facilities will be available to faculty and students in this program when this facility is completed.

Additional Facilities and Equipment Required or Anticipated - *Describe physical facilities and equipment that will be required/anticipated during the first three years (associate or certificate programs), 5 years (undergraduate and master's programs) or 7 years (doctoral programs).*

No additional facilities or equipment will be required nor do we anticipate a need in the future.

MARKETING AND RECRUITMENT PLAN - A plan, including marketing and recruitment, to ensure all prospective students will have equitable access to the program so as not to impede the state's commitment to diversity and access in higher education (Post Geier). *Note: Programs may not be advertised nor students admitted prior to Commission approval.*

The B.S. in Tourism and Hospitality Management will be implemented in fall 2019 and will be subject to post-approval monitoring for the first five years of operation. The university's assessment of program viability (the basis for the decision to seek approval to implement a new degree) is based upon a projection of enrollment sufficient to offset program costs. With these targets and the requirements of the post-approval monitoring process in mind, it is critical that MTSU develop and carryout a comprehensive strategic plan for recruitment of students to this major. The MTSU Strategic Recruitment Plan for the B.S. in Tourism and Hospitality Management is provided in Attachment D.

ASSESSMENT/EVALUATION - Although the primary responsibility for program quality rests with the institution and its institutional governing board or its system, THEC considers pertinent information to verify that high standards have been established for the operation and Evaluation of the programs. Evidence must be proposed to demonstrate that careful evaluation is

undertaken periodically throughout the lifetime of the program indicating:

The schedule for program assessments or evaluations, (including program evaluations associated with Quality Assurance, institutional program review, student evaluations, faculty review, accreditation, and employer evaluation),

The Tourism and Hospitality Management major will conduct regular scheduled external reviews of this program in accordance with university and THEC policies. The office of Institutional Effectiveness, Planning, and Research is responsible for overseeing external program reviews. The Tourism and Hospitality Management degree program will utilize both formative and summative evaluation to assess the extent to which the program is meeting institutional goals and objectives. The University, the College of Behavioral and Health Sciences, the Health and Human Performance Department and Leisure, Sport, and Tourism Studies program place instructional and program quality among their highest priorities and will assess both on an ongoing basis.

- The THM major will seek accreditation from the Council on Accreditation of Parks, Recreation, Tourism and Related Professions (COAPRT), under the National Recreation and Park Association (NRPA). COAPRT accreditation involves a comprehensive self-study, external review, and formation of an advisory board. COAPRT accreditation may be sought after the major has been in operation 3 years and is renewed every 7 years.
- In line with the requirements of the COPART Accreditation Standards and best practices, we will establish an advisory board consisting of key professionals in the Tourism and Hospitality Industry for the purpose of advising on current THM trends, employee/employer needs, and curriculum.
- Students' perceptions of instructional quality will be measured through the use of student instructional evaluations in all tourism and hospitality courses each semester.
- Graduating seniors will also complete the "Graduating Senior Survey" encompassing all aspects of their educational experience at MTSU as well as a Major Field Test to measure content knowledge, retention, and areas that need improvement within the curriculum.
- Student competencies will also be evaluated by internship supervisors who will be asked to complete a comprehensive evaluation of student knowledge, skills, and abilities in tourism and hospitality management. These evaluations will be analyzed to assess common areas of weakness that can be traced back and corrected through curriculum revisions.
- Employment of graduates in appropriate business and industry settings is the ultimate goal of the program and is the final metric upon which program success may be measured. Placement data for new graduates and alumni will be tracked and analyzed to identify program strengths as well as opportunities for expanded placement efforts

Responsible parties for conducting program assessments or evaluations, and accreditation.

The Tourism & Hospitality Management program director, Dr. Nicky Wu, will be responsible for conducting program assessments/evaluations and accreditation. To carry out these duties, the program director works closely with the LSTS Program Director, the Health & Human Performance

Department Chair and dean of the College of Behavioral and Health Sciences, who have responsibility for faculty evaluation and budgetary allocations (both conducted annually) as well as ultimate oversight of instructional programs.

A plan for how results will inform the program post-approval.

- The COAPRT accreditation self-study and external review results will be used to adjust curriculum, student, and faculty needs.
- The Advisory Board will be used to adjust curriculum to meet industry standards/trends and employer/employee needs.
- Student recruitment, retention, and graduation will be monitored by the director.
- The graduating senior exit evaluation and major field test will be used to adjust curriculum.

ACCREDITATION - Where appropriate, professional disciplinary accreditation organizations should be identified. The proposed accreditation timeline must be submitted. Any substantive change that may require a SACS-COC review should be indicated.

The university is accredited by the Southern Association of Colleges and Schools Commission on Colleges. The implementation of this major does not comprise a substantive change requiring SACS-COC review.

The Jones College of Business is accredited by the Association to Advance Collegiate Schools of Business (AACSB). The use of College of Business courses for the required minors as well as for elective credits does not require modification or review of its existing AACSB accreditation.

The current Leisure, Sport, and Tourism Studies (LSTS) program is a Council on Accreditation of Parks, Recreation, Tourism and Related Professions (COAPRT) accredited program, under the National Recreation and Park Association (NRPA). As such, the proposed major in Tourism and Hospitality Management will be included within the scope of the existing COAPRT academic accreditation.

Note: The current LSTS major is accredited by COAPRT. The next accreditation review is 2021. To be eligible the program must be in existence for three years. Thus, the Tourism and Hospitality Management major will:

- Notify NRPA of intent to accredit the THL major fall 2021
- Begin a COAPRT self-study in November of 2021, conclude May 2022 and submit self-study to COAPRT reviewers by June of 2022.
- External Reviewers conduct campus visit fall 2022.
- Reviewers report submitted to COAPRT Council spring 2023
- Response report (if needed) and hearing spring 2023
- Accreditation confirmation received 2023

FUNDING –A budget projection using the THEC Financial Projection form that documents the institution's capacity to deliver the proposed program within existing and projected resources must

be submitted including an explanation of the current departmental budget in which the proposed program will be housed and estimated additional costs for the first three years (associate degrees), 5 years (undergraduate and master's degrees) or 7 years (doctoral degrees) for the proposed program. Please note that these costs for each year are incremental costs not cumulative costs. Include all accreditation costs and proposed external consultations as related to accreditation. Identify any grants or gifts which have been awarded or anticipated.

THEC Financial Projection form is provided as Attachment A.

It should be noted that the attached THEC form has been modified to include a "planning year" as acknowledgment that some expenses of a new program (e.g., student recruitment) are incurred prior to year one of the program and are funded through institutional reallocation.

In addition, Section B. (Recurring Expenses) includes an "Other" line under Operating Expenses. On this line we include both direct and indirect recurring expenses. Direct expenses include funds to support instructional materials and supplies, library acquisitions and subscriptions, faculty development, travel, external speakers, travel to instructional sites, and other expenditures that are linked directly to the delivery of instruction in this particular program. This line also includes all those functions and expenditures of the university that indirectly support this program of study. For example, the university must fund and staff the Office of the University Registrar, the Bursar's office, the Office of Scholarships and Financial Aid, as well as a myriad of other support functions (utilities, benefits, Human Resources, etc.) necessary to the operation of the university. Lastly, tuition and fees as well as state funding are not differentiated based upon cost of instruction although instructional costs vary across programs (i.e., although student tuition rates and Tennessee's outcomes-based funding formula do not recognize it, there are greater costs associated with some academic programs, such as Nursing, Aerospace, and Engineering than in other programs such as Education, English, or Tourism and Hospitality Management). Therefore, if tuition revenues exceed direct and indirect expenses for one academic program they may be used to offset direct and indirect instructional expenses of other academic programs.

**Tennessee Higher Education Commission
Attachment A: THEC Financial Projections
Middle Tennessee State University
B.S. in Tourism and Hospitality Management**

Seven-year projections are required for doctoral programs.

Five-year projections are required for baccalaureate and Master's degree programs

Three-year projections are required for associate degrees and undergraduate certificates.

Projections should include cost of living increases per year.

	Planning Year	Year 1	Year 2	Year 3	Year 4	Year 5
I. Expenditures						
A. One-time Expenditures						
New/Renovated Space		\$ -	\$ -	\$ -	\$ -	\$ -
Equipment		-	-	-	-	-
Library		-	-	-	-	-
Consultants		-	-	-	-	-
Travel		-	-	-	-	-
Other	\$5,000			-	-	-
Sub-Total One-time	\$5,000	\$ -	\$ -	\$ -	\$ -	\$ -
B. Recurring Expenditures						
Personnel						
Administration						
Salary		\$ 4,200	\$ 4,200	\$ 4,200	\$ 4,200	\$ 4,200
Benefits						
Sub-Total Administration		\$ 4,200	\$ 4,200	\$ 4,200	\$ 4,200	\$ 4,200
Faculty						
Salary		\$ 60,000	\$ 74,400	\$ 80,454	\$ 143,164	\$ 147,081
Benefits		19,800	20,394	21,006	43,086	43,379
Sub-Total Faculty		\$ 79,800	\$ 94,794	\$ 101,460	\$ 186,250	\$ 190,460
Support Staff						
Salary (adjunct)						
Benefits		-	-	-	-	-
Sub-Total Support Staff		\$ -	\$ -	\$ -	\$ -	\$ -
Graduate Assistants						
Salary						
Benefits		-	-	-	-	-
Tuition and Fees* (See Below)		-	-	-	-	-
Sub-Total Graduate Assistants		\$ -	\$ -	\$ -	\$ -	\$ -
Operating						
Travel		\$ 2,500	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500
Printing		750	750	750	750	750
Equipment						
Other		11,000	11,000	14,500	15,000	15,000
Sub-Total Operating		\$ 14,250	\$ 13,250	\$ 16,750	\$ 17,250	\$ 17,250
Total Recurring		\$ 98,250	\$ 112,244	\$ 122,410	\$ 207,700	\$ 211,910
TOTAL EXPENDITURES (A + B)		\$ 98,250	\$ 112,244	\$ 122,410	\$ 207,700	\$ 211,910

***If tuition and fees for Graduate Assistants are included, please provide the following information.**

Base Tuition and Fees Rate

Number of Graduate Assistants

	Planning Year	Year 1	Year 2	Year 3	Year 4	Year 5
II. Revenue						
Tuition and Fees ¹		\$100,584	\$206,976	\$319,968	\$439,296	\$564,960
Institutional Reallocations ²	5000	(2,334)	(94,732)	(197,558)	(231,596)	(353,050)
Federal Grants ³		-	-	-	-	-
Private Grants or Gifts ⁴		-	-	-	-	-
Other ⁵		-	-	-	-	-
BALANCED BUDGET LINE	\$5,000	\$ 98,250	\$ 112,244	\$ 122,410	\$ 207,700	\$ 211,910

Notes:

(1) In what year is tuition and fee revenue expected to be generated and explain any differential fees. Tuition and fees include maintenance fees, out-of-state tuition, and any applicable earmarked fees for the program.

Year 1 (2019) tuition is estimated at \$381 per credit hour. Tuition in subsequent years has a 3% inflation factor.

Year 1: 10 students x 12 hours x 2 semesters x \$381 = \$91,440 + 2 students x 6 credits x 2 semesters x \$381 = \$9,144 (Total = \$100,584)

Year 2: 20 students x 12 hours x 2 semesters x \$370 = \$188,160 + 4 students x 6 credits x 2 semesters x \$370 = \$18,816 (Total = \$206,976).

Year 3: 30 students x 12 hours x 2 semesters x \$404 = \$290,880 + 6 students x 6 credits x 2 semesters x \$404 = \$29,088 (Total = \$319,968).

Year 4: 40 students x 12 hours x 2 semesters x \$392 = \$399,360 + 8 students x 6 credits x 2 semesters x \$416 = \$39,936 (Total = \$439,296).

Year 5: 50 students x 12 hours x 2 semesters x \$428 = \$513,600 + 10 students x 6 credits x 2 semesters x \$428 = \$51,360 (Total = \$564,960).

(2) Please identify the source(s) of the institutional reallocations, and grant matching requirements if applicable.

Marketing expenses in the planning year will be covered through reallocation within Academic Affairs. There are no other reallocations.

(3) Please provide the source(s) of the Federal Grant including the granting department and CFDA(Catalog of Federal Domestic Assistance) number.

No Federal grants are used to fund this degree.

(4) Please provide the name of the organization(s) or individual(s) providing grant(s) or gift(s).

No external grants or gifts are used to fund this degree.

(5) Please provide information regarding other sources of the funding.

With the exception of the planning year, this degree is funded entirely through tuition revenue

NOTE: One-time expenses (Other) includes costs associated with program implementation (e.g., promotion/advertising expenses)

Recurring expenses (Other) includes \$7,000 for direct expenses (e.g., library subscriptions, instructional materials, faculty development, etc.)

in year 1 & 2 and \$10,500 in years 3 - 5. Beginning in Year one, \$1,500 is included for faculty development, (increasing to \$2,000 in Year 4).

Beginning in year one, \$2,500 in recurring funds is also budgeted to support student recruitment

Recurring expenses (Other) also includes indirect expenses associated with student support (e.g., academic advising, financial aid, Registrar, etc.) and academic program delivery (Instructional technology and classroom support, utilities, etc.). This amount increases enrollment increases in order to support additional students and classes.

NOTE: Tuition revenue in excess of direct & indirect program costs is included in Institutional Reallocation to support other programs.



**Middle Tennessee State University
Board of Trustees**

MEETING: Winter Quarterly Board Meeting

SUBJECT: [Approval of Academic Degree under
Consideration – B.S. Data Science](#)

DATE: December 11, 2018

BACKGROUND INFORMATION:

The following academic program is under consideration. Pending the results of feasibility studies, the university may submit a Letter of Notification (LON) to THEC.

Per THEC Policy A1.0 “The submission of the LON must also include a letter of support from the President/Chancellor signifying institutional governing board or system office support for development.”

Bachelor of Science in Data Science

The area of data science continues to grow in popularity, as many of the emerging fields include big data concepts, analytics and machine learning. With the recent establishment of the Data Science Institute at MTSU, the university has the potential to become a leader in this field. A degree program would be interdisciplinary and would focus on practical implications of data, programming, data cleansing and mining, big data concepts, statistics and business intelligence, and predictive analytics and machine learning. It would also be a feeder to stem related Masters degrees. This degree would include faculty and staff from the departments of Math, Computer Science, Information Systems and Analytics, as well as many other departments that embrace data science.



**Middle Tennessee State University
Board of Trustees**

MEETING: Winter Quarterly Board Meeting

SUBJECT: [Approval of Appointment of Chair of Excellence](#)

DATE: December 11, 2018

BACKGROUND INFORMATION:

MTSU Policy 800, General Personnel, (Section III, A, 2) requires the approval of the President and the Board of Trustees for appointments of Chairs of Excellence.

The National Health Care Chair of Excellence in Nursing chairholder will increase the visibility of nursing excellence in Middle Tennessee, collaborate with nursing faculty on scholarly productivity, increase research productivity for the MTSU School of Nursing, provide consultative and educational support to nurses in local clinical agencies and increase research collaboration between the School of Nursing and local clinical agencies.

Deborah A. Lee has been recommended by a peer search committee, Director of the School of Nursing, Dean of the College of Behavioral and Health Sciences, Assistant to the President for Institutional Equity and Compliance, Provost, and President.



**Middle Tennessee State University
Board of Trustees**

Tab 3

**Audit and Compliance Committee Meeting
November 13, 2018**



**Middle Tennessee State University
Board of Trustees**

MEETING: December Quarterly Board Meeting

SUBJECT: [Audit & Compliance Committee](#)

DATE: December 11, 2018

PRESENTER: Committee Chair Christine Karbowskiak

ACTION REQUIRED: Roll Call Vote

STAFF RECOMMENDATION: Approval

- Rule Promulgation and Related Policy Revision -
Public Records – Inspecting and Copying
Policy 120 Public Records - Inspecting and Copying



**Middle Tennessee State University
Board of Trustees**

MEETING: Winter Quarterly Board Meeting

SUBJECT: Rule Promulgation and Related Policy
Revision: Policy 120: Public Records –
Inspecting and Copying

DATE: December 11, 2018

ACTION REQUIRED: Roll Call Vote

BACKGROUND INFORMATION:

T.C.A. § 10-7-503(g)(2) requires that no later than January 1, 2019, MTSU promulgate a rule regarding public records. The rule must contain these elements: the process for making requests to inspect public records or receive copies of public records and a copy of any required request form; the process for responding to requests, including redaction practices; a statement of any fees charged for copies of public records and the procedures for billing and payment; and, the name or title and the contact information of the individual or individuals within the institution designated as the public records request coordinator.

MTSU has a corresponding policy, Policy 120 Public Records – Inspecting and Copying, that is presented for revision. To be consistent with the proposed rule, minor revisions are found at Section II.A. and II.C. within the definitions of Records Custodian and Public Records Request Coordinator, respectively, and at II.F. where a statutory citation is deleted. The additional language of II.F.6. is based on Public Chapter 980 which added this category of information to the list of Confidential Records. T.C.A. §10-7-504(w). Section IV.K. raises the minimum amount at which fees charged are waived from \$5.00 to \$20.00.

Subsequent to the Committee meeting, the rule was reviewed by the Office of Attorney General. Based on that review, revisions to both the rule and the policy are advised. In the rule, see revisions to -.03(1)(a) and (2)(a); -.04(1) and (2); and, (6)(c). These revisions are shown in redline. In the policy, see revisions to III.A.1.; and, IV.A. and B. These revisions are shown in yellow highlight.

120 Public Records-Inspecting and Copying

Approved by Board of Trustees

Effective Date: ~~June 5, 2017~~, 2018

Responsible Division: President

Responsible Office: Office of the University Counsel

Responsible Officer: University Counsel

I. Purpose

Pursuant to T.C.A. § 10-7-503(g), this policy, approved by the Middle Tennessee State University Board of Trustees (Board), establishes the process under Tennessee's Public Records Act for making and responding to requests to inspect and/or copy records, including redaction practices; the fees charged for copies of public records; the procedures for billing and payment; and the name or title and contact information of the public records request coordinator. In accordance with T.C.A. § 10-7-503, all records made or received pursuant to law or in connection with the transaction of official Middle Tennessee State University (MTSU or University) business shall, at all times during business hours, be open for personal inspection by any citizen of Tennessee and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by State law. T.C.A. § 10-7-503(a)(2)(A).

Personnel of MTSU shall timely and efficiently provide access and assistance to persons requesting to view or receive copies of public records, and this policy shall not be used to hinder access to open public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the University, shall be protected as provided by law. Concerns about this policy should be addressed to the Public Records Request Coordinator for MTSU or to the Tennessee Office of Open Records Counsel.

This policy shall be applied consistently within the various offices, departments, and divisions of MTSU.

II. Definitions

- A. Records Custodian. The MTSU office(s) or employee(s) lawfully responsible for the direct custody and care of a public record. A records custodian is not

necessarily the original preparer or producer of the record. An entity such as MTSU has multiple records custodians.

- B. Public Records. All documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, electronic mail messages, films, sound recordings, or other material regardless of physical form or characteristics, made or received pursuant to law or in connection with the transaction of official University business and required to be open to inspection under the provisions of Tennessee law. It should be noted that the disclosure of student records is governed by the Family Educational Rights and Privacy Act (FERPA) and [Policy 500 Access to Education Records](#) and, therefore, such records are not subject to this policy.
- C. Public Records Request Coordinator. The individual (or designee) responsible for ensuring that public records requests are routed to the appropriate records custodian and that requests are fulfilled in accordance with the Public Records Act. The University Counsel or designee is designated as the Public Records Request Coordinator and may be contacted at (615) 898-2025 or in 209 Cope Administration Building, MTSU, 1301 East Main Street, Murfreesboro, Tennessee 37132.
- D. Requestor. A person seeking access to a public record, whether it is for inspection or duplication.
- E. Employee Records. All records related to current or former employees (faculty, staff, graduate assistants, etc.) or applicants to such positions, excluding that information deemed confidential by statute, that are maintained in the Office of Human Resource Services (HRS), Payroll Office, Accounting Office, and any other department that may maintain records that include information on employees. Note that records pertaining to employment of student workers are confidential under FERPA.
- F. Confidential Information. Records or information in public records that shall not be open for public inspection under the Tennessee Public Records laws, include, but are not limited to, the following and any other information so defined by statute. ~~T.C.A. § 10-7-504:~~
 - 1. Employee Information. The following records or information for any employee, former employee, or applicant to such position:
 - a. Home telephone and personal cell phone numbers;
 - b. Bank account, individual health savings account, retirement account, and pension account information;

- c. Social Security number;
 - d. Residential information, including the street address, city, state, and zip code;
 - e. Driver's license information, except where driving or operating a vehicle is part of the employee's job description, job duties, or incidental to the performance of his/her job;
 - f. The information listed in Items a.-e. above concerning immediate family members, whether or not the immediate family member resides with the employee or household members;
 - g. Medical information, sick leave documentation, documentation relating to the Americans with Disabilities Act, as amended, or the Family Medical Leave Act, and Employee Assistance Program (EAP) files;
 - h. Emergency contact information;
 - i. Personal nongovernment issued email address;
 - j. Job performance evaluations. For purposes of this policy, job performance evaluations includes, but is not limited to, job performance evaluations completed by supervisors, communications concerning job performance evaluations, self-evaluations of job performance prepared by employees, job performance evaluation scores, drafts, notes, memoranda, and all other records relating to job performance evaluations.
2. Confidential Sponsored Research or Service. For the purposes of T.C.A. § 49-7-120, sponsored research or service means any research, analysis, or service conducted pursuant to grants or contracts between the University and a person or entity. Sponsored research or service records and materials that contain such things as proprietary information, trade secrets, or patentable materials received, generated, ascertained, or discovered during the course of research or service shall not be open for public inspection. The University will, however, make available upon request the title of a sponsored research or service project, names of the researchers, and amounts and sources of funding for the projects.
 3. Audit Working Papers. Records of an audit may include paper documents and/or electronic documents. Working papers are prepared from the time auditors first launch their assignments until they write the final reports. The working papers include, but are not limited to, the records of planning and

surveys, the audit program, the results of field work, auditee records, intra-agency and interagency communications, draft reports, schedules, notes, memoranda, and all other records relating to the audit or investigation.

4. Donor Records. In accordance with T.C.A. § 49-7-140, Confidentiality of Gift Records, records and information that concern gifts to the University or the University Foundation that include name, address, telephone number, social security number, driver's license information, or any other personally identifiable information about the donor or members of the donor's family shall not be open for inspection. The University or the Foundation will, however, make available upon request an annual report of gifts with the amount of the gift and a general description of its use.
5. Pursuant to T.C.A. § 10-7-504(a)(11), records that are of historical research value that are donated or sold to the archives at the Albert Gore Research Center may be designated as confidential when the owner or donor of such records wishes to place restrictions on access to the records.

5-6. Information that is reasonably likely to identify a student accused of committing an alleged sexual offense or alleged violent sexual offense as defined in T.C.A. § 40-39-202 or any information that is reasonably likely to identify the victim of an alleged sexual offense or alleged violent sexual offense as defined in T.C.A. § 40-39-202 is confidential and not open for inspection by members of the public. Access to a file, document or data file may be provided if this information is able to be redacted so as not to reasonably identify the individual. This shall not limit access to law enforcement agencies, courts or other governmental agencies or instrumentalities performing official functions.

III. Procedures to Access Public Records

A. Generally.

1. Except for confidential records as prescribed by law, public records will be open for inspection by citizens of Tennessee **in the office of record** during business hours which shall be the business hours of the University's administrative offices.
2. Requests for inspection only may be made orally and cannot be required to be made in writing. Requests for copies, or requests for inspection and copies, must be made in writing. The [Request to Inspect or Copy Public Records form](#) may be used, but a written request in any form or format will be acceptable. Requests may be made to the Public Records Request Coordinator, 209 Cope Administration Building, MTSU, 1301 East Main Street, Murfreesboro, Tennessee 37132, or publicrecords@mtsu.edu.

3. Persons requesting to inspect or copy records must show proof of Tennessee citizenship with a government-issued photo identification card including the person's address (i.e., driver's license, voter's registration, etc.).

B. Public Records Request Coordinator.

1. The Public Records Request Coordinator (Coordinator) or designee shall review public record requests and make an initial determination of the following:
 - a. if the requestor provided evidence of Tennessee citizenship;
 - b. if the records requested are described with sufficient specificity to identify them; and
 - c. if MTSU is the custodian of the records.
2. The Coordinator shall acknowledge receipt of the request and take any of the following appropriate action(s):
 - a. Advise the requestor of this policy and the determinations made regarding:
 - (1) proof of Tennessee citizenship;
 - (2) form(s) required for copies;
 - (3) fees and charges, including labor and programming costs;
 - (4) aggregation of multiple or frequent requests.
 - b. If appropriate, deny the request in writing using the [Public Records Request Response](#), which shall indicate the basis for the denial such as:
 - (1) the requestor is not, or has not presented evidence of being, a Tennessee citizen;
 - (2) the request lacks specificity;
 - (3) an exemption makes the record not subject to disclosure;
 - (4) the University is not the custodian of the requested records;

- (5) the records do not exist.
- c. If appropriate, contact the requestor to see if the request can be narrowed.
- d. Forward the records request to the appropriate records custodian.
- e. If the Coordinator knows that the requested records are in the custody of a different governmental entity, advise the requestor of the correct governmental entity and the coordinator for that entity, if known.
- 3. The Coordinator shall annually report to the Board concerning the institution's compliance with the Tennessee Public Records Act and make recommendations, if any, for revisions to this policy.
- C. The University is not required to sort through files to compile information, create records, or recreate records that do not exist.
- D. Form or Format of Record to be Inspected/Copied. The public records laws require that actual records be produced or used for viewing and/or copying. The nature of certain records and applicable confidentiality requirements, however, may result in providing the requested record/information in a form or format other than the original records form or format. In such cases, the records custodian may coordinate with the requestor to find an alternate form or means of providing access to the same desired record or information as available under the open records laws.
- E. Redaction.
 - 1. With the exception of records which are confidential in their entirety (for example, student education records protected by FERPA), if a record contains confidential information or information that is not open for public inspection, the records custodian shall prepare a redacted copy prior to providing the records for inspection or copies of the records.
 - 2. Whenever a redacted record is provided, the records custodian should provide the requestor with the basis for redaction. The basis given shall be general in nature and not disclose confidential information.
- F. Inspection of Records. If the request is to inspect records, the records custodian will arrange a location for the requestor to do so and may, under reasonable circumstances, require an appointment for inspection. Inspection must be made in the presence of the records custodian. Custody of the original record is not to be relinquished.

- G. Time Required to Produce Records. The records custodian shall promptly make the requested public records available. If the record cannot be produced within seven (7) business days (i.e., time is needed to determine if the records exist; additional time is needed to search for, retrieve, or otherwise gain access to records; or it will take additional time to redact confidential information from the record), the requestor shall be advised when the record(s) will be available. All efforts will be made to provide the records within a reasonable period of time. A [Public Records Request Response](#) must be provided. If the request will be denied, a [Public Records Request Response](#) must be sent within seven (7) business days.
- H. Other Offices to be Notified. The [Office of News and Media Relations](#) should be notified when records are requested to be inspected/copied that may be deemed sensitive. This office may be required to assist in answering questions, coordinating release of any additional information, and ensuring correct understanding of the records. Further, these offices will be provided copies of inspected and/or copied records upon request or whenever the records custodian believes the circumstances warrant.
- I. Inspection of Employee Records.
1. Personnel records of all faculty and staff, including former employees, are subject to inspection/copying under Tennessee's Public Records Law, unless designated as confidential by statute. Persons requesting to inspect/copy personnel records are requested to complete the [Request to Inspect or Copy Public Records form](#) and must show proof of Tennessee citizenship through a government-issued photo identification card. All confidential information must be redacted before inspection/copying. The current employee will be notified that such a request was made and who made the request.
 2. Medical records are maintained separately from personnel records and are considered to be confidential. Examples of medical records include, but are not limited to, sick leave documentation and Employee Assistance Program (EAP) files.
- J. Question if Document is Open Record. If it cannot be readily determined whether or not the Tennessee Public Records Law covers a requested document, the records custodian shall refer the matter to the Office of the University Counsel.
- K. University Departments. This procedure shall not apply to University departments that request to inspect and/or receive copies of records for University business purposes or records of employees who report to that

department. Notwithstanding, however, the records custodian may require the requesting department to certify the business purpose of the request.

IV. Copying of Public Records

A. The records custodian will make copies, or arrange for copies to be made, as well as determine copy fees and charges, as stated below, in the most economic and efficient manner practicable. An itemized estimate of the charges to be assessed for copies and labor should be provided to the requestor using the [Request to Inspect or Copy Public Records form](#) prior to producing the requested copies. Payment of fees and charges are to be made in advance at the cashier's window in the Student Services and Admissions Center and the requestor shall present the receipt to the records custodian. Payment will be credited to the record custodian's account or the account of the department responsible for preparing the records. A requestor will ~~not~~ be allowed to make copies of records with ~~personal equipment, including a camera or a cell phone if the number of pages to be copied is twenty-five (25) or less.~~

B. Copy Format

1. Notwithstanding the form of the records, reproduction or copying of records shall be made in a form as best determined by the records custodian.

2. Electronic data and documents ~~should be copied in a printed format whenever possible. An actual reproduction of the computer tape, etc. should not be provided will be produced in read-only format.~~

3. ~~No records shall be produced or copied in a form to further a commercial, business, or similar purpose (for example, mailing labels, envelopes, lists of telephone numbers, special format on computer disk, etc.).~~

4.3. If the requested records exist electronically, but not in the format requested, or a new or modified computer program or application is necessary to put the records in a readable and reproducible format; or it is necessary to access backup files, the Records Custodian shall charge the requestor the actual costs incurred in producing the records in the format requested, or in creating or modifying a computer program or application necessary to put the records in a readable and reproducible format, or in accessing backup files.

5.4. Records should be produced electronically whenever feasible as a means of utilizing the most cost effective method of producing records. ~~If electronic records are provided, they will be produced in read-only format.~~

C. If a records custodian reasonably determines that production of records should be segmented because the records request is for a large volume of records, or

additional time is necessary to prepare the records for access, the records custodian shall notify the requestor by using the [Public Records Request Response form](#) that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable.

- D. If a records custodian discovers records responsive to a records request were omitted, the requestor should be contacted concerning the omission and the records produced as quickly as possible.
- E. Copies will be available for pickup at a location specified by the records custodian. At the requestor's request, and upon payment of postage, copies will be mailed to the requestor via USPS first-class mail.
- F. Fees and Charges.
 - 1. No fees or charges may be imposed for inspection of records, even if copies of records were required to be made to allow for redaction of confidential information.
 - 2. An itemized estimate of the fees and charges should be provided to the requestor. Payment of this amount must occur prior to copies being made. Payment in full of the actual costs must be made prior to release of the requested copies. Both the estimated charges and the actual charges may be included on the [Request to Inspect or Copy Public Records form](#).
 - 3. Fees.
 - a. Fifteen cents (\$0.15) per page for letter or legal size black and white copies.
 - b. Fifty cents (\$0.50) per page for letter or legal size color copies.
 - c. The price per copy for larger documents (such as blueprints and other specialized documents) is the actual cost.
 - d. Documentation establishing the amount of the actual cost should be maintained.
 - e. If producing copies utilizing the front and back of a single piece of paper, a charge for two (2) separate pages may be imposed for each single piece of paper.
 - f. If a record is maintained in color but can be produced in black and white, the requestor shall be given the option of receiving black and white or color copies.

- g. If the determined format of the copy is other than paper photocopy, the requestor shall be charged a reasonable fee. Under special circumstances and depending on how best to reproduce/copy the records, the records custodian, with the approval of the Office of the University Counsel, may negotiate with the requestor the fee to be paid. Documentation establishing the basis of the fee should be maintained.
 - h. Actual out-of-pocket costs for flash drives or similar storage devices on which electronic copies are provided may be charged. If a record is produced in electronic form, a per page fee is allowed to be charged if the custodian was required to print or produce a paper version of the record in order to create the electronic copy (for example, if a paper copy is printed in order to redact information).
 - i. Any actual delivery costs incurred by the University, such as postal fees, will be added to the final bill for records.
4. Labor Charges.
- a. A records custodian shall utilize the most cost efficient method of producing requested records. Accordingly, the records custodian should strive to utilize employees at the lowest practicable hourly wage to fulfill the records request.
 - b. Labor is the time (in hours) reasonably necessary to produce requested records and includes the time spent locating, retrieving, reviewing, redacting, and reproducing the records. Labor also includes the time reasonably necessary to extract information requested from a database.
- F. The labor threshold is the first (1st) hour of labor reasonably necessary to produce requested records. The cost of labor exceeding the labor threshold will be charged to the requestor.
- G. Labor charges must be paid by the requestor to obtain copies of the records. A receipt upon payment of the fees and charges will be provided.
- H. In calculating the labor charge, the records custodian shall determine the number of hours each employee spent producing a request. The hourly wage of an employee is based upon the base salary and does not include benefits. If an employee is not paid on an hourly basis, the hourly wage shall be determined by dividing the employee's annual salary by the required hours to be work per year.
- I. The records custodian should determine the total amount of labor for each employee and subtract the labor threshold from the highest paid employee spent producing the request. The records custodian should then multiply the

amount of labor for each employee by each employee's hourly wage to calculate the total amount of labor charges associated with the request. The form to record and calculate the labor cost is located at [Calculation of Labor Costs](#). This form is used to tally these charges and the totals are provided to the requestor on the [Request to Inspect or Copy Public Records form](#).

- J. If the requested records exist electronically, but not in the format requested, a new or modified computer program or application is necessary to put the records in a readable and reproducible format, or it is necessary to access back up files, the requesting party shall be charged the actual costs incurred in producing the records in the format requested or in creating or modifying a computer program or application necessary to put the records in a readable and reproducible format or in accessing back up files.
- K. If the total amount of fees, labor/programming charges, and postage is less than ~~forty~~twenty dollars (\$~~40~~20.00), the cost will be waived.

V. Aggregation of Frequent and Multiple Requests

- A. MTSU will aggregate record requests in accordance with the Frequent and Multiple Request Policy promulgated by the Office of Open Records Counsel when more than four (4) requests are received within a calendar month either from a single individual or a group of individuals deemed working in concert.
- B. The level at which records requests will be aggregated is by office.
- C. The Coordinator is responsible for making the determination that a group of individuals are working in concert. The Coordinator or records custodian must inform the individuals of this determination and that they have the right to appeal the decision to the Office of Open Records Counsel.

VI. Documentation of Records Requests.

The records custodian should maintain the following documentation regarding the request to include, as appropriate:

- A. The [Request to Inspect or Copy Public Records form](#), or other documentation used to request copies of records.
- B. Labor Cost form(s) and any documentation necessary to substantiate the charges.
- C. Copies of receipts for payment of fees and charges.
- D. Correspondence with the requestor.

Forms:

[Request to Inspect or Copy Public Records](#)

[Public Records Request Response](#)

[Calculation of Labor Cost](#)

Revisions: ~~none~~ June 5, 2017; _____, 2018.

References: T.C.A. §§ 10-7-503; 10-7-504; 40-39-202; Family Educational Rights and Privacy Act (FERPA); 49-7-120; 49-7-140 Confidentiality of Gift Records; Policy 500 Access to Education Records.



120 Public Records-Inspecting and Copying

Approved by Board of Trustees

Effective Date: _____, 2018

Responsible Division: President

Responsible Office: Office of the University Counsel

Responsible Officer: University Counsel

I. Purpose

Pursuant to T.C.A. § 10-7-503(g), this policy, approved by the Middle Tennessee State University Board of Trustees (Board), establishes the process under Tennessee's Public Records Act for making and responding to requests to inspect and/or copy records, including redaction practices; the fees charged for copies of public records; the procedures for billing and payment; and the name or title and contact information of the public records request coordinator. In accordance with T.C.A. § 10-7-503, all records made or received pursuant to law or in connection with the transaction of official Middle Tennessee State University (MTSU or University) business shall, at all times during business hours, be open for personal inspection by any citizen of Tennessee and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by State law. T.C.A. § 10-7-503(a)(2)(A).

Personnel of MTSU shall timely and efficiently provide access and assistance to persons requesting to view or receive copies of public records, and this policy shall not be used to hinder access to open public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the University, shall be protected as provided by law. Concerns about this policy should be addressed to the Public Records Request Coordinator for MTSU or to the Tennessee Office of Open Records Counsel.

This policy shall be applied consistently within the various offices, departments, and divisions of MTSU.

II. Definitions

- A. Records Custodian. The MTSU office(s) or employee(s) lawfully responsible for the direct custody and care of a public record. A records custodian is not

necessarily the original preparer or producer of the record. An entity such as MTSU has multiple records custodians.

- B. Public Records. All documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, electronic mail messages, films, sound recordings, or other material regardless of physical form or characteristics, made or received pursuant to law or in connection with the transaction of official University business and required to be open to inspection under the provisions of Tennessee law. It should be noted that the disclosure of student records is governed by the Family Educational Rights and Privacy Act (FERPA) and [Policy 500 Access to Education Records](#) and, therefore, such records are not subject to this policy.
- C. Public Records Request Coordinator. The individual (or designee) responsible for ensuring that public records requests are routed to the appropriate records custodian and that requests are fulfilled in accordance with the Public Records Act. The University Counsel or designee is designated as the Public Records Request Coordinator and may be contacted at (615) 898-2025 or in 209 Cope Administration Building, MTSU, 1301 East Main Street, Murfreesboro, Tennessee 37132.
- D. Requestor. A person seeking access to a public record, whether it is for inspection or duplication.
- E. Employee Records. All records related to current or former employees (faculty, staff, graduate assistants, etc.) or applicants to such positions, excluding that information deemed confidential by statute, that are maintained in the Office of Human Resource Services (HRS), Payroll Office, Accounting Office, and any other department that may maintain records that include information on employees. Note that records pertaining to employment of student workers are confidential under FERPA.
- F. Confidential Information. Records or information in public records that shall not be open for public inspection under the Tennessee Public Records laws, include, but are not limited to, the following and any other information so defined by statute.
 - 1. Employee Information. The following records or information for any employee, former employee, or applicant to such position:
 - a. Home telephone and personal cell phone numbers;
 - b. Bank account, individual health savings account, retirement account, and pension account information;

- c. Social Security number;
 - d. Residential information, including the street address, city, state, and zip code;
 - e. Driver's license information, except where driving or operating a vehicle is part of the employee's job description, job duties, or incidental to the performance of his/her job;
 - f. The information listed in Items a.-e. above concerning immediate family members, whether or not the immediate family member resides with the employee or household members;
 - g. Medical information, sick leave documentation, documentation relating to the Americans with Disabilities Act, as amended, or the Family Medical Leave Act, and Employee Assistance Program (EAP) files;
 - h. Emergency contact information;
 - i. Personal nongovernment issued email address;
 - j. Job performance evaluations. For purposes of this policy, job performance evaluations includes, but is not limited to, job performance evaluations completed by supervisors, communications concerning job performance evaluations, self-evaluations of job performance prepared by employees, job performance evaluation scores, drafts, notes, memoranda, and all other records relating to job performance evaluations.
2. Confidential Sponsored Research or Service. For the purposes of T.C.A. § 49-7-120, sponsored research or service means any research, analysis, or service conducted pursuant to grants or contracts between the University and a person or entity. Sponsored research or service records and materials that contain such things as proprietary information, trade secrets, or patentable materials received, generated, ascertained, or discovered during the course of research or service shall not be open for public inspection. The University will, however, make available upon request the title of a sponsored research or service project, names of the researchers, and amounts and sources of funding for the projects.
 3. Audit Working Papers. Records of an audit may include paper documents and/or electronic documents. Working papers are prepared from the time auditors first launch their assignments until they write the final reports. The working papers include, but are not limited to, the records of planning and

surveys, the audit program, the results of field work, auditee records, intra-agency and interagency communications, draft reports, schedules, notes, memoranda, and all other records relating to the audit or investigation.

4. Donor Records. In accordance with T.C.A. § 49-7-140, Confidentiality of Gift Records, records and information that concern gifts to the University or the University Foundation that include name, address, telephone number, social security number, driver's license information, or any other personally identifiable information about the donor or members of the donor's family shall not be open for inspection. The University or the Foundation will, however, make available upon request an annual report of gifts with the amount of the gift and a general description of its use.
5. Pursuant to T.C.A. § 10-7-504(a)(11), records that are of historical research value that are donated or sold to the archives at the Albert Gore Research Center may be designated as confidential when the owner or donor of such records wishes to place restrictions on access to the records.
6. Information that is reasonably likely to identify a student accused of committing an alleged sexual offense or alleged violent sexual offense as defined in T.C.A. § 40-39-202 or any information that is reasonably likely to identify the victim of an alleged sexual offense or alleged violent sexual offense as defined in T.C.A. § 40-39-202 is confidential and not open for inspection by members of the public. Access to a file, document or data file may be provided if this information is able to be redacted so as not to reasonably identify the individual. This shall not limit access to law enforcement agencies, courts or other governmental agencies or instrumentalities performing official functions.

III. Procedures to Access Public Records

A. Generally.

1. Except for confidential records as prescribed by law, public records will be open for inspection by citizens of Tennessee during business hours which shall be the business hours of the University's administrative offices.
2. Requests for inspection only may be made orally and cannot be required to be made in writing. Requests for copies, or requests for inspection and copies, must be made in writing. The [Request to Inspect or Copy Public Records form](#) may be used, but a written request in any form or format will be acceptable. Requests may be made to the Public Records Request Coordinator, 209 Cope Administration Building, MTSU, 1301 East Main Street, Murfreesboro, Tennessee 37132, or publicrecords@mtsu.edu.

3. Persons requesting to inspect or copy records must show proof of Tennessee citizenship with a government-issued photo identification card including the person's address (i.e., driver's license, voter's registration, etc.).

B. Public Records Request Coordinator.

1. The Public Records Request Coordinator (Coordinator) or designee shall review public record requests and make an initial determination of the following:
 - a. if the requestor provided evidence of Tennessee citizenship;
 - b. if the records requested are described with sufficient specificity to identify them; and
 - c. if MTSU is the custodian of the records.
2. The Coordinator shall acknowledge receipt of the request and take any of the following appropriate action(s):
 - a. Advise the requestor of this policy and the determinations made regarding:
 - (1) proof of Tennessee citizenship;
 - (2) form(s) required for copies;
 - (3) fees and charges, including labor and programming costs;
 - (4) aggregation of multiple or frequent requests.
 - b. If appropriate, deny the request in writing using the [Public Records Request Response](#), which shall indicate the basis for the denial such as:
 - (1) the requestor is not, or has not presented evidence of being, a Tennessee citizen;
 - (2) the request lacks specificity;
 - (3) an exemption makes the record not subject to disclosure;
 - (4) the University is not the custodian of the requested records;
 - (5) the records do not exist.

- c. If appropriate, contact the requestor to see if the request can be narrowed.
 - d. Forward the records request to the appropriate records custodian.
 - e. If the Coordinator knows that the requested records are in the custody of a different governmental entity, advise the requestor of the correct governmental entity and the coordinator for that entity, if known.
- 3. The Coordinator shall annually report to the Board concerning the institution's compliance with the Tennessee Public Records Act and make recommendations, if any, for revisions to this policy.
- C. The University is not required to sort through files to compile information, create records, or recreate records that do not exist.
- D. Form or Format of Record to be Inspected/Copied. The public records laws require that actual records be produced or used for viewing and/or copying. The nature of certain records and applicable confidentiality requirements, however, may result in providing the requested record/information in a form or format other than the original records form or format. In such cases, the records custodian may coordinate with the requestor to find an alternate form or means of providing access to the same desired record or information as available under the open records laws.
- E. Redaction.
 - 1. With the exception of records which are confidential in their entirety (for example, student education records protected by FERPA), if a record contains confidential information or information that is not open for public inspection, the records custodian shall prepare a redacted copy prior to providing the records for inspection or copies of the records.
 - 2. Whenever a redacted record is provided, the records custodian should provide the requestor with the basis for redaction. The basis given shall be general in nature and not disclose confidential information.
- F. Inspection of Records. If the request is to inspect records, the records custodian will arrange a location for the requestor to do so and may, under reasonable circumstances, require an appointment for inspection. Inspection must be made in the presence of the records custodian. Custody of the original record is not to be relinquished.

- G. Time Required to Produce Records. The records custodian shall promptly make the requested public records available. If the record cannot be produced within seven (7) business days (i.e., time is needed to determine if the records exist; additional time is needed to search for, retrieve, or otherwise gain access to records; or it will take additional time to redact confidential information from the record), the requestor shall be advised when the record(s) will be available. All efforts will be made to provide the records within a reasonable period of time. A [Public Records Request Response](#) must be provided. If the request will be denied, a [Public Records Request Response](#) must be sent within seven (7) business days.
- H. Other Offices to be Notified. The [Office of News and Media Relations](#) should be notified when records are requested to be inspected/copied that may be deemed sensitive. This office may be required to assist in answering questions, coordinating release of any additional information, and ensuring correct understanding of the records. Further, these offices will be provided copies of inspected and/or copied records upon request or whenever the records custodian believes the circumstances warrant.
- I. Inspection of Employee Records.
1. Personnel records of all faculty and staff, including former employees, are subject to inspection/copying under Tennessee's Public Records Law, unless designated as confidential by statute. Persons requesting to inspect/copy personnel records are requested to complete the [Request to Inspect or Copy Public Records form](#) and must show proof of Tennessee citizenship through a government-issued photo identification card. All confidential information must be redacted before inspection/copying. The current employee will be notified that such a request was made and who made the request.
 2. Medical records are maintained separately from personnel records and are considered to be confidential. Examples of medical records include, but are not limited to, sick leave documentation and Employee Assistance Program (EAP) files.
- J. Question if Document is Open Record. If it cannot be readily determined whether or not the Tennessee Public Records Law covers a requested document, the records custodian shall refer the matter to the Office of the University Counsel.
- K. University Departments. This procedure shall not apply to University departments that request to inspect and/or receive copies of records for University business purposes or records of employees who report to that department. Notwithstanding, however, the records custodian may require the requesting department to certify the business purpose of the request.

IV. Copying of Public Records

- A. The records custodian will make copies, or arrange for copies to be made, as well as determine copy fees and charges, as stated below, in the most economic and efficient manner practicable. An itemized estimate of the charges to be assessed for copies and labor should be provided to the requestor using the [Request to Inspect or Copy Public Records form](#) prior to producing the requested copies. Payment of fees and charges are to be made in advance at the cashier's window in the Student Services and Admissions Center and the requestor shall present the receipt to the records custodian. Payment will be credited to the record custodian's account or the account of the department responsible for preparing the records. A requestor will be allowed to make copies of records with a camera or a cell phone if the number of pages to be copied is twenty-five (25) or less.
- B. Copy Format
1. Notwithstanding the form of the records, reproduction or copying of records shall be made in a form as best determined by the records custodian.
 2. Electronic data and documents will be produced in read-only format.
 3. If the requested records exist electronically, but not in the format requested, or a new or modified computer program or application is necessary to put the records in a readable and reproducible format; or it is necessary to access backup files, the Records Custodian shall charge the requestor the actual costs incurred in producing the records in the format requested, or in creating or modifying a computer program or application necessary to put the records in a readable and reproducible format, or in accessing backup files.
 4. Records should be produced electronically whenever feasible as a means of utilizing the most cost effective method of producing records.
- C. If a records custodian reasonably determines that production of records should be segmented because the records request is for a large volume of records, or additional time is necessary to prepare the records for access, the records custodian shall notify the requestor by using the [Public Records Request Response form](#) that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable.
- D. If a records custodian discovers records responsive to a records request were omitted, the requestor should be contacted concerning the omission and the records produced as quickly as possible.

- E. Copies will be available for pickup at a location specified by the records custodian. At the requestor's request, and upon payment of postage, copies will be mailed to the requestor via USPS first-class mail.
- F. Fees and Charges.
1. No fees or charges may be imposed for inspection of records, even if copies of records were required to be made to allow for redaction of confidential information.
 2. An itemized estimate of the fees and charges should be provided to the requestor. Payment of this amount must occur prior to copies being made. Payment in full of the actual costs must be made prior to release of the requested copies. Both the estimated charges and the actual charges may be included on the [Request to Inspect or Copy Public Records form](#).
3. Fees.
- a. Fifteen cents (\$0.15) per page for letter or legal size black and white copies.
 - b. Fifty cents (\$0.50) per page for letter or legal size color copies.
 - c. The price per copy for larger documents (such as blueprints and other specialized documents) is the actual cost.
 - d. Documentation establishing the amount of the actual cost should be maintained.
 - e. If producing copies utilizing the front and back of a single piece of paper, a charge for two (2) separate pages may be imposed for each single piece of paper.
 - f. If a record is maintained in color but can be produced in black and white, the requestor shall be given the option of receiving black and white or color copies.
 - g. If the determined format of the copy is other than paper photocopy, the requestor shall be charged a reasonable fee. Under special circumstances and depending on how best to reproduce/copy the records, the records custodian, with the approval of the Office of the University Counsel, may negotiate with the requestor the fee to be paid. Documentation establishing the basis of the fee should be maintained.

- h. Actual out-of-pocket costs for flash drives or similar storage devices on which electronic copies are provided may be charged. If a record is produced in electronic form, a per page fee is allowed to be charged if the custodian was required to print or produce a paper version of the record in order to create the electronic copy (for example, if a paper copy is printed in order to redact information).
- i. Any actual delivery costs incurred by the University, such as postal fees, will be added to the final bill for records.

4. Labor Charges.

- a. A records custodian shall utilize the most cost efficient method of producing requested records. Accordingly, the records custodian should strive to utilize employees at the lowest practicable hourly wage to fulfill the records request.
 - b. Labor is the time (in hours) reasonably necessary to produce requested records and includes the time spent locating, retrieving, reviewing, redacting, and reproducing the records. Labor also includes the time reasonably necessary to extract information requested from a database.
- F. The labor threshold is the first (1st) hour of labor reasonably necessary to produce requested records. The cost of labor exceeding the labor threshold will be charged to the requestor.
- G. Labor charges must be paid by the requestor to obtain copies of the records. A receipt upon payment of the fees and charges will be provided.
- H. In calculating the labor charge, the records custodian shall determine the number of hours each employee spent producing a request. The hourly wage of an employee is based upon the base salary and does not include benefits. If an employee is not paid on an hourly basis, the hourly wage shall be determined by dividing the employee's annual salary by the required hours to be work per year.
- I. The records custodian should determine the total amount of labor for each employee and subtract the labor threshold from the highest paid employee spent producing the request. The records custodian should then multiply the amount of labor for each employee by each employee's hourly wage to calculate the total amount of labor charges associated with the request. The form to record and calculate the labor cost is located at [Calculation of Labor Costs](#). This form is used to tally these charges and the totals are provided to the requestor on the [Request to Inspect or Copy Public Records form](#).
- J. If the requested records exist electronically, but not in the format requested, a new or modified computer program or application is necessary to put the

records in a readable and reproducible format, or it is necessary to access back up files, the requesting party shall be charged the actual costs incurred in producing the records in the format requested or in creating or modifying a computer program or application necessary to put the records in a readable and reproducible format or in accessing back up files.

- K. If the total amount of fees, labor/programming charges, and postage is less than twenty dollars (\$20.00), the cost will be waived.

V. Aggregation of Frequent and Multiple Requests

- A. MTSU will aggregate record requests in accordance with the Frequent and Multiple Request Policy promulgated by the Office of Open Records Counsel when more than four (4) requests are received within a calendar month either from a single individual or a group of individuals deemed working in concert.
- B. The level at which records requests will be aggregated is by office.
- C. The Coordinator is responsible for making the determination that a group of individuals are working in concert. The Coordinator or records custodian must inform the individuals of this determination and that they have the right to appeal the decision to the Office of Open Records Counsel.

VI. Documentation of Records Requests.

The records custodian should maintain the following documentation regarding the request to include, as appropriate:

- A. The [Request to Inspect or Copy Public Records form](#), or other documentation used to request copies of records.
- B. Labor Cost form(s) and any documentation necessary to substantiate the charges.
- C. Copies of receipts for payment of fees and charges.
- D. Correspondence with the requestor.

Forms:

[Request to Inspect or Copy Public Records](#)

[Public Records Request Response](#)

[Calculation of Labor Cost](#)

Revisions: June 5, 2017; _____, 2018.

References: T.C.A. §§ 10-7-503; 10-7-504; 40-39-202; Family Educational Rights and Privacy Act (FERPA); 49-7-120; 49-7-140 Confidentiality of Gift Records; Policy 500 Access to Education Records.

**Department of State
Division of Publications**

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For Department of State Use Only

Sequence Number: _____

Rule ID(s): _____

File Date: _____

Effective Date: _____

Proposed Rule(s) Filing Form

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

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

Agency/Board/Commission:	Middle Tennessee State University
Division:	
Contact Person:	Heidi Zimmerman, University Counsel
Address:	1301 E. Main Street, CAB 209, Murfreesboro, TN
Zip:	37132
Phone:	615-898-2025
Email:	Heidi.zimmerman@mtsu.edu

Revision Type (check all that apply):

- ☐ Amendment
☒ New
☐ Repeal

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

Chapter Number	Chapter Title
0240-07-__	Public Records – Inspecting and Copying
Rule Number	Rule Title
0240-07-__-.01	Purpose
0240-07-__-.02	Definitions
0240-07-__-.03	Procedures to Access Public Records
0240-07-__-.04	Copying of Public Records
0240-07-__-.05	Aggregation of Frequent and Multiple Requests

Rules
of
Middle Tennessee State University, Murfreesboro
Chapter 0240-07-____
Public Records – Inspecting and Copying

New

Table of Contents is added to Chapter 0240-07-____ Public Records – Inspecting and Copying and shall read as follows:

Table of Contents

0240-07-____-.01 Purpose
0240-07-____-.02 Definitions
0240-07-____-.03 Procedures to Access Public Records
0240-07-____-.04 Copying of Public Records
0240-07-____-.05 Aggregation of Frequent and Multiple Requests

0240-07-____-.01 Purpose is added to Chapter 0240-07-____ Public Records – Inspecting and Copying and shall read as follows:

0240-07-____-.01 Purpose

- (1) This rule establishes the process under Tennessee’s Public Records Act for making and responding to requests to inspect and/or copy records, including redaction practices; the fees charged for copies of public records; the procedures for billing and payment; and the name or title and contact information of the public records request coordinator.

Authority: T.C.A. § 10-7-503.

0240-07-____-.02 Definitions is added to Chapter 0240-07-____ Public Records – Inspecting and Copying and shall read as follows:

0240-07-____-.02 Definitions

- (1) Records Custodian. The MTSU office(s) or employee(s) lawfully responsible for the direct custody and care of a public record.
- (2) Public Records. All documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, electronic mail messages, films, sound recordings, or other material regardless of physical form or characteristics, made or received pursuant to law or in connection with the transaction of official University business and required to be open to inspection under the provisions of Tennessee law.
- (3) Public Records Request Coordinator (Coordinator). The individual (or designee) responsible for ensuring that public records requests are routed to the appropriate records custodian and that requests are fulfilled in accordance with the Public Records Act.
- (4) Requestor. A person seeking access to a public record, whether it is for inspection or duplication.

Authority: T.C.A. § 10-7-503.

0240-07-____-.03 Procedures to Access Public Records is added to Chapter 0240-07-____ Public Records – Inspecting and Copying and shall read as follows:

0240-07-____-.03 Procedures to Access Public Records

- (1) Generally.

- (a) Except for confidential records as prescribed by law, public records will be open for inspection by citizens of Tennessee ~~in the office of record~~ during business hours which shall be the business hours of the University's administrative offices.
 - (b) Requests for inspection only may be made orally and cannot be required to be made in writing. Requests for copies, or requests for inspection and copies, must be made in writing. The Request to Inspect or Copy Public Records form may be used, but a written request in any form or format will be acceptable. Requests may be made to the Coordinator
 - (c) Persons requesting to inspect or copy records must show proof of Tennessee citizenship with a government-issued photo identification card including the person's address (i.e., driver's license, voter's registration, etc.).
- (2) Public Records Request Coordinator.

- (a) MTSU will publish the name, telephone number, email address and office location of the Coordinator ~~on its website or Public Records policy.~~
- (b) The Coordinator shall review public record requests and make an initial determination of the following:
 - 1. if the requestor provided evidence of Tennessee citizenship;
 - 2. if the records requested are described with sufficient specificity to identify them; and
 - 3. if MTSU is the custodian of the records.
- (c) The Coordinator shall acknowledge receipt of the request and take any of the following appropriate action(s):
 - 1. Advise the requestor of determinations made regarding:
 - (i) proof of Tennessee citizenship;
 - (ii) form(s) required for copies;
 - (iii) fees and charges, including labor and programming costs;
 - (iv) aggregation of multiple or frequent requests.
 - 2. Provide the records.
 - 3. Deny the request in writing using the Public Records Request Response, which shall indicate the basis for the specific legal denial, including, but not limited to:
 - (i) the requestor is not, or has not presented evidence of being, a Tennessee citizen;
 - (ii) the request lacks specificity;
 - (iii) an exemption makes the record not subject to disclosure;
 - (iv) the University is not the custodian of the requested records;
 - (v) the records do not exist.
 - 4. If appropriate, contact the requestor to see if the request can be narrowed or the scope of the request clarified.
 - 5. Forward the records request to the appropriate records custodian.

6. If the Coordinator knows that the requested records are in the custody of a different governmental entity, advise the requestor of the correct governmental entity and the coordinator for that entity, if known.
- (3) The University is not required to sort through files to compile information, create records, or recreate records that do not exist.
- (4) Form or Format of Record to be Inspected/Copied. Actual records will be produced or used for viewing and/or copying. The nature of certain records and applicable confidentiality requirements, however, may result in providing the requested record/information in a form or format other than the original records form or format. In such cases, the records custodian may coordinate with the requestor to find an alternate form or means of providing access to the same desired record or information as available under the open records laws.
- (5) Redaction.
 - (a) With the exception of records which are confidential in their entirety (for example, student education records protected by FERPA), if a record contains confidential information or information that is not open for public inspection, the records custodian shall prepare a redacted copy prior to providing the records for inspection or copies of the records.
 - (b) Whenever a redacted record is provided, the records custodian should provide the requestor with the basis for redaction. The basis given shall be general in nature and not disclose confidential information.
- (6) Inspection of Records. If the request is to inspect records, the records custodian will arrange a location for the requestor to do so and may, under reasonable circumstances, require an appointment for inspection. Inspection must be made in the presence of the records custodian. Custody of the original record is not to be relinquished.
- (7) Time Required to Produce Records. All efforts will be made to provide the records within a reasonable period of time. If the record cannot be produced within seven (7) business days (i.e., time is needed to determine if the records exist; additional time is needed to search for, retrieve, or otherwise gain access to records; or it will take additional time to redact confidential information from the record), the requestor shall be advised when the record(s) will be available using a Public Records Request Response. If the request will be denied, a Public Records Request Response must be sent within seven (7) business days.

Authority: T.C.A. § 10-7-503.

0240-07-__-.04 Copying of Public Records is added to Chapter 0240-07-__ Public Records – Inspecting and Copying and shall read as follows:

0240-07-__-.04 Copying of Public Records

- (1) The records custodian will make copies, or arrange for copies to be made, as well as determine copy fees and charges in the most economic and efficient manner practicable. An itemized estimate of the charges to be assessed for copies and labor should be provided to the requestor using the Request to Inspect or Copy Public Records form prior to producing the requested copies. Payment of fees and charges are to be made in advance. A requestor will ~~not~~ be allowed to make copies of records with ~~personal equipment, including~~ a camera or a cell phone if the number of pages to be copied is twenty-five (25) pages or less.
- (2) Copy Format
 - (a) Notwithstanding the form of the records, reproduction or copying of records shall be made in a form as best determined by the records custodian.
 - (b) Electronic data and documents ~~should be copied in a printed format whenever possible~~ will be produced in a read-only format.

~~(e) No records shall be produced or copied in a form to further a commercial, business, or similar purpose (for example, mailing labels, envelopes, lists of telephone numbers, special format on computer disk, etc.).~~

(~~dc~~) If the requested records exist electronically, but not in the format requested, or a new or modified computer program or application is necessary to put the records in a readable and reproducible format; or it is necessary to access backup files, the records custodian shall charge the requestor the actual costs incurred in producing the records in the format requested, or in creating or modifying a computer program or application necessary to put the records in a readable and reproducible format, or in accessing backup files.

(~~ed~~) Records should be produced electronically whenever feasible as a means of utilizing the most cost effective method of producing records.

~~(f) If electronic records are provided, they will be produced in read-only format.~~

(3) If a records custodian reasonably determines that production of records should be segmented because the records request is for a large volume of records, or additional time is necessary to prepare the records for access, the records custodian shall notify the requestor by using the Public Records Request Response form that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable.

(4) If a records custodian discovers records responsive to a records request were omitted, the requestor should be contacted concerning the omission and the records produced as quickly as possible.

(5) Copies will be available for pickup at a location specified by the records custodian. At the requestor's request, and upon payment of postage, copies will be mailed to the requestor via USPS first-class mail.

(6) Fees and Charges.

(a) No fees or charges may be imposed for inspection of records, even if copies of records were required to be made to allow for redaction of confidential information.

(b) An itemized estimate of the fees and charges should be provided to the requestor. Payment of this amount must occur prior to copies being made. Payment in full of the actual costs must be made prior to release of the requested copies. Both the estimated charges and the actual charges may be included on the Request to Inspect or Copy Public Records form.

(c) MTSU will publish the per page copy charges and a schedule of any other costs ~~on its website or Public Records policy~~. Labor charges will be calculated and imposed as allowed by the Office of Open Records Counsel.

(7) If the total amount of fees, labor/programming charges, and postage is less than twenty dollars (\$20.00), the cost will be waived.

Authority: T.C.A. § 10-7-503.

0240-07-__-.05 Aggregation of Frequent and Multiple Requests is added to Chapter 0240-07-__ Public Records – Inspecting and Copying and shall read as follows:

0240-07-__-.05 Aggregation of Frequent and Multiple Requests

(1) MTSU will aggregate record requests in accordance with the Frequent and Multiple Request Policy promulgated by the Office of Open Records Counsel when more than four (4) requests are received within a calendar month either from a single individual or a group of individuals deemed working in concert.

(2) The level at which records requests will be aggregated is by office.

- (3) The Coordinator is responsible for making the determination that a group of individuals are working in concert. The Coordinator or records custodian must inform the individuals of this determination and that they have the right to appeal the decision to the Office of Open Records Counsel.

Authority: T.C.A. § 10-7-503.

* 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)
Andy Adams					
J.B. Baker					
Pete DeLay					
Darrell Freeman, Sr.					
Joey Jacobs					
Christine Karbowskiak					
Stephen B. Smith					
Pamela Wright					
Tony Johnston					

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

Signature: _____

Name of Officer: Heidi Zimmerman

Title of Officer: University Counsel

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

Agency/Board/Commission: Middle Tennessee State University

Rule Chapter Number(s): Chapter 0240-07-__

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

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

Regulatory Flexibility Addendum

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

This rule is not anticipated to have an impact on small businesses.

Impact on Local Governments

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

This rule is not anticipated to have an impact on local government.

Additional Information Required by Joint Government Operations Committee

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

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

Previously, MTSU adopted and followed the Comptroller's Office of the Open Records model policy related to responding to requests for public records. The proposed rule does not materially change MTSU's previous policy or processes for responding to such requests.

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

T.C.A. § 10-7-503(g)(2) requires state government entities to promulgate rules regarding public records that meet the requirements of T.C.A. § 10-7-503(g)(1).

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

The MTSU Board of Trustees urges adoption. Individuals/entities that wish to review public records of the State of Tennessee are directly affected by this rule. MTSU believes the rule is consistent with the intent of the law, namely to create transparency in its operations, but does not know whether interested individuals/entities would urge adoption or rejection of this rule.

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

None known.

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

None

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

Heidi Zimmerman, MTSU University Counsel

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

Heidi Zimmerman, MTSU University Counsel

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

Heidi Zimmerman

MTSU University Counsel
1301 E. Main Street, CAB 209
Murfreesboro, TN 37132
615-898-2025
Heidi.zimmerman@mtsu.edu

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

INSERT REDLINE HERE – ALL UNDERLINED

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For Department of State Use Only

Sequence Number: _____

Rule ID(s): _____

File Date: _____

Effective Date: _____

Proposed Rule(s) Filing Form

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

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

Agency/Board/Commission:	Middle Tennessee State University
Division:	
Contact Person:	Heidi Zimmerman, University Counsel
Address:	1301 E. Main Street, CAB 209, Murfreesboro, TN
Zip:	37132
Phone:	615-898-2025
Email:	Heidi.zimmerman@mtsu.edu

Revision Type (check all that apply):

☐ Amendment
☒ New
☐ Repeal

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

Chapter Number	Chapter Title
0240-07-__	Public Records – Inspecting and Copying
Rule Number	Rule Title
0240-07-__-.01	Purpose
0240-07-__-.02	Definitions
0240-07-__-.03	Procedures to Access Public Records
0240-07-__-.04	Copying of Public Records
0240-07-__-.05	Aggregation of Frequent and Multiple Requests

Rules
of
Middle Tennessee State University, Murfreesboro
Chapter 0240-07-____
Public Records – Inspecting and Copying

New

Table of Contents is added to Chapter 0240-07-____ Public Records – Inspecting and Copying and shall read as follows:

Table of Contents

0240-07-____-.01 Purpose
0240-07-____-.02 Definitions
0240-07-____-.03 Procedures to Access Public Records
0240-07-____-.04 Copying of Public Records
0240-07-____-.05 Aggregation of Frequent and Multiple Requests

0240-07-____-.01 Purpose is added to Chapter 0240-07-____ Public Records – Inspecting and Copying and shall read as follows:

0240-07-____-.01 Purpose

- (1) This rule establishes the process under Tennessee’s Public Records Act for making and responding to requests to inspect and/or copy records, including redaction practices; the fees charged for copies of public records; the procedures for billing and payment; and the name or title and contact information of the public records request coordinator.

Authority: T.C.A. § 10-7-503.

0240-07-____-.02 Definitions is added to Chapter 0240-07-____ Public Records – Inspecting and Copying and shall read as follows:

0240-07-____-.02 Definitions

- (1) Records Custodian. The MTSU office(s) or employee(s) lawfully responsible for the direct custody and care of a public record.
- (2) Public Records. All documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, electronic mail messages, films, sound recordings, or other material regardless of physical form or characteristics, made or received pursuant to law or in connection with the transaction of official University business and required to be open to inspection under the provisions of Tennessee law.
- (3) Public Records Request Coordinator (Coordinator). The individual (or designee) responsible for ensuring that public records requests are routed to the appropriate records custodian and that requests are fulfilled in accordance with the Public Records Act.
- (4) Requestor. A person seeking access to a public record, whether it is for inspection or duplication.

Authority: T.C.A. § 10-7-503.

0240-07-____-.03 Procedures to Access Public Records is added to Chapter 0240-07-____ Public Records – Inspecting and Copying and shall read as follows:

0240-07-____-.03 Procedures to Access Public Records

- (1) Generally.

- (a) Except for confidential records as prescribed by law, public records will be open for inspection by citizens of Tennessee during business hours which shall be the business hours of the University's administrative offices.
 - (b) Requests for inspection only may be made orally and cannot be required to be made in writing. Requests for copies, or requests for inspection and copies, must be made in writing. The Request to Inspect or Copy Public Records form may be used, but a written request in any form or format will be acceptable. Requests may be made to the Coordinator
 - (c) Persons requesting to inspect or copy records must show proof of Tennessee citizenship with a government-issued photo identification card including the person's address (i.e., driver's license, voter's registration, etc.).
- (2) Public Records Request Coordinator.
- (a) MTSU will publish the name, telephone number, email address and office location of the Coordinator .
 - (b) The Coordinator shall review public record requests and make an initial determination of the following:
 - 1. if the requestor provided evidence of Tennessee citizenship;
 - 2. if the records requested are described with sufficient specificity to identify them; and
 - 3. if MTSU is the custodian of the records.
 - (c) The Coordinator shall acknowledge receipt of the request and take any of the following appropriate action(s):
 - 1. Advise the requestor of determinations made regarding:
 - (i) proof of Tennessee citizenship;
 - (ii) form(s) required for copies;
 - (iii) fees and charges, including labor and programming costs;
 - (iv) aggregation of multiple or frequent requests.
 - 2. Provide the records.
 - 3. Deny the request in writing using the Public Records Request Response, which shall indicate the basis for the specific legal denial, including, but not limited to:
 - (i) the requestor is not, or has not presented evidence of being, a Tennessee citizen;
 - (ii) the request lacks specificity;
 - (iii) an exemption makes the record not subject to disclosure;
 - (iv) the University is not the custodian of the requested records;
 - (v) the records do not exist.
 - 4. If appropriate, contact the requestor to see if the request can be narrowed or the scope of the request clarified.
 - 5. Forward the records request to the appropriate records custodian.

6. If the Coordinator knows that the requested records are in the custody of a different governmental entity, advise the requestor of the correct governmental entity and the coordinator for that entity, if known.
- (3) The University is not required to sort through files to compile information, create records, or recreate records that do not exist.
- (4) Form or Format of Record to be Inspected/Copied. Actual records will be produced or used for viewing and/or copying. The nature of certain records and applicable confidentiality requirements, however, may result in providing the requested record/information in a form or format other than the original records form or format. In such cases, the records custodian may coordinate with the requestor to find an alternate form or means of providing access to the same desired record or information as available under the open records laws.
- (5) Redaction.
 - (a) With the exception of records which are confidential in their entirety (for example, student education records protected by FERPA), if a record contains confidential information or information that is not open for public inspection, the records custodian shall prepare a redacted copy prior to providing the records for inspection or copies of the records.
 - (b) Whenever a redacted record is provided, the records custodian should provide the requestor with the basis for redaction. The basis given shall be general in nature and not disclose confidential information.
- (6) Inspection of Records. If the request is to inspect records, the records custodian will arrange a location for the requestor to do so and may, under reasonable circumstances, require an appointment for inspection. Inspection must be made in the presence of the records custodian. Custody of the original record is not to be relinquished.
- (7) Time Required to Produce Records. All efforts will be made to provide the records within a reasonable period of time. If the record cannot be produced within seven (7) business days (i.e., time is needed to determine if the records exist; additional time is needed to search for, retrieve, or otherwise gain access to records; or it will take additional time to redact confidential information from the record), the requestor shall be advised when the record(s) will be available using a Public Records Request Response. If the request will be denied, a Public Records Request Response must be sent within seven (7) business days.

Authority: T.C.A. § 10-7-503.

0240-07-__-.04 Copying of Public Records is added to Chapter 0240-07-__ Public Records – Inspecting and Copying and shall read as follows:

0240-07-__-.04 Copying of Public Records

- (1) The records custodian will make copies, or arrange for copies to be made, as well as determine copy fees and charges in the most economic and efficient manner practicable. An itemized estimate of the charges to be assessed for copies and labor should be provided to the requestor using the Request to Inspect or Copy Public Records form prior to producing the requested copies. Payment of fees and charges are to be made in advance. A requestor will be allowed to make copies of records with a camera or a cell phone if the number of pages to be copied is twenty-five (25) pages or less.
- (2) Copy Format
 - (a) Notwithstanding the form of the records, reproduction or copying of records shall be made in a form as best determined by the records custodian.
 - (b) Electronic data and documents will be produced in a read-only format.

- (c) If the requested records exist electronically, but not in the format requested, or a new or modified computer program or application is necessary to put the records in a readable and reproducible format; or it is necessary to access backup files, the records custodian shall charge the requestor the actual costs incurred in producing the records in the format requested, or in creating or modifying a computer program or application necessary to put the records in a readable and reproducible format, or in accessing backup files.
 - (d) Records should be produced electronically whenever feasible as a means of utilizing the most cost effective method of producing records.
- (3) If a records custodian reasonably determines that production of records should be segmented because the records request is for a large volume of records, or additional time is necessary to prepare the records for access, the records custodian shall notify the requestor by using the Public Records Request Response form that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable.
 - (4) If a records custodian discovers records responsive to a records request were omitted, the requestor should be contacted concerning the omission and the records produced as quickly as possible.
 - (5) Copies will be available for pickup at a location specified by the records custodian. At the requestor's request, and upon payment of postage, copies will be mailed to the requestor via USPS first-class mail.
 - (6) Fees and Charges.
 - (a) No fees or charges may be imposed for inspection of records, even if copies of records were required to be made to allow for redaction of confidential information.
 - (b) An itemized estimate of the fees and charges should be provided to the requestor. Payment of this amount must occur prior to copies being made. Payment in full of the actual costs must be made prior to release of the requested copies. Both the estimated charges and the actual charges may be included on the Request to Inspect or Copy Public Records form.
 - (c) MTSU will publish the per page copy charges and a schedule of any other costs. Labor charges will be calculated and imposed as allowed by the Office of Open Records Counsel.
 - (7) If the total amount of fees, labor/programming charges, and postage is less than twenty dollars (\$20.00), the cost will be waived.

Authority: T.C.A. § 10-7-503.

0240-07-__-.05 Aggregation of Frequent and Multiple Requests is added to Chapter 0240-07-__ Public Records – Inspecting and Copying and shall read as follows:

0240-07-__-.05 Aggregation of Frequent and Multiple Requests

- (1) MTSU will aggregate record requests in accordance with the Frequent and Multiple Request Policy promulgated by the Office of Open Records Counsel when more than four (4) requests are received within a calendar month either from a single individual or a group of individuals deemed working in concert.
- (2) The level at which records requests will be aggregated is by office.
- (3) The Coordinator is responsible for making the determination that a group of individuals are working in concert. The Coordinator or records custodian must inform the individuals of this determination and that they have the right to appeal the decision to the Office of Open Records Counsel.

Authority: T.C.A. § 10-7-503.

* 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)
Andy Adams					
J.B. Baker					
Pete DeLay					
Darrell Freeman, Sr.					
Joey Jacobs					
Christine Karbowskiak					
Stephen B. Smith					
Pamela Wright					
Tony Johnston					

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

Signature: _____

Name of Officer: Heidi Zimmerman

Title of Officer: University Counsel

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

Agency/Board/Commission: Middle Tennessee State University

Rule Chapter Number(s): Chapter 0240-07-__

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

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

Regulatory Flexibility Addendum

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

This rule is not anticipated to have an impact on small businesses.

Impact on Local Governments

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

This rule is not anticipated to have an impact on local government.

Additional Information Required by Joint Government Operations Committee

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

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

Previously, MTSU adopted and followed the Comptroller's Office of the Open Records model policy related to responding to requests for public records. The proposed rule does not materially change MTSU's previous policy or processes for responding to such requests.

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

T.C.A. § 10-7-503(g)(2) requires state government entities to promulgate rules regarding public records that meet the requirements of T.C.A. § 10-7-503(g)(1).

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

The MTSU Board of Trustees urges adoption. Individuals/entities that wish to review public records of the State of Tennessee are directly affected by this rule. MTSU believes the rule is consistent with the intent of the law, namely to create transparency in its operations, but does not know whether interested individuals/entities would urge adoption or rejection of this rule.

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

None known.

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

None

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

Heidi Zimmerman, MTSU University Counsel

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

Heidi Zimmerman, MTSU University Counsel

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

Heidi Zimmerman

MTSU University Counsel
1301 E. Main Street, CAB 209
Murfreesboro, TN 37132
615-898-2025
Heidi.zimmerman@mtsu.edu

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

Rules
of
Middle Tennessee State University, Murfreesboro
Chapter 0240-07-
Public Records – Inspecting and Copying

New

Table of Contents is added to Chapter 0240-07- Public Records – Inspecting and Copying and shall read as follows:

Table of Contents

0240-07- .01 Purpose
0240-07- .02 Definitions
0240-07- .03 Procedures to Access Public Records
0240-07- .04 Copying of Public Records
0240-07- .05 Aggregation of Frequent and Multiple Requests

0240-07- .01 Purpose is added to Chapter 0240-07- Public Records – Inspecting and Copying and shall read as follows:

0240-07- .01 Purpose

- (1) This rule establishes the process under Tennessee’s Public Records Act for making and responding to requests to inspect and/or copy records, including redaction practices; the fees charged for copies of public records; the procedures for billing and payment; and the name or title and contact information of the public records request coordinator.

Authority: T.C.A. § 10-7-503.

0240-07- .02 Definitions is added to Chapter 0240-07- Public Records – Inspecting and Copying and shall read as follows:

0240-07- .02 Definitions

- (1) Records Custodian. The MTSU office(s) or employee(s) lawfully responsible for the direct custody and care of a public record.
- (2) Public Records. All documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, electronic mail messages, films, sound recordings, or other material regardless of physical form or characteristics, made or received pursuant to law or in connection with the transaction of official University business and required to be open to inspection under the provisions of Tennessee law.
- (3) Public Records Request Coordinator (Coordinator). The individual (or designee) responsible for ensuring that public records requests are routed to the appropriate records custodian and that requests are fulfilled in accordance with the Public Records Act.
- (4) Requestor. A person seeking access to a public record, whether it is for inspection or duplication.

Authority: T.C.A. § 10-7-503.

0240-07- .03 Procedures to Access Public Records is added to Chapter 0240-07- Public Records – Inspecting and Copying and shall read as follows:

0240-07- .03 Procedures to Access Public Records

- (1) Generally.

- (a) Except for confidential records as prescribed by law, public records will be open for inspection by citizens of Tennessee during business hours which shall be the business hours of the University's administrative offices.
- (b) Requests for inspection only may be made orally and cannot be required to be made in writing. Requests for copies, or requests for inspection and copies, must be made in writing. The Request to Inspect or Copy Public Records form may be used, but a written request in any form or format will be acceptable. Requests may be made to the Coordinator
- (c) Persons requesting to inspect or copy records must show proof of Tennessee citizenship with a government-issued photo identification card including the person's address (i.e., driver's license, voter's registration, etc.).

(2) Public Records Request Coordinator.

- (a) MTSU will publish the name, telephone number, email address and office location of the Coordinator .
- (b) The Coordinator shall review public record requests and make an initial determination of the following:
 - 1. if the requestor provided evidence of Tennessee citizenship;
 - 2. if the records requested are described with sufficient specificity to identify them; and
 - 3. if MTSU is the custodian of the records.
- (c) The Coordinator shall acknowledge receipt of the request and take any of the following appropriate action(s):
 - 1. Advise the requestor of determinations made regarding:
 - (i) proof of Tennessee citizenship;
 - (ii) form(s) required for copies;
 - (iii) fees and charges, including labor and programming costs;
 - (iv) aggregation of multiple or frequent requests.
 - 2. Provide the records.
 - 3. Deny the request in writing using the Public Records Request Response, which shall indicate the basis for the specific legal denial, including, but not limited to:
 - (i) the requestor is not, or has not presented evidence of being, a Tennessee citizen;
 - (ii) the request lacks specificity;
 - (iii) an exemption makes the record not subject to disclosure;
 - (iv) the University is not the custodian of the requested records;
 - (v) the records do not exist.
 - 4. If appropriate, contact the requestor to see if the request can be narrowed or the scope of the request clarified.
 - 5. Forward the records request to the appropriate records custodian.

6. If the Coordinator knows that the requested records are in the custody of a different governmental entity, advise the requestor of the correct governmental entity and the coordinator for that entity, if known.
- (3) The University is not required to sort through files to compile information, create records, or recreate records that do not exist.
- (4) Form or Format of Record to be Inspected/Copied. Actual records will be produced or used for viewing and/or copying. The nature of certain records and applicable confidentiality requirements, however, may result in providing the requested record/information in a form or format other than the original records form or format. In such cases, the records custodian may coordinate with the requestor to find an alternate form or means of providing access to the same desired record or information as available under the open records laws.
- (5) Redaction.
- (a) With the exception of records which are confidential in their entirety (for example, student education records protected by FERPA), if a record contains confidential information or information that is not open for public inspection, the records custodian shall prepare a redacted copy prior to providing the records for inspection or copies of the records.
- (b) Whenever a redacted record is provided, the records custodian should provide the requestor with the basis for redaction. The basis given shall be general in nature and not disclose confidential information.
- (6) Inspection of Records. If the request is to inspect records, the records custodian will arrange a location for the requestor to do so and may, under reasonable circumstances, require an appointment for inspection. Inspection must be made in the presence of the records custodian. Custody of the original record is not to be relinquished.
- (7) Time Required to Produce Records. All efforts will be made to provide the records within a reasonable period of time. If the record cannot be produced within seven (7) business days (i.e., time is needed to determine if the records exist; additional time is needed to search for, retrieve, or otherwise gain access to records; or it will take additional time to redact confidential information from the record), the requestor shall be advised when the record(s) will be available using a Public Records Request Response. If the request will be denied, a Public Records Request Response must be sent within seven (7) business days.

Authority: T.C.A. § 10-7-503.

0240-07- -04 Copying of Public Records is added to Chapter 0240-07- Public Records – Inspecting and Copying and shall read as follows:

0240-07- -04 Copying of Public Records

- (1) The records custodian will make copies, or arrange for copies to be made, as well as determine copy fees and charges in the most economic and efficient manner practicable. An itemized estimate of the charges to be assessed for copies and labor should be provided to the requestor using the Request to Inspect or Copy Public Records form prior to producing the requested copies. Payment of fees and charges are to be made in advance. A requestor will be allowed to make copies of records with a camera or a cell phone if the number of pages to be copied is twenty-five (25) pages or less.
- (2) Copy Format
- (a) Notwithstanding the form of the records, reproduction or copying of records shall be made in a form as best determined by the records custodian.
- (b) Electronic data and documents will be produced in a read-only format.

(c) If the requested records exist electronically, but not in the format requested, or a new or modified computer program or application is necessary to put the records in a readable and reproducible format; or it is necessary to access backup files, the records custodian shall charge the requestor the actual costs incurred in producing the records in the format requested, or in creating or modifying a computer program or application necessary to put the records in a readable and reproducible format, or in accessing backup files.

(d) Records should be produced electronically whenever feasible as a means of utilizing the most cost effective method of producing records.

(3) If a records custodian reasonably determines that production of records should be segmented because the records request is for a large volume of records, or additional time is necessary to prepare the records for access, the records custodian shall notify the requestor by using the Public Records Request Response form that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable.

(4) If a records custodian discovers records responsive to a records request were omitted, the requestor should be contacted concerning the omission and the records produced as quickly as possible.

(5) Copies will be available for pickup at a location specified by the records custodian. At the requestor's request, and upon payment of postage, copies will be mailed to the requestor via USPS first-class mail.

(6) Fees and Charges.

(a) No fees or charges may be imposed for inspection of records, even if copies of records were required to be made to allow for redaction of confidential information.

(b) An itemized estimate of the fees and charges should be provided to the requestor. Payment of this amount must occur prior to copies being made. Payment in full of the actual costs must be made prior to release of the requested copies. Both the estimated charges and the actual charges may be included on the Request to Inspect or Copy Public Records form.

(c) MTSU will publish the per page copy charges and a schedule of any other costs. Labor charges will be calculated and imposed as allowed by the Office of Open Records Counsel.

(7) If the total amount of fees, labor/programming charges, and postage is less than twenty dollars (\$20.00), the cost will be waived.

Authority: T.C.A. § 10-7-503.

0240-07- -05 Aggregation of Frequent and Multiple Requests is added to Chapter 0240-07- Public Records – Inspecting and Copying and shall read as follows:

0240-07- -05 Aggregation of Frequent and Multiple Requests

(1) MTSU will aggregate record requests in accordance with the Frequent and Multiple Request Policy promulgated by the Office of Open Records Counsel when more than four (4) requests are received within a calendar month either from a single individual or a group of individuals deemed working in concert.

(2) The level at which records requests will be aggregated is by office.

(3) The Coordinator is responsible for making the determination that a group of individuals are working in concert. The Coordinator or records custodian must inform the individuals of this determination and that they have the right to appeal the decision to the Office of Open Records Counsel.

Authority: T.C.A. § 10-7-503.



**Middle Tennessee State University
Board of Trustees**

Tab 4

Executive and Governance Committee Meetings
November 13, 2018
and
November 27, 2018



**Middle Tennessee State University
Board of Trustees**

MEETING: December Quarterly Board Meeting

SUBJECT: [Executive and Governance Committee](#)

DATE: December 11, 2018

PRESENTER: Committee Chair Stephen Smith

ACTION REQUIRED: Roll Call Vote

STAFF RECOMMENDATION: Approval

- President's Employment Contract



**Middle Tennessee State University
Board of Trustees**

MEETING: Winter Quarterly Board Meeting

SUBJECT: [President's Employment Contract](#)

DATE: December 11, 2018

BACKGROUND INFORMATION:

At its meeting on March 13, 2018, the Executive and Governance Committee voted to have Trustee Joey Jacobs, as Chairman of the Finance and Personnel Committee, negotiate the terms of the president's contract, to include consideration of tenure and length of contract.

At its meeting on November 13, 2018, the Executive and Governance Committee voted to defer action on the contract and to call a special called meeting prior to the December 11, 2018, Board of Trustees meeting on this matter.

On November 27, 2018, the Executive and Governance Committee met to review and discuss the draft agreement. After deliberation, revisions were proposed and voted on. The materials contain a redline version showing those revisions, along with a clean version incorporating the revisions.

EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT is entered by and between MIDDLE TENNESSEE STATE UNIVERSITY, a public educational institution of the State of Tennessee (“University”), by and through its Board of Trustees (“Board”), and SIDNEY A. MCPHEE (“Dr. McPhee”). The effective date of this Agreement shall be December 11, 2018.

WITNESSETH:

In consideration of the covenants and agreement herein contained, the University and Dr. McPhee agree as follows:

1. EMPLOYMENT AS PRESIDENT

A. The University currently employs Dr. McPhee as President of the University. The parties are desirous to retain Dr. McPhee as President of the University and maintain this relationship under the terms and conditions and for the compensation and other benefits described or referred to in this Agreement.

2. DUTIES AS PRESIDENT

A. Dr. McPhee shall serve as President of the University. Dr. McPhee’s duties and responsibilities as President shall be those stated in the Board’s By-Laws and Policies as they now exist or as amended from time to time, which are incorporated herein by reference as if fully set out, and such other duties as may be assigned to him from time to time by the Board or required of him by federal or state law, Board and University rules, policies and procedures, or custom and practice for university presidents generally.

B. Dr. McPhee shall devote his full time and attention and his best efforts to the performance of his duties as President and shall not hold any position of employment outside the University or engage in any outside activity that may interfere with or prevent, in any way or at any time, his performance of his duties as President, except as outlined in Section 3.E. of this Agreement.

3. SALARY AND OTHER COMPENSATION AS PRESIDENT

A. Dr. McPhee’s annual base salary as President shall be \$400,000.00 (“Base Salary”), payable in twelve monthly installments of \$33,333.33 and subject to all requirements of state and federal law with respect to withholding or other deductions. When funds are available for a general salary increase for University employees, the Board, on the recommendation of the Executive and Governance Committee, may act to increase the Base Salary during the term of this Agreement based on meritorious performance by Dr. McPhee. During the term of this Agreement, Dr. McPhee’s Base Salary may be increased, but not decreased.

B. The Base Salary shall not be adjusted in accordance with any across-the-board salary increase authorized by the State of Tennessee for University employees. As set forth above, the Board, on recommendation of the Executive and Governance Committee, shall determine Dr. McPhee's salary increases.

C. During the term of this Agreement, for the benefit and convenience of the University in having the functions of the Office of President efficiently discharged and, in order to enable Dr. McPhee to fully perform the extensive duties of his position, Dr. McPhee agrees to live in the President's residence on campus. The University shall pay expenditures required to furnish, maintain, repair, renovate and operate the residence as provided in MTSU Policy 607, Expenditures for University-Owned Residence of the President as it now exists or as it may be amended from time to time. For the benefit and convenience of the University, the President's residence shall be available, and shall be used, for University-related business at Dr. McPhee's sole discretion. Costs associated with such University events shall be borne by the University. Dr. McPhee and his family shall be responsible for expenditures not provided in MTSU Policy 607. Except as provided otherwise herein, upon Dr. McPhee's resignation, reassignment, termination, or expiration of this Agreement, Dr. McPhee shall vacate the President's residence no later than 30 days after the effective date of his resignation, reassignment, termination, or expiration of this Agreement.

D. The University shall provide an automobile to Dr. McPhee suitable for his position as President consistent with MTSU Policy 606, Assignment of Motor Pool Vehicle to the President as it now exists or as it may be amended from time to time. Dr. McPhee recognizes that the personal use of the automobile is taxable to him. Dr. McPhee will be required to maintain a mileage log of his personal use of the automobile, in accordance with University policy and procedures and IRS regulations.

E. Dr. McPhee shall not receive salary, benefits, or other compensation for service as President from any source other than from University, except with the prior written approval of the Chair of the Board, and subject to compliance with the conflict of interests laws and policies described in Section 7. pertaining to University Policies and Procedures - Conflict of Interests Policies and Disclosure Statements, of this Agreement. Dr. McPhee from time to time may hold outside directorships or engage in consulting activities with respect to which he shall be entitled to retain any compensation or fees. Dr. McPhee shall secure written approval of the Chair of the Board prior to holding outside directorships or engaging in consulting activities. Dr. McPhee shall report annual leave for any time spent on directorship or consulting activities.

F. Subject to the restrictions pertaining to payment of travel expenses set forth in Section 6.E. below, Dr. McPhee may retain any honorarium he receives for speaking engagements or other professional activities in which he is representing the University, but only if the University does not pay related travel expenses for Dr. McPhee.

G. The Board, on no less than an annual basis, shall consider all compensation related matters pertaining to Dr. McPhee, including, but not limited to, deferred compensation, bonuses, fringe benefits, additional increases to the Base Salary and/or other compensation as it deems appropriate and needed.

H. Dr. McPhee is eligible for a discretionary performance bonus established by the Board that may be between zero and twenty percent of his Base Salary. This performance bonus will be determined at the sole discretion of the Board based upon the Board's assessment of the degree to which Dr. McPhee has met the performance metrics set forth in accordance with Section 5., Performance Reviews, below.

I. Upon the University receiving a favorable fifth year review of regional accreditation, Dr. McPhee will be paid an accreditation bonus in the amount of \$50,000.

J. If Dr. McPhee remains President of the University, at the conclusion of the original term of this Agreement on December 10, 2023, the University agrees to pay Dr. McPhee a bonus of \$250,000.

4. FACULTY APPOINTMENT

A. Concurrently with his appointment as President, Dr. McPhee will continue to hold a tenured faculty appointment as Professor of Educational Leadership at the University.

B. Dr. McPhee shall have no regular duties as Professor of Educational Leadership, and he shall receive no additional compensation for this faculty appointment. From time to time, with the prior written approval of the Chair of the Board, Dr. McPhee may teach a course if doing so will not interfere with performance of his duties as President.

C. If Dr. McPhee voluntarily resigns in good standing as President, or the Board allows, with required notice, this Agreement to expire without renewing it, Dr. McPhee shall be permitted to continue as a tenured Professor of Educational Leadership on a full-time basis for the remainder of the term of this Agreement, or a twelve (12) month period, whichever is longer, at a salary of 85% of his final Base Salary as President in effect at the time of his voluntary resignation or the expiration of this Agreement, as applicable. Eighty-five percent is consistent with University policy and practice for administrators returning to the faculty. All other compensation, allowances, bonuses, privileges, benefits, and perquisites related to the position of President shall end on a date mutually agreed to by the parties, but no later than thirty (30) days after Dr. McPhee ceases to serve as President.

D. If the Board terminates Dr. McPhee's employment as President without cause for any reason other than those specified in Section 4.C. above, and/or reassigns Dr. McPhee to other full-time duties at the University, he shall be permitted to continue as a tenured Professor of Educational Leadership on a full-time basis for the remainder of the term of this Agreement, or a twelve (12) month period, whichever is longer, at a salary of 85% of his final Base Salary as President in effect at the time of: (1) the expiration of this Agreement; (2) his termination, except for cause; (3) or reassignment. In addition, the University shall pay liquidated damages to Dr. McPhee in an amount equal to 25% of Dr. McPhee's final Base Salary as President times the number of years (or pro-rata portion of a year) remaining in the term of the Agreement, or a twelve (12) month period, whichever is longer. All other compensation, allowances, bonuses, privileges,

benefits, and perquisites related to the position of President shall end on a date mutually agreed to by the parties, but no later than thirty (30) days after Dr. McPhee ceases to serve as President.

5. PERFORMANCE REVIEWS

A. Dr. McPhee's performance as President shall be reviewed annually in accordance with the Board Policy on Selection, Evaluation and Retention of the President, as it now exists and as it may be amended in the future. The Executive and Governance Committee shall consider Dr. McPhee's performance evaluations in developing recommendations to the Board concerning his compensation, including discretionary performance bonuses, and other terms of employment.

6. BENEFITS AND REIMBURSEMENTS

A. Dr. McPhee shall be eligible for University fringe benefits to the same extent as other full-time, exempt employees of the University.

B. The University shall reimburse Dr. McPhee for entertainment and travel expenses in accordance with University fiscal policies governing entertainment and travel as they now exist and as they may be amended in the future, including, but not limited to, MTSU Policy 658, Travel. Copies of the current policies have been provided to Dr. McPhee prior to execution of this Agreement, and by signing this Agreement, Dr. McPhee certifies that he has read these policies, understands them, and will comply with them. Dr. McPhee is not authorized to make exceptions to these policies for himself and/or his spouse. Exceptions for Dr. McPhee and/or his spouse must be approved by the Chair of the Audit & Compliance Committee in writing and in advance of any reimbursement, and approved exceptions shall be reported by the Vice President for Business and Finance to the Audit & Compliance Committee at its next meeting.

C. Dr. McPhee agrees that he is authorized to use the University airplane but such use is limited to University business. Dr. McPhee agrees that he is not authorized to use the University airplane for commuting or any other personal purpose and that no exceptions may be made to this provision.

D. The University shall provide Dr. McPhee with an annual non-accountable expense allowance of \$10,000.00 (net) payable in equal monthly installments. The University agrees to increase the gross allowance in the appropriate amount necessary to cover all applicable withholding, Federal Insurance Contributions Act (FICA) and Medicare taxes that Dr. McPhee is required to pay. The non-accountable expense allowance is for the discretionary use of Dr. McPhee and is intended primarily to compensate Dr. McPhee for business expenses that cannot be reimbursed under University policy. The University will report the non-accountable expense allowance as income for federal tax purposes and include it on the W-2 form issued annually to Dr. McPhee.

E. If the University pays related travel expenses for a speaking engagement or other professional activity of Dr. McPhee, he must remit any honorarium he might receive to the University for credit against the account charged for the travel expenses. Dr. McPhee will receive the balance of any honorarium remitted after travel expenses are deducted as permitted

by University policy. If Dr. McPhee elects to pay his own travel expenses, he may retain the honorarium in full, however, he must use annual leave for the event.

F. The Board recognizes that the spouse of the University President is often called upon to devote substantial time and energy to activities which benefit the University. Dr. McPhee's spouse is hereby authorized to serve when called upon as a representative of the institution, and to accept reimbursement from the University or Foundation for expenses incurred in connection with such activity, to the extent such reimbursements are requested by Dr. McPhee and must be approved for payment by the Vice President for Business and Finance, the Foundation, or the Chair of the Audit & Compliance Committee in writing and in advance of any reimbursement, and approved exceptions shall be reported by the Vice President for Business and Finance to the Audit & Compliance Committee at its next meeting. It is understood that Dr. McPhee's spouse may use facilities and other resources of the University in the same matter as an employee when involved in such activities. The institution shall also assume the travel expenses for Dr. McPhee's spouse on business trips to which she is officially invited or for which her presence is regarded by Dr. McPhee as necessary to carry out his official representational duties to promote a favorable image of the institution. Dr. McPhee will be responsible for any tax consequences resulting from benefits provided to Dr. McPhee's spouse pursuant to this Section F. The Board of Trustees shall annually establish a reasonable cap on expenses allowed by this Paragraph F. From time to time, the Board Chair may increase the cap based on need. An annual accounting of expenses will be provided to the Audit and Compliance Committee.

G. The University shall pay the annual dues and membership fees for Dr. McPhee in professional associations, clubs and organizations of benefit to the University. The University agrees to reimburse Dr. McPhee for any related initiation fees, monthly dues and charges. Dr. McPhee is responsible for payment of any costs or charges incurred which are not for University related businesses.

7. UNIVERSITY POLICIES AND PROCEDURES - CONFLICT OF INTERESTS POLICIES AND DISCLOSURE STATEMENTS

A. Dr. McPhee shall comply with all University rules, policies and procedures applicable to exempt employees, now in effect or hereafter adopted or amended, including, but not limited to, MTSU Policy 10, Ethics and Code of Conduct. A copy of MTSU Policy 10 has been provided to Dr. McPhee prior to execution of this Agreement, and by signing this Agreement, Dr. McPhee certifies that he has read Policy 10, understands it, and will comply with it as it now exists and as it may be amended in the future. Dr. McPhee is not authorized to make an exception to any University policy or procedure for himself and/or his spouse.

B. Dr. McPhee shall comply with MTSU Policy 12, Conflict of Interest, a copy of which has been provided to Dr. McPhee prior to execution of this Agreement. By signing this Agreement, Dr. McPhee certifies that he has read this policy, understands it, and will comply with it as it now exists and as it may be amended in the future. In addition, the position of President of the University is subject to the provisions of Tennessee Code Annotated §§ 8-50-501 *et seq.* requiring the filing of a disclosure statement and timely amended statements with the Tennessee Ethics Commission.

8. TERM AND TERMINATION

A. The term of this Agreement shall be from December 11, 2018 through December 10, 2023, unless sooner terminated as provided hereinafter.

B. This Agreement may be extended for additional terms upon written agreement of the parties. Six (6) months prior to the expiration of the initial term of this Agreement, the Board must notify Dr. McPhee, in writing, of its intent to: (1) allow this Agreement to expire at the end of its term; (2) enter into negotiations for a new Agreement; or (3) amend and extend the term of this Agreement. If the Board fails to notify Dr. McPhee of its decision within the prescribed period of time, this Agreement shall be extended automatically for two (2) additional years with a two and one half (2 1/2%) percent increase in the Base Salary per year. After the initial two (2) year extension, Dr. McPhee and Board may revisit/negotiate the terms at that time.

C. Acknowledging that his service as President is without tenure and solely at the will and pleasure of the Board, except as outlined in Section 4 of this Agreement, Dr. McPhee agrees that the Board, without complying with any University personnel policy or procedure requiring progressive discipline or any other policy or procedure applicable either to exempt employees or to faculty, and with the required notification, may: (1) allow this Agreement to expire and elect not to renew his appointment as President as outlined in Section 8.B.; (2) terminate this Agreement without cause upon ninety (90) days' written notice to Dr. McPhee; or (3) reassign Dr. McPhee for the remaining term of this Agreement from the position of President to other full-time duties within the University, including, but not limited to, full-time duties as Professor of Educational Leadership, upon ninety (90) days' written notice to him.

D. If Dr. McPhee elects not to accept reassignment to other full-time duties under Section 8.C.(3) above, his non-acceptance shall be considered a termination by the Board, without cause, under the terms of this Agreement in which event the University shall pay liquidated damages to Dr. McPhee in an amount equal to Dr. McPhee's final Base Salary as President times the number of years (or pro-rata portion of a year) remaining in the term of the Agreement, or a twelve (12) month period, whichever is longer. All other compensation, allowances, bonuses, privileges, benefits, and perquisites related to the position of President shall end no later than thirty (30) days after he ceases to serve as President.

E. If the Board terminates this Agreement without cause under Section 8.C.(2) above and Dr. McPhee elects to continue employment with the University in his tenured faculty appointment, as permitted under Section 4 of this Agreement, he will receive compensation as outlined in Section 4.D.

F. If the Board terminates this Agreement without cause under Section 8.C.(2) above and Dr. McPhee elects to resign his tenured faculty appointment and terminate his employment with the University in its entirety, the University shall pay liquidated damages to Dr. McPhee in an amount equal to Dr. McPhee's final Base Salary as President times the number of years (or pro-rata portion of a year) remaining in the term of the Agreement or a twelve (12) month period, whichever is longer. All other compensation, allowances, bonuses, privileges, benefits, and perquisites related

to the position of President shall end no later than thirty (30) days after he ceases to serve as President.

G. The University's payment of the liquidated damages, as outlined in this Agreement, shall be made in equal monthly installments over the remaining term of the Agreement, subject to all requirements of state and federal law with respect to withholding and other deductions with the first payment due on the University's next regular payday that follows the expiration of sixty (60) days from the date of termination of this Agreement. The obligation of the University to pay liquidated damages shall be conditioned, however, on Dr. McPhee's signing and returning to the University (without revoking) a timely and effective release of claims mutually agreed to by the parties. The mutually agreed upon release shall be returned by Dr. McPhee no later than the sixtieth (60th) day from the date of termination.

H. The University agrees to pay Dr. McPhee's legal expenses, including, but not limited to, attorney fees, mediation fees and other costs in the event the University removes or attempts to remove Dr. McPhee as President of the University for any reason other than for cause. In the event the University terminates Dr. McPhee's employment for cause as provided in Section 8.I. below, Dr. McPhee shall be responsible for his own legal expenses.

I. The Board may terminate this Agreement at any time for cause without complying with any University personnel policy or procedure related to employee discipline or progressive discipline, or any other policy or procedure applicable to exempt employees. "Cause" shall include any one or more of the following as determined in the sole discretion of the Board:

1. Failure to cure, after reasonable notice and opportunity to cure, deficiencies identified by the Board in a performance review or other writing;

2. Indictment, admission of guilt, pleas of *nolo contendere*, or conviction of a felony or a non-felony (except minor traffic citations);

3. Theft or misappropriation of state or University funds, property, services, or other resources, which includes, but is not limited to, misappropriation of state or University resources for personal purposes;

4. Conduct in violation of MTSU Policy 10, Ethics and Code of Conduct, or other conduct which is unbecoming to the office of President or otherwise reflects adversely on the University;

5. Refusal to comply with a lawful directive of the Board or its designee(s);

6. Intentional violation of University policies or procedures now in effect and hereafter adopted or amended;

7. Dishonesty or other violation of professional ethics or responsibility;

8. Acts constituting a conflict of interest under applicable University policies or state

law;

9. Any material breach of this Agreement; or

10. Any act of gross misconduct, as defined by University personnel policy now in effect or hereafter adopted by the University.

The grounds for termination contained in this Section 8.I. are separate and independent grounds for termination, and one ground for termination shall not be interpreted in any manner to modify, explain, or restrict any other ground for termination.

J. Prior to terminating this Agreement for cause under Section 8.I. of this Agreement, Dr. McPhee shall be given written notice of the cause for termination and an explanation of the evidence supporting termination. Dr. McPhee shall also be given an opportunity to respond to the proposed termination in a meeting of the Board or the Executive and Governance Committee of the Board to be held not less than seven (7) and not more than fourteen (14) calendar days after the date of the written notice. At the meeting, Dr. McPhee may be represented by counsel of his choice at his own expense but not by counsel for the University.

K. If the Board terminates this Agreement for a cause as described in Subsections 2. through 10. of Section 8.I. of this Agreement, Dr. McPhee agrees that the termination shall constitute a simultaneous relinquishment of his tenured faculty appointment, waiving all rights to hearings, appeals, or other procedures otherwise available by holding a faculty appointment.

L. The Board may suspend Dr. McPhee with pay pending an investigation or decision relating to termination for cause under Section 8.I. of this Agreement. However, in no circumstance may the Board suspend Dr. McPhee without pay pending an investigation or decision relating to termination for cause under Section 8.I. of this Agreement.

M. For any one or more acts, omissions, or events that could be grounds for termination for cause under Section 8.I. of this Agreement, the Board may take other disciplinary or corrective action against Dr. McPhee short of terminating this Agreement. Other disciplinary or corrective action may include, but is not limited to, one or more of the following:

1. Written reprimand;

2. Suspension with pay; or

3. For a cause described in Subsections 2. through 10. of Section 8.I. of this Agreement, suspension without pay.

No such disciplinary or corrective action shall be construed to conflict with or limit the Board's right to terminate this Agreement during or after such disciplinary or corrective action.

N. Upon the Board's termination of this Agreement for cause pursuant to Section 8.I. of this Agreement, Dr. McPhee shall not be entitled to further salary, non-accountable expense allowance,

automobile, housing, bonuses, fringe benefits, privileges, perquisites, or any other form of compensation as President. In the event of a termination for cause under Subsection 1. of Section 8.I., Dr. McPhee may be permitted to continue employment in his tenured faculty appointment pursuant to the provision of Section 4. of this Agreement, his compensation and benefits shall be limited to that described in Section 4. of this Agreement.

O. This Agreement shall terminate automatically upon the death of Dr. McPhee, and all salary, non-accountable expense allowance, bonuses, fringe benefits, privileges, perquisites, and any other form of compensation shall terminate on the last day of the calendar month in which death occurs, except that Dr. McPhee's personal representatives or other designated beneficiary shall be paid any death benefits due under University policy now in effect or hereafter adopted by the University, and Dr. McPhee's widow and/or family living with him at the time of his death in the President's residence shall have the right to live there for a period of no more than ninety (90) days. The automatic termination of this Agreement pursuant to this Section 8.O. shall not give rise to any obligation on the part of the University to pay liquidated damages to Dr. McPhee under any provision of this Agreement.

P. This Agreement shall terminate automatically on the date Dr. McPhee is disabled as defined herein.

1. "Disabled" shall mean: In the opinion of a qualified physician retained by the University, Dr. McPhee has a physical or mental impairment that prevents him from performing one or more essential function of President with or without reasonable accommodation and will prevent him from doing so for one hundred twenty (120) consecutive calendar days or longer.

2. Upon termination of this Agreement pursuant to this Section 8.P., all salary, non-accountable expense allowance, bonuses, fringe benefits, privileges, perquisites, and any other form of compensation shall terminate on the last day of the calendar month in which Dr. McPhee is diagnosed as disabled by the qualified physician retained by the University, except that Dr. McPhee shall receive any disability benefits due him under University policy now in effect or hereafter adopted by the University, and Dr. McPhee and the family members living with him in the President's residence shall have the right to live there for a period of no more than ninety (90) days after the diagnosis.

3. If this Agreement terminates pursuant to this Section 8.P., Dr. McPhee shall be permitted to return to his tenured faculty appointment pursuant to Section 4. of this Agreement, and determinations concerning his continued employment with the University shall be made in accordance with University policies, procedures, and practices applicable to tenured faculty.

4. The automatic termination of this Agreement pursuant to this Section 8.P. shall not give rise to any obligation on the part of the University to pay liquidated damages to Dr. McPhee under any provision of this Agreement.

Q. The Board and Dr. McPhee may reach an agreement for termination of this Agreement at any time prior to expiration of this Agreement, provided that such agreement is evidenced in writing signed by both parties.

R. This Agreement shall terminate on the effective date of Dr. McPhee's resignation or retirement from his employment as President. Dr. McPhee shall provide the Chair of the Board a minimum of ninety (90) days' prior written notice of resignation of his employment as President. Dr. McPhee shall provide the Vice Chair of the Board a minimum of one hundred and eighty (180) days' prior written notice of his retirement from his employment as President. In its sole discretion, the Board or the Executive and Governance Committee may elect to waive these notice requirements and accept Dr. McPhee's resignation or retirement effective as of any date certain. In its sole discretion, the Board or the Executive and Governance Committee may elect to place Dr. McPhee on administrative leave with pay for all or any portion of time from the date of notice until the effective date of his resignation or retirement.

S. In accordance with requirements of state law, and notwithstanding anything in this Agreement to the contrary, this Agreement is subject to the appropriation and availability of funds. If funds are not appropriated or are otherwise unavailable, the University reserves the right to terminate this Agreement as of June 30 of any year upon written notice to Dr. McPhee; provided, however, that Dr. McPhee's right under Section 4. of this Agreement to continue in a tenured faculty appointment shall survive the termination of this Agreement under this Section 8.S. Dr. McPhee agrees that termination of this Agreement under this Section 8.S. shall not be deemed a breach of this Agreement by the University and that upon such termination, he shall have no right to recover from the University any liquidated, actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

9. MEDIATION

A. The parties agree that any controversy or claim either party may have against the other arising out of or relating to the construction, application or enforcement of this Agreement, as well as any controversy or claim based upon an alleged breach of any legal right relating to or arising from Dr. McPhee's employment and/or termination of his employment shall be submitted to non-binding mediation. Within fifteen (15) days after written notice of request for mediation from one party to the other, the dispute shall be submitted to a single mediator chosen by mutual agreement of the parties in Nashville, Tennessee. The costs of the mediation shall be borne by the University.

10. NOTICE

A. Any notice or communication contemplated by this Agreement shall be deemed to be given when in writing and mailed, registered or certified, postage pre-paid with return receipt requested, to a party at the address set forth below or such other address as may hereafter be designated in writing:

To Dr. Sidney McPhee:

To the University:

Chair of the Board of Trustees
Middle Tennessee State University

1301 E. Main St., CAB 211
Murfreesboro, TN 37132

11. MISCELLANEOUS

A. This Agreement contains the complete agreement between the parties concerning Dr. McPhee's appointment as President. Neither party has made any representation with respect to the subject matter of this Agreement not specifically included in this Agreement, nor has either party relied on any such representation in entering into this Agreement.

B. This Agreement may only be modified by a writing signed by both parties.

C. The invalidity of any portion of this Agreement shall not and shall not be deemed to affect the validity of any other provision. In the event any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties after the expungement of the invalid provision.

D. This Agreement shall be interpreted in accordance with Tennessee law.

E. A party's failure to respond to a breach by the other party shall not operate as a waiver of their rights under this Agreement or otherwise. Any delay or omission by a party in its exercise of any right or power accruing upon any breach shall not impair or constitute a waiver of such right or power by that party, and any such right or power may be exercised from time to time and as often as may be deemed expedient. The waiver of any breach of any of the terms and conditions of this Agreement shall not be construed as subsequently waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no forbearance or waiver had occurred.

F. The titles to the sections of this Agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement.

G. This Agreement may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original constituting but one and the same instrument.

H. All documents, files, records, papers, reports, materials, correspondence, and copies thereof (in any format, including electronically stored information), received or prepared by Dr. McPhee during performing, or as an incident to, Dr. McPhee's duties and responsibilities under this Agreement are and shall remain the sole property of the University. Within fourteen (14) days of the expiration or termination of this Agreement, Dr. McPhee shall return all University property in his possession. Dr. McPhee may copy, at his own expense, all documents, files, records, papers, reports, materials, correspondence, and copies thereof (in any format, including electronically stored information) he received or prepared for his records. Dr. McPhee shall submit to the

University for approval, in writing, all requests to receive the aforementioned information. Such approval shall not be unreasonably withheld. The foregoing provisions shall not apply to Dr. McPhee's personal notes, personal memorabilia, diaries, and similar personal property of Dr. McPhee which he is entitled to retain.

I. Dr. McPhee may not assign, pledge, or encumber his rights, interests, or obligations under this Agreement.

J. Each party hereto shall be viewed as an equal participant to the drafting of this Agreement, and each party agrees that there shall be no presumption against the drafting party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates appearing below.

Sidney A. McPhee, President

Date

MIDDLE TENNESSEE STATE UNIVERSITY

Stephen B. Smith, Chairman of the Board

Date

EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT is entered by and between MIDDLE TENNESSEE STATE UNIVERSITY, a public educational institution of the State of Tennessee (“University”), by and through its Board of Trustees (“Board”), and SIDNEY A. MCPHEE (“Dr. McPhee”). The effective date of this Agreement shall be December 11, 2018.

WITNESSETH:

In consideration of the covenants and agreement herein contained, the University and Dr. McPhee agree as follows:

1. EMPLOYMENT AS PRESIDENT

A. The University currently employs Dr. McPhee as President of the University. The parties are desirous to retain Dr. McPhee as President of the University and maintain this relationship under the terms and conditions and for the compensation and other benefits described or referred to in this Agreement.

2. DUTIES AS PRESIDENT

A. Dr. McPhee shall serve as President of the University. Dr. McPhee’s duties and responsibilities as President shall be those stated in the Board’s By-Laws and Policies as they now exist or as amended from time to time, which are incorporated herein by reference as if fully set out, and such other duties as may be assigned to him from time to time by the Board or required of him by federal or state law, Board and University rules, policies and procedures, or custom and practice for university presidents generally.

B. Dr. McPhee shall devote his full time and attention and his best efforts to the performance of his duties as President and shall not hold any position of employment outside the University or engage in any outside activity that may interfere with or prevent, in any way or at any time, his performance of his duties as President, except as outlined in Section 3.E. of this Agreement.

3. SALARY AND OTHER COMPENSATION AS PRESIDENT

A. Dr. McPhee’s annual base salary as President shall be \$400,000.00 (“Base Salary”), payable in twelve monthly installments of \$33,333.33 and subject to all requirements of state and federal law with respect to withholding or other deductions. When funds are available for a general salary increase for University employees, the Board, on the recommendation of the Executive and Governance Committee, may act to increase the Base Salary during the term of this Agreement based on meritorious performance by Dr. McPhee. During the term of this Agreement, Dr. McPhee’s Base Salary may be increased, but not decreased.

B. The Base Salary shall not be adjusted in accordance with any across-the-board salary increase authorized by the State of Tennessee for University employees. As set forth above, the Board, on recommendation of the Executive and Governance Committee, shall determine Dr. McPhee's salary increases.

C. During the term of this Agreement, for the benefit and convenience of the University in having the functions of the Office of President efficiently discharged and, in order to enable Dr. McPhee to fully perform the extensive duties of his position, Dr. McPhee agrees to live in the President's residence on campus. The University shall pay expenditures required to furnish, maintain, repair, renovate and operate the residence as provided in MTSU Policy 607, Expenditures for University-Owned Residence of the President as it now exists or as it may be amended from time to time. For the benefit and convenience of the University, the President's residence shall be available, and shall be used, for University-related business at Dr. McPhee's sole discretion. Costs associated with such University events shall be borne by the University. Dr. McPhee and his family shall be responsible for expenditures not provided in MTSU Policy 607. Except as provided otherwise herein, upon Dr. McPhee's resignation, reassignment, termination, or expiration of this Agreement, Dr. McPhee shall vacate the President's residence no later than 30 days after the effective date of his resignation, reassignment, termination, or expiration of this Agreement.

D. The University shall provide an automobile to Dr. McPhee suitable for his position as President consistent with MTSU Policy 606, Assignment of Motor Pool Vehicle to the President as it now exists or as it may be amended from time to time. Dr. McPhee recognizes that the personal use of the automobile is taxable to him. Dr. McPhee will be required to maintain a mileage log of his personal use of the automobile, in accordance with University policy and procedures and IRS regulations.

E. Dr. McPhee shall not receive salary, benefits, or other compensation for service as President from any source other than from University, except with the prior written approval of the Chair of the Board, and subject to compliance with the conflict of interests laws and policies described in Section 7. pertaining to University Policies and Procedures - Conflict of Interests Policies and Disclosure Statements, of this Agreement. Dr. McPhee from time to time may hold outside directorships or engage in consulting activities with respect to which he shall be entitled to retain any compensation or fees. Dr. McPhee shall secure written approval of the Chair of the Board prior to holding outside directorships or engaging in consulting activities. Dr. McPhee shall report annual leave for any time spent on directorship or consulting activities.

F. Subject to the restrictions pertaining to payment of travel expenses set forth in Section 6.E. below, Dr. McPhee may retain any honorarium he receives for speaking engagements or other professional activities in which he is representing the University, but only if the University does not pay related travel expenses for Dr. McPhee.

G. The Board, on no less than an annual basis, shall consider all compensation related matters pertaining to Dr. McPhee, including, but not limited to, deferred compensation, bonuses, fringe benefits, additional increases to the Base Salary and/or other compensation as it deems appropriate and needed.

H. Dr. McPhee is eligible for a discretionary performance bonus established by the Board that may be between zero and twenty percent of his Base Salary. This performance bonus will be determined at the sole discretion of the Board based upon the Board's assessment of the degree to which Dr. McPhee has met the performance metrics set forth in accordance with Section 5., Performance Reviews, below.

I. Upon the University receiving a favorable fifth year review of regional accreditation, Dr. McPhee will be paid an accreditation bonus in the amount of \$50,000.

J. If Dr. McPhee remains President of the University, at the conclusion of the original term of this Agreement on December 10, 2023, the University agrees to pay Dr. McPhee a bonus of \$250,000.

4. FACULTY APPOINTMENT

A. Concurrently with his appointment as President, Dr. McPhee will continue to hold a tenured faculty appointment as Professor of Educational Leadership at the University.

B. Dr. McPhee shall have no regular duties as Professor of Educational Leadership, and he shall receive no additional compensation for this faculty appointment. From time to time, with the prior written approval of the Chair of the Board, Dr. McPhee may teach a course if doing so will not interfere with performance of his duties as President.

C. If Dr. McPhee voluntarily resigns in good standing as President, or the Board allows, with required notice, this Agreement to expire without renewing it, Dr. McPhee shall be permitted to continue as a tenured Professor of Educational Leadership on a full-time basis for the remainder of the term of this Agreement, or a twelve (12) month period, whichever is longer, at a salary of 85% of his final Base Salary as President in effect at the time of his voluntary resignation or the expiration of this Agreement, as applicable. Eighty-five percent is consistent with University policy and practice for administrators returning to the faculty. All other compensation, allowances, bonuses, privileges, benefits, and perquisites related to the position of President shall end on a date mutually agreed to by the parties, but no later than thirty (30) days after Dr. McPhee ceases to serve as President.

D. If the Board terminates Dr. McPhee's employment as President without cause for any reason other than those specified in Section 4.C. above, and/or reassigns Dr. McPhee to other full-time duties at the University, he shall be permitted to continue as a tenured Professor of Educational Leadership on a full-time basis for the remainder of the term of this Agreement, or a twelve (12) month period, whichever is longer, at a salary of 85% of his final Base Salary as President in effect at the time of: (1) the expiration of this Agreement; (2) his termination, except for cause; (3) or reassignment. In addition, the University shall pay liquidated damages to Dr. McPhee in an amount equal to 25% of Dr. McPhee's final Base Salary as President times the number of years (or pro-rata portion of a year) remaining in the term of the Agreement, or a twelve (12) month period, whichever is longer. All other compensation, allowances, bonuses, privileges,

benefits, and perquisites related to the position of President shall end on a date mutually agreed to by the parties, but no later than thirty (30) days after Dr. McPhee ceases to serve as President.

5. PERFORMANCE REVIEWS

A. Dr. McPhee's performance as President shall be reviewed annually in accordance with the Board Policy on Selection, Evaluation and Retention of the President, as it now exists and as it may be amended in the future. The Executive and Governance Committee shall consider Dr. McPhee's performance evaluations in developing recommendations to the Board concerning his compensation, including discretionary performance bonuses, and other terms of employment.

6. BENEFITS AND REIMBURSEMENTS

A. Dr. McPhee shall be eligible for University fringe benefits to the same extent as other full-time, exempt employees of the University.

B. The University shall reimburse Dr. McPhee for entertainment and travel expenses in accordance with University fiscal policies governing entertainment and travel as they now exist and as they may be amended in the future, including, but not limited to, MTSU Policy 658, Travel. Copies of the current policies have been provided to Dr. McPhee prior to execution of this Agreement, and by signing this Agreement, Dr. McPhee certifies that he has read these policies, understands them, and will comply with them. Dr. McPhee is not authorized to make exceptions to these policies for himself and/or his spouse. Exceptions for Dr. McPhee and/or his spouse must be approved by the Chair of the Audit & Compliance Committee in writing and in advance of any reimbursement, and approved exceptions shall be reported by the Vice President for Business and Finance to the Audit & Compliance Committee at its next meeting.

C. Dr. McPhee agrees that he is authorized to use the University airplane but such use is limited to University business. Dr. McPhee agrees that he is not authorized to use the University airplane for commuting or any other personal purpose and that no exceptions may be made to this provision.

D. The University shall provide Dr. McPhee with an annual non-accountable expense allowance of \$10,000.00 (net) payable in equal monthly installments. The University agrees to increase the gross allowance in the appropriate amount necessary to cover all applicable withholding, Federal Insurance Contributions Act (FICA) and Medicare taxes that Dr. McPhee is required to pay. The non-accountable expense allowance is for the discretionary use of Dr. McPhee and is intended primarily to compensate Dr. McPhee for business expenses that cannot be reimbursed under University policy. The University will report the non-accountable expense allowance as income for federal tax purposes and include it on the W-2 form issued annually to Dr. McPhee.

E. If the University pays related travel expenses for a speaking engagement or other professional activity of Dr. McPhee, he must remit any honorarium he might receive to the University for credit against the account charged for the travel expenses. Dr. McPhee will receive the balance of any honorarium remitted after travel expenses are deducted as permitted

by University policy. If Dr. McPhee elects to pay his own travel expenses, he may retain the honorarium in full, however, he must use annual leave for the event.

F. The Board recognizes that the spouse of the University President is often called upon to devote substantial time and energy to activities which benefit the University. Dr. McPhee's spouse is hereby authorized to serve when called upon as a representative of the institution, and to accept reimbursement from the University or Foundation for expenses incurred in connection with such activity, to the extent such reimbursements are requested by Dr. McPhee and must be approved for payment by the Vice President for Business and Finance, the Foundation, or the Chair of the Audit & Compliance Committee in writing and in advance of any reimbursement, and approved exceptions shall be reported by the Vice President for Business and Finance to the Audit & Compliance Committee at its next meeting. It is understood that Dr. McPhee's spouse may use facilities and other resources of the University in the same matter as an employee when involved in such activities. The institution shall also assume the travel expenses for Dr. McPhee's spouse on business trips to which she is officially invited or for which her presence is regarded by Dr. McPhee as necessary to carry out his official representational duties to promote a favorable image of the institution. Dr. McPhee will be responsible for any tax consequences resulting from benefits provided to Dr. McPhee's spouse pursuant to this Section F. The Board of Trustees shall annually establish a reasonable cap on expenses allowed by this Paragraph F. From time to time, the Board Chair may increase the cap based on need. An annual accounting of expenses will be provided to the Audit and Compliance Committee.

G. The University shall pay the annual dues and membership fees for Dr. McPhee in professional associations, clubs and organizations of benefit to the University. The University agrees to reimburse Dr. McPhee for any related initiation fees, monthly dues and charges. Dr. McPhee is responsible for payment of any costs or charges incurred which are not for University related businesses.

7. UNIVERSITY POLICIES AND PROCEDURES - CONFLICT OF INTERESTS POLICIES AND DISCLOSURE STATEMENTS

A. Dr. McPhee shall comply with all University rules, policies and procedures applicable to exempt employees, now in effect or hereafter adopted or amended, including, but not limited to, MTSU Policy 10, Ethics and Code of Conduct. A copy of MTSU Policy 10 has been provided to Dr. McPhee prior to execution of this Agreement, and by signing this Agreement, Dr. McPhee certifies that he has read Policy 10, understands it, and will comply with it as it now exists and as it may be amended in the future. Dr. McPhee is not authorized to make an exception to any University policy or procedure for himself and/or his spouse.

B. Dr. McPhee shall comply with MTSU Policy 12, Conflict of Interest, a copy of which has been provided to Dr. McPhee prior to execution of this Agreement. By signing this Agreement, Dr. McPhee certifies that he has read this policy, understands it, and will comply with it as it now exists and as it may be amended in the future. In addition, the position of President of the University is subject to the provisions of Tennessee Code Annotated §§ 8-50-501 *et seq.* requiring the filing of a disclosure statement and timely amended statements with the Tennessee Ethics Commission.

8. TERM AND TERMINATION

A. The term of this Agreement shall be from December 11, 2018 through December 10, 2023, unless sooner terminated as provided hereinafter.

B. This Agreement may be extended for additional terms upon written agreement of the parties. Six (6) months prior to the expiration of the initial term of this Agreement, the Board must notify Dr. McPhee, in writing, of its intent to: (1) allow this Agreement to expire at the end of its term; (2) enter into negotiations for a new Agreement; or (3) amend and extend the term of this Agreement. If the Board fails to notify Dr. McPhee of its decision within the prescribed period of time, this Agreement shall be extended automatically for two (2) additional years with a two and one half (2 1/2%) percent increase in the Base Salary per year. After the initial two (2) year extension, Dr. McPhee and Board may revisit/negotiate the terms at that time.

C. Acknowledging that his service as President is without tenure and solely at the will and pleasure of the Board, except as outlined in Section 4 of this Agreement, Dr. McPhee agrees that the Board, without complying with any University personnel policy or procedure requiring progressive discipline or any other policy or procedure applicable either to exempt employees or to faculty, and with the required notification, may: (1) allow this Agreement to expire and elect not to renew his appointment as President as outlined in Section 8.B.; (2) terminate this Agreement without cause upon ninety (90) days' written notice to Dr. McPhee; or (3) reassign Dr. McPhee for the remaining term of this Agreement from the position of President to other full-time duties within the University, including, but not limited to, full-time duties as Professor of Educational Leadership, upon ninety (90) days' written notice to him.

D. If Dr. McPhee elects not to accept reassignment to other full-time duties under Section 8.C.(3) above, his non-acceptance shall be considered a termination by the Board, without cause, under the terms of this Agreement in which event the University shall pay liquidated damages to Dr. McPhee in an amount equal to Dr. McPhee's final Base Salary as President times the number of years (or pro-rata portion of a year) remaining in the term of the Agreement, or a twelve (12) month period, whichever is longer. All other compensation, allowances, bonuses, privileges, benefits, and perquisites related to the position of President shall end no later than thirty (30) days after he ceases to serve as President.

E. If the Board terminates this Agreement without cause under Section 8.C.(2) above and Dr. McPhee elects to continue employment with the University in his tenured faculty appointment, as permitted under Section 4 of this Agreement, he will receive compensation as outlined in Section 4.D.

F. If the Board terminates this Agreement without cause under Section 8.C.(2) above and Dr. McPhee elects to resign his tenured faculty appointment and terminate his employment with the University in its entirety, the University shall pay liquidated damages to Dr. McPhee in an amount equal to Dr. McPhee's final Base Salary as President times the number of years (or pro-rata portion of a year) remaining in the term of the Agreement or a twelve (12) month period, whichever is longer. All other compensation, allowances, bonuses, privileges, benefits, and perquisites related

to the position of President shall end no later than thirty (30) days after he ceases to serve as President.

G. The University's payment of the liquidated damages, as outlined in this Agreement, shall be made in equal monthly installments over the remaining term of the Agreement, subject to all requirements of state and federal law with respect to withholding and other deductions with the first payment due on the University's next regular payday that follows the expiration of sixty (60) days from the date of termination of this Agreement. The obligation of the University to pay liquidated damages shall be conditioned, however, on Dr. McPhee's signing and returning to the University (without revoking) a timely and effective release of claims mutually agreed to by the parties. The mutually agreed upon release shall be returned by Dr. McPhee no later than the sixtieth (60th) day from the date of termination.

H. The University agrees to pay Dr. McPhee's legal expenses, including, but not limited to, attorney fees, mediation fees and other costs in the event the University removes or attempts to remove Dr. McPhee as President of the University for any reason other than for cause. In the event the University terminates Dr. McPhee's employment for cause as provided in Section 8.I. below, Dr. McPhee shall be responsible for his own legal expenses.

I. The Board may terminate this Agreement at any time for cause without complying with any University personnel policy or procedure related to employee discipline or progressive discipline, or any other policy or procedure applicable to exempt employees. "Cause" shall include any one or more of the following as determined in the sole discretion of the Board:

1. Failure to cure, after reasonable notice and opportunity to cure, deficiencies identified by the Board in a performance review or other writing;
2. Indictment, admission of guilt, pleas of *nolo contendere*, or conviction of a felony or a non-felony (except minor traffic citations);
3. Theft or misappropriation of state or University funds, property, services, or other resources, which includes, but is not limited to, misappropriation of state or University resources for personal purposes;
4. Conduct in violation of MTSU Policy 10, Ethics and Code of Conduct, or other conduct which is unbecoming to the office of President or otherwise reflects adversely on the University;
5. Refusal to comply with a lawful directive of the Board or its designee(s);
6. Intentional violation of University policies or procedures now in effect and hereafter adopted or amended;
7. Dishonesty or other violation of professional ethics or responsibility;
8. Acts constituting a conflict of interest under applicable University policies or state

law;

9. Any material breach of this Agreement; or

10. Any act of gross misconduct, as defined by University personnel policy now in effect or hereafter adopted by the University.

The grounds for termination contained in this Section 8.I. are separate and independent grounds for termination, and one ground for termination shall not be interpreted in any manner to modify, explain, or restrict any other ground for termination.

J. Prior to terminating this Agreement for cause under Section 8.I. of this Agreement, Dr. McPhee shall be given written notice of the cause for termination and an explanation of the evidence supporting termination. Dr. McPhee shall also be given an opportunity to respond to the proposed termination in a meeting of the Board or the Executive and Governance Committee of the Board to be held not less than seven (7) and not more than fourteen (14) calendar days after the date of the written notice. At the meeting, Dr. McPhee may be represented by counsel of his choice at his own expense but not by counsel for the University.

K. If the Board terminates this Agreement for a cause as described in Subsections 2. through 10. of Section 8.I. of this Agreement, Dr. McPhee agrees that the termination shall constitute a simultaneous relinquishment of his tenured faculty appointment, waiving all rights to hearings, appeals, or other procedures otherwise available by holding a faculty appointment.

L. The Board may suspend Dr. McPhee with pay pending an investigation or decision relating to termination for cause under Section 8.I. of this Agreement. However, in no circumstance may the Board suspend Dr. McPhee without pay pending an investigation or decision relating to termination for cause under Section 8.I. of this Agreement.

M. For any one or more acts, omissions, or events that could be grounds for termination for cause under Section 8.I. of this Agreement, the Board may take other disciplinary or corrective action against Dr. McPhee short of terminating this Agreement. Other disciplinary or corrective action may include, but is not limited to, one or more of the following:

1. Written reprimand;

2. Suspension with pay; or

3. For a cause described in Subsections 2. through 10. of Section 8.I. of this Agreement, suspension without pay.

No such disciplinary or corrective action shall be construed to conflict with or limit the Board's right to terminate this Agreement during or after such disciplinary or corrective action.

N. Upon the Board's termination of this Agreement for cause pursuant to Section 8.I. of this Agreement, Dr. McPhee shall not be entitled to further salary, non-accountable expense allowance,

automobile, housing, bonuses, fringe benefits, privileges, perquisites, or any other form of compensation as President. In the event of a termination for cause under Subsection 1. of Section 8.I., Dr. McPhee may be permitted to continue employment in his tenured faculty appointment pursuant to the provision of Section 4. of this Agreement, his compensation and benefits shall be limited to that described in Section 4. of this Agreement.

O. This Agreement shall terminate automatically upon the death of Dr. McPhee, and all salary, non-accountable expense allowance, bonuses, fringe benefits, privileges, perquisites, and any other form of compensation shall terminate on the last day of the calendar month in which death occurs, except that Dr. McPhee's personal representatives or other designated beneficiary shall be paid any death benefits due under University policy now in effect or hereafter adopted by the University, and Dr. McPhee's widow and/or family living with him at the time of his death in the President's residence shall have the right to live there for a period of no more than ninety (90) days. The automatic termination of this Agreement pursuant to this Section 8.O. shall not give rise to any obligation on the part of the University to pay liquidated damages to Dr. McPhee under any provision of this Agreement.

P. This Agreement shall terminate automatically on the date Dr. McPhee is disabled as defined herein.

1. "Disabled" shall mean: In the opinion of a qualified physician retained by the University, Dr. McPhee has a physical or mental impairment that prevents him from performing one or more essential function of President with or without reasonable accommodation and will prevent him from doing so for one hundred twenty (120) consecutive calendar days or longer.

2. Upon termination of this Agreement pursuant to this Section 8.P., all salary, non-accountable expense allowance, bonuses, fringe benefits, privileges, perquisites, and any other form of compensation shall terminate on the last day of the calendar month in which Dr. McPhee is diagnosed as disabled by the qualified physician retained by the University, except that Dr. McPhee shall receive any disability benefits due him under University policy now in effect or hereafter adopted by the University, and Dr. McPhee and the family members living with him in the President's residence shall have the right to live there for a period of no more than ninety (90) days after the diagnosis.

3. If this Agreement terminates pursuant to this Section 8.P., Dr. McPhee shall be permitted to return to his tenured faculty appointment pursuant to Section 4. of this Agreement, and determinations concerning his continued employment with the University shall be made in accordance with University policies, procedures, and practices applicable to tenured faculty.

4. The automatic termination of this Agreement pursuant to this Section 8.P. shall not give rise to any obligation on the part of the University to pay liquidated damages to Dr. McPhee under any provision of this Agreement.

Q. The Board and Dr. McPhee may reach an agreement for termination of this Agreement at any time prior to expiration of this Agreement, provided that such agreement is evidenced in writing signed by both parties.

R. This Agreement shall terminate on the effective date of Dr. McPhee's resignation or retirement from his employment as President. Dr. McPhee shall provide the Chair of the Board a minimum of ninety (90) days' prior written notice of resignation of his employment as President. Dr. McPhee shall provide the Vice Chair of the Board a minimum of one hundred and eighty (180) days' prior written notice of his retirement from his employment as President. In its sole discretion, the Board or the Executive and Governance Committee may elect to waive these notice requirements and accept Dr. McPhee's resignation or retirement effective as of any date certain. In its sole discretion, the Board or the Executive and Governance Committee may elect to place Dr. McPhee on administrative leave with pay for all or any portion of time from the date of notice until the effective date of his resignation or retirement.

S. In accordance with requirements of state law, and notwithstanding anything in this Agreement to the contrary, this Agreement is subject to the appropriation and availability of funds. If funds are not appropriated or are otherwise unavailable, the University reserves the right to terminate this Agreement as of June 30 of any year upon written notice to Dr. McPhee; provided, however, that Dr. McPhee's right under Section 4. of this Agreement to continue in a tenured faculty appointment shall survive the termination of this Agreement under this Section 8.S. Dr. McPhee agrees that termination of this Agreement under this Section 8.S. shall not be deemed a breach of this Agreement by the University and that upon such termination, he shall have no right to recover from the University any liquidated, actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

9. MEDIATION

A. The parties agree that any controversy or claim either party may have against the other arising out of or relating to the construction, application or enforcement of this Agreement, as well as any controversy or claim based upon an alleged breach of any legal right relating to or arising from Dr. McPhee's employment and/or termination of his employment shall be submitted to non-binding mediation. Within fifteen (15) days after written notice of request for mediation from one party to the other, the dispute shall be submitted to a single mediator chosen by mutual agreement of the parties in Nashville, Tennessee. The costs of the mediation shall be borne by the University.

10. NOTICE

A. Any notice or communication contemplated by this Agreement shall be deemed to be given when in writing and mailed, registered or certified, postage pre-paid with return receipt requested, to a party at the address set forth below or such other address as may hereafter be designated in writing:

To Dr. Sidney McPhee:

To the University:

Chair of the Board of Trustees
Middle Tennessee State University

1301 E. Main St., CAB 211
Murfreesboro, TN 37132

11. MISCELLANEOUS

A. This Agreement contains the complete agreement between the parties concerning Dr. McPhee's appointment as President. Neither party has made any representation with respect to the subject matter of this Agreement not specifically included in this Agreement, nor has either party relied on any such representation in entering into this Agreement.

B. This Agreement may only be modified by a writing signed by both parties.

C. The invalidity of any portion of this Agreement shall not and shall not be deemed to affect the validity of any other provision. In the event any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties after the expungement of the invalid provision.

D. This Agreement shall be interpreted in accordance with Tennessee law.

E. A party's failure to respond to a breach by the other party shall not operate as a waiver of their rights under this Agreement or otherwise. Any delay or omission by a party in its exercise of any right or power accruing upon any breach shall not impair or constitute a waiver of such right or power by that party, and any such right or power may be exercised from time to time and as often as may be deemed expedient. The waiver of any breach of any of the terms and conditions of this Agreement shall not be construed as subsequently waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no forbearance or waiver had occurred.

F. The titles to the sections of this Agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement.

G. This Agreement may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original constituting but one and the same instrument.

H. All documents, files, records, papers, reports, materials, correspondence, and copies thereof (in any format, including electronically stored information), received or prepared by Dr. McPhee during performing, or as an incident to, Dr. McPhee's duties and responsibilities under this Agreement are and shall remain the sole property of the University. Within fourteen (14) days of the expiration or termination of this Agreement, Dr. McPhee shall return all University property in his possession. Dr. McPhee may copy, at his own expense, all documents, files, records, papers, reports, materials, correspondence, and copies thereof (in any format, including electronically stored information) he received or prepared for his records. Dr. McPhee shall submit to the

University for approval, in writing, all requests to receive the aforementioned information. Such approval shall not be unreasonably withheld. The foregoing provisions shall not apply to Dr. McPhee's personal notes, personal memorabilia, diaries, and similar personal property of Dr. McPhee which he is entitled to retain.

I. Dr. McPhee may not assign, pledge, or encumber his rights, interests, or obligations under this Agreement.

J. Each party hereto shall be viewed as an equal participant to the drafting of this Agreement, and each party agrees that there shall be no presumption against the drafting party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates appearing below.

Sidney A. McPhee, President

Date

MIDDLE TENNESSEE STATE UNIVERSITY

Stephen B. Smith, Chairman of the Board

Date



**Middle Tennessee State University
Board of Trustees**

Tab 5

Finance and Personnel Committee Meeting
November 13, 2018



**Middle Tennessee State University
Board of Trustees**

MEETING: December Quarterly Board Meeting

SUBJECT: [Finance and Personnel Committee](#)

DATE: December 11, 2018

PRESENTER: Committee Chair Joey Jacobs

ACTION REQUIRED: Roll Call Vote

STAFF RECOMMENDATION: Approval

- 2018-19 October Revised Budget
- Regional Scholars Program
- Tuition Transparency Act – Factors Considered When Developing Recommendations to Increase Tuition and Mandatory Fees



**Middle Tennessee State University
Board of Trustees**

MEETING: Winter Quarterly Board Meeting

SUBJECT: [2018-19 October Revised Budget](#)

DATE: December 11, 2018

BACKGROUND INFORMATION:

The Board of Trustees is charged with approving the operating budgets and setting the fiscal policies for Middle Tennessee State University. As required by THEC, one of the three budgets submitted by the University annually is an October (Revised) budget.

The attached budget being submitted for your approval contains the following changes since the July (Original) Budget:

- Adjustments to Tuition and Fee Revenue for (1) inclusion of the remaining 2.84% tuition increase and (2) reflecting a 1.35% decrease in FTE for fall enrollment.
- Adjusted appropriations for state funded employee health insurance benefits due to the 9% premium decrease.
- Adjusted expenditure budgets for (1) state funded decrease in health insurance employee benefit, (2) re-budgeting of various student fee balances from the prior year, (3) purchases in process at year end but not be completed until the current fiscal year, (4) additional safety and security initiatives, (5) salary increases for 1.5% across-theboard and market adjustments, and (6) limited funding for new academic programs approved by THEC for FY 2018-19.
- Adjustments to auxiliary and restricted budgets based on information obtained since the July Budget submission.

**MIDDLE TENNESSEE STATE UNIVERSITY
ANALYSIS OF BUDGET CHANGES FOR REVENUE CATEGORIES
OCTOBER BUDGET 2018-19**

	2018-19 July Budget	2018-19 October Budget	Difference
Tuition and Fees	\$ 194,948,700	\$ 195,869,500	\$ 920,800
State Appropriations	102,414,600	101,169,700	(1,244,900)
Federal Grants and Contracts	750,000	750,000	-
Local Grants and Contracts	60,000	60,000	-
State Grants & Contracts	45,000	45,000	-
Private Grants & Contracts	281,300	281,300	-
Private Gifts	-	-	-
Sales & Services of Educ Activities	686,200	699,400	13,200
Sales & Services of Other Activities	18,780,700	19,424,300	643,600
Other Sources	<u>833,000</u>	<u>821,800</u>	<u>(11,200)</u>
	<u><u>\$ 318,799,500</u></u>	<u><u>\$ 319,121,000</u></u>	<u><u>\$ 321,500</u></u>

The following items are reflected above:

1.5% Tuition Increase is reflected in the July Budget

Remaining 1.34% tuition increase and -1.35% enrollment decline is reflected in October Budget

Appropriation Adjustments for Health Insurance

Mandatory and Non-mandatory Fee Increases

MIDDLE TENNESSEE STATE UNIVERSITY
UNRESTRICTED EDUCATION AND GENERAL EXPENDITURES BY FUNCTIONAL CATEGORY
OCTOBER BUDGET 2018-19

Function	July Budget 2018-19	October Budget 2018-19	Difference
Instruction	\$ 151,821,400	\$ 161,047,400	\$ 9,226,000
Research	4,843,100	8,000,700	3,157,600
Public Service	3,852,000	5,039,000	1,187,000
Academic Support	32,602,500	33,249,200	646,700
Student Services	37,461,300	39,066,000	1,604,700
Institutional Support	24,063,200	25,832,500	1,769,300
Operation and Maintenance	27,972,400	28,678,400	706,000
Scholarships and Fellowships	24,600,600	26,380,100	1,779,500
Transfers	<u>11,583,000</u>	<u>14,013,400</u>	<u>2,430,400</u>
Total	<u>\$ 318,799,500</u>	<u>\$ 341,306,700</u>	<u>\$ 22,507,200</u>

The following items are reflected above:

2.5% Mandated Salary Pool plus 1.2% Additional Market Adjustment Funding

Health Insurance Funding

Mandatory Fee Increases

July Budget Figures are Base Budget

**MIDDLE TENNESSEE STATE UNIVERSITY
UNRESTRICTED EDUCATION AND GENERAL EXPENDITURES BY NATURAL CATEGORY
OCTOBER BUDGET 2018-19**

	July Budget 2018-19	October Budget 2018-19	Difference
Professional Salaries	\$ 141,554,500	\$ 142,252,800	\$ 698,300
Other Salaries	21,273,300	21,406,500	133,200
Employee Benefits	59,252,500	58,327,100	(925,400)
Travel	4,273,200	4,583,500	310,300
Operating Expense	78,372,200	97,973,000	19,600,800
Capital Outlay	2,490,800	2,750,400	259,600
Transfers	11,583,000	14,013,400	2,430,400
Total	<u>\$ 318,799,500</u>	<u>\$ 341,306,700</u>	<u>\$ 22,507,200</u>

The following items are reflected above:

2.5% Mandated Salary Pool plus 1.2% Additional Market Adjustment Funding

Health Insurance Funding

Mandatory Fee Increases

July Budget Figures are Base Budget

**MIDDLE TENNESSEE STATE UNIVERSITY
ANALYSIS OF BUDGET CHANGES FOR AUXILIARIES
OCTOBER BUDGET 2018-19**

Auxiliary	2018-19 July Budget	2018-19 October Budget	Difference
Bookstore	\$ 450,000	\$ 450,000	\$ -
Food Service	2,509,000	2,509,000	-
Housing	16,968,500	16,968,487	(13)
Vending	130,000	130,000	-
Recreational Center	3,116,000	3,032,644	(83,356)
Post Office	397,600	397,600	-
Parking Services	5,044,200	5,044,200	-
Residential & Commercial Rentals	280,000	280,000	-
Greek Row	149,000	0	(149,000)
Health Services	4,146,900	4,065,700	(81,200)
TN Miller Coliseum	614,600	614,614	14
Student LD Service	10,000	10,000	-
TOTAL	\$ 33,815,800	\$ 33,502,245	\$ (313,555)

MIDDLE TENNESSEE STATE UNIVERSITY
SUMMARY OF RESTRICTED CURRENT FUNDS AVAILABLE AND APPLIED
OCTOBER BUDGET 2018-19

Revenues	2018-19 July Budget	2018-19 October Budget	Difference
Tuition and Fees	\$ 1,500,000	\$ 1,600,000	\$ 100,000
Federal Grants and Contracts	42,750,000	43,750,000	1,000,000
State Appropriations: Centers of Excellence	382,600	383,200	600
State Appropriations: Special Allocations	489,500	489,500	-
State Grants & Contracts	38,000,000	38,500,000	500,000
Local Grants & Contracts	60,000	50,000	(10,000)
Private Grants & Contracts	850,000	900,000	50,000
Private Gifts	2,400,000	2,400,000	-
Endowment Income	750,000	750,000	-
Other Income	1,500,000	1,500,000	-
Total Revenues	<u>\$ 88,682,100</u>	<u>\$ 90,322,700</u>	<u>\$ 1,640,600</u>
Expenses			
Instruction	\$ 3,100,000	\$ 3,000,000	\$ (100,000)
Research	4,000,000	3,500,000	(500,000)
Public Service	5,200,000	5,200,000	-
Academic Support	600,000	600,000	-
Student Services	3,600,000	3,200,000	(400,000)
Institutional Support	60,000	60,000	-
Operation and Maintenance	2,000	1,500	(500)
Scholarships and Fellowships	71,900,000	74,500,000	2,600,000
Total Expenses	<u>\$ 88,462,000</u>	<u>\$ 90,061,500</u>	<u>\$ 1,599,500</u>

**MIDDLE TENNESSEE STATE UNIVERSITY
TOTAL REVENUE BUDGET
OCTOBER BUDGET 2018-19**

Fund Group	2018-19 July Budget	2018-19 October Budget	Difference
Unrestricted Education & General	\$ 318,799,500	\$ 319,121,000	\$ 321,500
Auxiliary	33,815,800	33,502,245	(313,555)
Restricted	88,682,100	90,322,700	1,640,600
TOTAL	\$ 441,297,400	\$ 442,945,945	\$ 1,648,545



**Middle Tennessee State University
Board of Trustees**

MEETING: Winter Quarterly Board Meeting

SUBJECT: [Regional Scholars Program](#)

DATE: December 11, 2018

BACKGROUND INFORMATION:

The University implemented a Regional Scholars Program for both undergraduate and graduate students in Fall 2016, in an effort to increase enrollments of those students with the highest academic credentials. The program allows out of state students to attend the university at approximately half of the full out of state rate if they meet certain conditions. The tuition rate is calculated by taking the in-state tuition rate and adding the state subsidy, which represents the state appropriations received by the University per FTE. The current conditions for the program are as follows:

- Graduated from a high school located in a county within 250 mile radius of MTSU (undergrad) or have a permanent address within a 250 mile radius (graduate)
- Have an ACT composite of 25 (SAT 1130) or above (undergraduate)
- Maintain full time enrollment (12 hours undergraduate / 10 hours graduate)
- Remain in good academic standing

The following undergraduate scenarios are presented in these materials for consideration of expanding the program to include the entirety of all Border States:

- Maintain the current academic requirement of a minimum 25 ACT
- Revise the academic requirement to a minimum ACT of 23
- Remove the ACT academic requirement altogether

The University is recommending the Committee's approval of expanding the program to include the entirety of Border States for both graduates and undergraduates and maintaining the 25 ACT requirement for undergraduates. As shown in the materials, the undergraduate student enrollment from this area would need to increase from 9 students to 25 students over the next four years to stay revenue neutral. For the graduate program, the increase would be from 6 students to 11 students. However, the University believes with the reduced tuition rate, coupled with the higher scholarships, the enrollment from this area will exceed these numbers.

Regional Scholars Program - Undergraduate Program

Effects of Expansion

	2018-19	2019-20	2020-21	2021-22	2022-23
Expansion to Include All Border States (Current Academic Requirement):					
Current Students	9	7	5	3	-
New Students (Cumulative)	-	18	20	22	25
Annual Revenue	227,448	310,200	310,200	310,200	310,200
Annual Scholarships	27,000	112,500	112,500	112,500	112,500
Annual Potential Budget Impact (Flat Enrollment)		(129,276)	(129,276)	(129,276)	(129,276)
Cumulative Potential Budget Impact (Flat Enrollment)		(129,276)	(258,552)	(387,828)	(517,104)

Expansion to Include All Border States (Revise Academic Requirement to Minimum 23 ACT):

Current Students	22	17	12	7	-
New Students (Cumulative)	-	34	39	44	51
Annual Revenue	555,984	632,808	632,808	632,808	632,808
Annual Scholarships	27,000	112,500	112,500	112,500	112,500
Annual Potential Budget Impact (Flat Enrollment)		(296,508)	(296,508)	(296,508)	(296,508)
Cumulative Potential Budget Impact (Flat Enrollment)		(296,508)	(593,016)	(889,524)	(1,186,032)

Expansion to Include All Border States (No Academic Requirement):

Current Students	111	83	55	27	-
New Students (Cumulative)	-	230	258	286	313
Annual Revenue	2,805,192	3,883,704	3,883,704	3,883,704	3,883,704
Annual Scholarships	333,000	1,408,500	1,408,500	1,408,500	1,408,500
Annual Potential Budget Impact (Flat Enrollment)		(1,594,404)	(1,594,404)	(1,594,404)	(1,594,404)
Cumulative Potential Budget Impact (Flat Enrollment)		(1,594,404)	(3,188,808)	(4,783,212)	(6,377,616)

Criteria Used in Calculations:

One fourth of current students graduate annually over next four years

Average Current Scholarship Received 3,000

Average New Scholarship Received 4,500

2018-19 Tuition rates used (12 hours):

Out of State 25,272

Regional Scholars 12,408

Discounted 12,864

Regional Scholars Program - Graduate Program

Effects of Expansion

	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>	<u>2021-22</u>	<u>2022-23</u>
Expansion to Include All Border States:					
Current Students	6	5	4	3	-
New Students (Cumulative)	-	6	7	8	11
Annual Revenue	156,720	163,020	163,020	163,020	163,020
Annual Potential Budget Impact (Flat Enrollment)		(67,800)	(67,800)	(67,800)	(67,800)
Cumulative Potential Budget Impact (Flat Enrollment)		(67,800)	(135,600)	(203,400)	(271,200)

Criteria Used in Calculations:

One fourth of current students graduate annually over next four years

2018-19 Tuition rates used (12 hours):

Out of State	26,120
Regional Scholars	<u>14,820</u>
Discounted	11,300



**Middle Tennessee State University
Board of Trustees**

MEETING: Winter Quarterly Board Meeting

SUBJECT: Tuition Transparency Act: Factors Considered When
Developing Recommendations to Increase Tuition and
Mandatory Fees

DATE: December 11, 2018

BACKGROUND INFORMATION:

Tennessee Code Annotated § 49-7-1601 et seq. was amended in 2018 and includes the following requirement for the University of Tennessee system and state university boards when considering increases in tuition and mandatory fees:

49-7-1603(b)

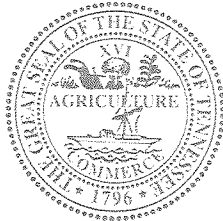
- 1) By January 1, 2019, each board shall develop a list of factors that shall be considered when developing recommendations to increase tuition and mandatory fees. The factors shall include, at a minimum, the level of state support; total cost of attendance; and efforts to mitigate the financial effect on students.
- 2) Each state university and each campus in the University of Tennessee system shall post on its website a summary of the recommendations pursuant to subdivision (b)(1).

In accordance with this new legislation, the University is proposing for your approval the following list of factors to be considered when developing recommendations for increases in tuition and mandatory fees:

- 1) Tennessee Higher Education Commission (THEC) binding tuition and mandatory fee increase ranges;

- 2) Level of state support;
- 3) Total cost of attendance (which includes tuition cost, mandatory fees, room and board, books, and other educational expenses);
- 4) Efforts to mitigate the financial effect on students; and
- 5) Other factors deemed appropriate by the University such as enrollment goals, market factors, new facility costs, new program costs, and costs related to general campus operations.

Once a set of factors are approved by the Board of Trustees, they will be used in recommending increases in tuition and mandatory fees beginning with the 2019-20 rates



State of Tennessee

PUBLIC CHAPTER NO. 614

SENATE BILL NO. 1665

By Dickerson, Gresham, Yarbrow

Substituted for: House Bill No. 1684

By Smith, Ragan, Daniel, Moody, Hardaway, Terry, Towns

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 11; Title 49, Chapter 7; Title 49, Chapter 8 and Title 49, Chapter 9, relative to higher education.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 7, is amended by adding the following language as a new part:

49-7-1601.

This part shall be known and may be cited as the "Tuition Transparency and Accountability Act."

49-7-1602.

As used in this part:

(1) "Board" means the trustees of the University of Tennessee or a state university board, as applicable;

(2) "Cost of attendance" means the combined cost of tuition, mandatory fees, room and board, books, and other educational expenses as determined by the financial aid office of the postsecondary institution;

(3) "Predictive cost estimate" means a non-binding estimated cost of attending an undergraduate program at the postsecondary institution based on a student's chosen field of study over a four-year period. A predictive cost estimate may include, but is not limited to, potential tuition and mandatory fee increases, projected increases in tuition based on a student's chosen field of study, and historical trend data; and

(4) "Tuition and mandatory fees" means the charges imposed to attend the relevant institution of higher education as an in-state undergraduate student and all fees required as a condition of enrollment as determined by the board. "Tuition and mandatory fees" does not include fees charged to out-of-state students by institutions of higher education, room and board, or other non-mandatory fees and charges.

49-7-1603.

(a) At least fifteen (15) days prior to holding a meeting to adopt an increase in tuition and mandatory fees, a board shall give public notice of the proposed tuition and mandatory fee increase as an action item on the board's meeting agenda. Individuals shall be permitted to provide comments during the fifteen-day period. The public notice of the proposed tuition and mandatory fee increase shall, at a minimum, include:

(1) An explanation for the proposed tuition and mandatory fee increase;

(2) A statement specifying the purposes for which revenue derived from the tuition and mandatory fee increase will be used; and

(3) A description of the efforts to mitigate the effect of the tuition and mandatory fee increase on students.

(b)(1) By January 1, 2019, each board shall develop a list of factors that shall be considered when developing recommendations to increase tuition and mandatory fees. The factors shall include, at a minimum, the level of state support; total cost of attendance; and efforts to mitigate the financial effect on students.

(2) Each state university and each campus in the University of Tennessee system shall post on its website a summary of the recommendations pursuant to subdivision (b)(1).

49-7-1604.

By February 1 of each year, each governing board shall provide a report to the office of legislative budget analysis, for distribution to the general assembly, with information regarding expenditures of revenues derived from any tuition and fees increase in the previous full academic year. The report shall include how revenues were used, the effect on student financial aid, and the effect on the average total cost of attendance per student.

49-7-1605.

Beginning August 1, 2019, each state university and each campus in the University of Tennessee system shall provide, with a student's letter of acceptance, a predictive cost estimate for students applying for undergraduate degree programs for the 2020-2021 academic year and for academic years thereafter.

SECTION 2. This act shall take effect July 1, 2018, the public welfare requiring it.


SENATE BILL NO. 1665

PASSED: March 19, 2018


RANDY McNALLY
SPEAKER OF THE SENATE


BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 2nd day of April 2018


BILL HASLAM, GOVERNOR



**Middle Tennessee State University
Board of Trustees**

Tab 6

New Business



**Middle Tennessee State University
Board of Trustees**

MEETING: December Quarterly Board Meeting

SUBJECT: [Approval of New Academic Program
MS, Geosciences](#)

DATE: December 11, 2018

PRESENTER: Dr. Mark Byrnes, University Provost

ACTION REQUIRED: Roll Call Vote

STAFF RECOMMENDATION: Approval

- Establish a Free-standing Degree from an Existing Concentration



**Middle Tennessee State University
Board of Trustees**

MEETING: December Quarterly Board Meeting

SUBJECT: **Approval of New Academic Program
MS, Geosciences**

DATE: December 11, 2018

BACKGROUND INFORMATION:

Establish a Free-standing Degree from an Existing Concentration

Elevate the existing concentration in Geosciences within the Master of Science in Professional Sciences to a free-standing Master of Science (M.S.) degree with a major in Geosciences.

Elevating the existing concentration to a free-standing degree, changing the Classification of Instructional Program (CIP) category, and clearly identifying the field of study will make the program more attractive to potential students as well as providing employers with a more accurate understanding of the academic program completed by graduates. CIP classification 40.0601 is also designated as a STEM field of study by the Department of Homeland Security and the Bureau of Labor Statistics estimates that employment of geoscientists is expected to grow 14% between 2016 and 2026, compared to 10% for other physical science occupations and 7% for all occupations. This concentration has been in existence since fall 2012, currently enrolls 19 students and has graduated 17 students in the past two years. Because this program already exists as a concentration no new faculty or other resources are required.

This action is consistent with the policy of the Tennessee Higher Education Commission that permits existing concentrations with steady enrollment and graduation rate for a period of at least three years to be recognized as a freestanding degree if the establishment of the concentration as a degree does not compromise the remaining degree and does not require new faculty resources.

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Current and Proposed Program Name, Degree Designation, and CIP Code

[illegible]**Proposed Implementation Date:**

August 2019

Proposed Termination Date for Any Concentrations Proposed as Free Standing:

The existing Geosciences concentration as part of the Professional Sciences MS major will be phased-out at the end of the 2021 summer term.

Anticipated Delivery Site:

Middle Tennessee State University campus – Murfreesboro, TN

Name and Contact Information of MTSU Academic Program Liaison (APL):

Dr. Peter H. Cunningham
Office of the University Provost
Middle Tennessee State University
615-494-7611
Peter.Cunningham@mtsu.edu

Background for Proposed Academic Program Modification:

We are requesting the establishment of a freestanding MS degree program in Geosciences from an existing major in Professional Science with a concentration in Geoscience, with a steady enrollment and graduation rate for a period of at least three years.

The establishment of a freestanding MS in Geosciences is a natural progression from the concentration within Professional Science. The establishment of this major has widespread support from the College of Basic and Applied Sciences and the professional geosciences community.

The current Geosciences concentration within the Professional Sciences major is housed in the College of Basic and Applied Sciences. The new freestanding MS in Geosciences will be housed in the Department of Geosciences. The new M.S. in Geosciences major will be broader in scope than the current concentration in that it will offer students the opportunity to complete a research-based thesis in lieu of the pre-professional internship required by the concentration. However, the pre-professional internship will be retained for students wishing to do so. By offering the option of a pre-professional internship or a thesis, the Department will be able to do a better job of preparing graduate students for careers in both applied geosciences industries and research-based careers. This broadening will be accomplished with minimal revision to the existing curriculum for the Geosciences concentration.

The proposed program has been reviewed by the Department of Geosciences advisory committee, a group of professional geoscientists who advise the Department on curricular modifications. Feedback and suggestions for modifications have been sought and received from faculty and students.

The only other institution that offers a master's degree in Geosciences is East Tennessee State University however this degree differs in that it offers students the option of three career tracks: Environmental Geosystems, Geographic Information Systems(GIS), and General Geosciences. The first two are focused toward students desiring employment in the environmental and/or GIS fields. The General Geosciences career track is for students who desire more broad-based training in geology and physical geography.

The unique curricula will add value to the College of Basic and Applied Sciences and MTSU expanding our regional and national reputations.

All three curricular tracks prepare students for careers in which where they will identify, analyze and develop solutions for the ever-increasing uncertainties faced by geoscientists. In all three career tracks, students learn to think logically, critically, and creatively and must demonstrate analytical and communication skills.

Need for Program:

The Geosciences concentration in the Professional Sciences MS program has existed for 6 years at MTSU. It has not undergone significant revision during that time. It has demonstrated steady growth in enrollment and graduation rates. Almost all graduates of the program are immediately employed as professional geoscientists. All the while, the demand of highly trained geoscientists has steadily increased. Established geoscience fields such as mining, energy exploration and environmental management continue to evolve in such ways to demand employees trained in advanced critical thinking, technical, and communication skills. Emerging geoscience fields such as GIS, remote sensing and climate change require students to be able to use geoscience tools and technologies to solve problems resulting from the intersection of human societies and the natural landscape. In Tennessee, these problems include flooding, erosion, water pollution, landslides, forest management, and emergency preparedness. In particular, as the population of Middle Tennessee continues to grow, there will be an increasing demand for geoscientists who can identify and assess the impact of growth on the natural landscape, and how continued growth will be limited by the natural landscape.

The national demand for geoscience professionals also is very high due to the dynamic nature of the profession and the demographics of those currently working in the industry. According to the US Bureau of Labor Statistics Occupational Outlook Handbook, employment of geoscientists is expected to grow 14% between 2016 and 2026. This is much faster than the projected growth rate of other physical science occupations (10%) and that of all US occupations (7%). The 2016 median annual pay of a geoscientist in the United States was \$89,780, approximately 15% more than the average of other physical scientists (\$77,790), and over twice that of the average US occupation (\$37,040). An additional factor driving the demand for professional geoscientists is that a large percentage of the geosciences workforce is approaching retirement age. Graduates of the MS program in Geosciences are expected to enjoy many job opportunities.

According to the American Geosciences Institute, there will be a shortage of 135,000 professional geoscientists by the year 2022. The geosciences industry also is aggressively promoting diversity and pursues minority graduates and military veterans for employment. Because MTSU enrolls a significant number of minority and veteran students as undergraduates, the proposed MS degree will offer the University and Department of Geosciences the opportunity to help meet the demand for a more diverse geosciences workforce.

The MS Geosciences major also will provide opportunity for coordination with and enhancement of the Bachelor of Science in Geosciences degree. Students pursuing the BS degree will have opportunities to participate in collaborative research with graduate students in the MS thesis track. This will not only improve the quality of the BS program, but also help recruit BS graduates into the MS degree program.

Potential Impact of Modification on Current Program:

This change will have no adverse impact on fiscal resources, diversity or other clientele. It will not cause any change for current students in curriculum or requirements for graduation. Students currently enrolled will not be required to transition, but will have the option. The advantage of changing to the new degree program for current students will be choice of whether to complete a pre-professional internship, or a research-based thesis. We also anticipate positive enrollment growth as a result of the increased visibility and ease of identification that will result from the free-standing MS major in Geosciences.

The change to a freestanding degree, rather than a concentration within a broader degree, will provide students and graduates with a more clearly defined program of study when entering the work force and/or a PhD program in the geosciences. This will benefit all students equally, including members of diverse and under-represented groups. This change will not impact fiscal resources as most courses and all faculty are already in place within the existing concentration.

The M.S. in Professional Sciences will have over 120 majors after subtracting the Geosciences concentration so it will not be adversely impacted by this action.

Existing Programs Offered at Public and Private Tennessee Institutions:

There are no MS programs in Geosciences with curricular tracks in Environmental Geosystems, Geographic Information Systems, and general Geoscience within the 40.0699 CIP class in Tennessee. ETSU currently offers an M.S. in Geosciences with concentrations in Geospatial Analysis and Paleontology

Enrollment and Degrees Awarded by Concentration:

	Fall Headcount Enrollment					Degrees Awarded				
	Fall 2015	Fall 2016	Fall 2017	Fall 2018	3 Year Fall Ave.	Acad. Year 2014-15	Acad. Year 2015-16	Acad. Year 2016-17	Acad. Year 2017-18	4 Yr Ave (2014-18)
Geosciences (Concentration in Professional Sciences MS)	19	19	22	17	19.25	4	4	9	8	6.25

Student Learning Outcomes:

The MS Geosciences major will reinforce the knowledge learned in students' undergraduate studies in the geosciences and related fields. The program will assimilate knowledge from broad areas, geology, hydrology, physical geography, geographic information systems, and remote sensing. The curricula also will integrate knowledge from the business courses in accounting, management, information systems and statistics. The required business courses are designed to better prepare students for all professional careers in which budget and human resource management is required. Additionally,

- All students will be required to participate in a required colloquium in which geoscience industry professionals speak about their careers and how to best prepare for entry-level geoscience jobs.
- All students must complete a course in geoscience quantitative methods. In this course, students learn quantitative problem-solving approaches and tools (e.g. MATLAB, Python, R) used throughout the professional geosciences.
- Students in the Environmental Geosystems track must demonstrate competence in applying their knowledge of environmental science and geoscience quantitative problem-solving tools to the solution of environmental problems impacting human societies.
- Students in the Geographic Information Systems track must demonstrate competence in applying their knowledge of GIS and quantitative problem-solving tools to the solution of problems related to naturally occurring and human-impacted landscapes.
- Students in the Geoscience track must demonstrate competence in applying their knowledge of solid Earth, oceanic and atmospheric systems and quantitative problem-solving tools to the solution of problems related to the Earth's geologic history and future.

Assessment:

All students will be required to complete either a pre-professional internship (3 credit hours) through the College of Business, or thesis research (6 credit hours). Students choosing the pre-professional internship track will be required to submit weekly reports to the course professor and give a presentation on their internship at a department colloquium, on which their grades will be based. Students choosing the research-based thesis track will be required to give a colloquium presentation on their research progress after completing the first three hours of thesis research, and then a thesis defense to the faculty after completion of their thesis. Grades will be based upon the colloquium and thesis defense presentations.

Accreditation:

There is no nationally recognized accrediting body for academic programs in Geosciences. If approved, this program will undergo the required 5-year external review

per University and THEC Policy. It will also be placed on annual post-approval monitoring for the first five years following THEC approval.

Current and Proposed Curriculum Requirements:

See Attachment A – Comparison of Current & Proposed Curriculum.

New Courses Needed:

There are no new courses that must be developed in order to elevate this concentration to a free-standing degree. Thesis Research (PGEO 6640) will be added for those students pursuing who wish to write a thesis.

Curriculum Crosswalk of Proposed Curriculum to Accreditation Competencies:

N/A

Distance Learning:

This program is not proposed to be a distance-learning program although it is possible that some courses will be in an online format.

Current and Proposed Admission, Retention and Graduation Policies:

Admission Policies: The current policies for admission to the Geosciences concentration in the Professional Sciences MS program will be maintained: Students must meet minimum academic requirements for admission set forth by the College of Graduate studies, and be approved by the Geosciences graduate coordinator as having the necessary undergraduate geoscience knowledge base in order to achieve success in the graduate program. The latter includes review of the student's undergraduate transcript, GRE scores, and letters of recommendation.

Retention Policies: The current policies for retention will be maintained: Students must maintain minimum academic requirements as set forth for retention by the College of Graduate studies.

Graduation Policies: Graduation policies will be those set forth by the College of Graduate Studies, and satisfactory completion of curricula specified in Attachment A. All students must satisfactorily complete either a pre-professional internship (3 credit hours), or a thesis (6 semester hours).

Current Faculty Teaching Graduate Courses:

Name	Rank	Highest Degree	Primary Department	FTE in Program	# of Theses/ Dissertations
Jeremy Aber	Assistant Professor	PhD	Geosciences	100%	0
Racha El Kadiri	Assistant Professor	PhD	Geosciences	100%	0
Clay Harris	Associate Professor	PhD	Geosciences	100%	0
Henrique Momm	Assistant Professor	PhD	Geosciences	100%	0

Finance:

No new costs will result from establishing this concentration as a free-standing degree as all required courses, graduate assistantships, and faculty resources already exist and are in place.

ATTACHMENT: Comparison of Before and After Curriculum – Proposed M.S. in Geosciences					
CURRENT CURRICULUM		PROPOSED CURRICULUM			
	Hours	Professional Sciences	Hours	Thesis Research	Hours
Business Core Courses for all Tracks	15	Business Core Courses for all Tracks	15	Business Core Courses for all Tracks	9
ACTG 6100 Acc. and Legal Issues for Managers	3	ACTG 6100 Acc. and Legal Issues for Managers	3	ACTG 6100 Acc. and Legal Issues for Managers	3
BCED 6820 Managerial Communication	3	BCED 6820 Managerial Communication	3		
MGMT 6740 Leadership and Motivation	3	MGMT 6740 Leadership and Motivation	3	MGMT 6740 Leadership and Motivation	3
STAT 5140 Probability and Statistical Reasoning	3	STAT 5140 Probability and Statistical Reasoning	3	STAT 5140 Probability and Statistical Reasoning	3
BCED 6910 Internship Program	3	BCED 6910 Internship Program	3		
Geosciences Courses for all Tracks	5	Geosciences Courses for all Tracks	5	Geosciences Courses for all Tracks	11
GEOL 6030 Geoscience Colloquium	2	GEOL 6030 Geoscience Colloquium	2	GEOL 6030 Geoscience Colloquium	2
P GEO 6070 Quantitative Methods in Geoscience	3	P GEO 6070 Quantitative Methods in Geoscience	3	P GEO 6070 Quantitative Methods in Geoscience	3
				P GEO 6640 Thesis	6
Geographic Information Systems Track	16	Geographic Information Systems Track	16	Geographic Information Systems Track	16
<i>Choose at least 9 hours from the following:</i>		<i>Choose at least 9 hours from the following:</i>		<i>Choose at least 9 hours from the following:</i>	
P GEO 6040 Geo. Systems and Applications	4	P GEO 6040 Geo. Systems and Applications	4	P GEO 6040 Geo. Systems and Applications	4
P GEO 6050 Prog. Geo. Database Applications	3	P GEO 6050 Prog. Geo. Database Applications	3	P GEO 6050 Prog. for Geo. Database Applications	3
P GEO 6060 Advanced Topics in Geoscience	1-6	P GEO 6060 Advanced Topics in Geoscience	1-6	P GEO 6060 Advanced Topics in Geoscience	1-6
COMS 6100 Fund. of Computational Science	3	COMS 6100 Fund. of Computational Science	3	COMS 6100 Fund. of Computational Science	3
INFS 6500 IT Project Mng. Planning and Imp.	3	INFS 6500 IT Project Mng. Planning and Imp.	3	INFS 6500 IT Project Mng. Planning and Imp.	3
INFS 6710 IT Systems Dev. and Project Mng.	3	INFS 6710 IT Systems Dev. and Project Mng.	3	INFS 6710 IT Systems Dev. and Project Mng.	3
<i>Choose no more than 7 hours from the following</i>		<i>Choose no more than 7 hours from the following</i>		<i>Choose no more than 7 hours from the following</i>	
P GEO 5490 Remote Sensing	4	P GEO 5490 Remote Sensing	4	P GEO 5490 Remote Sensing	4
P GEO 5511 Advanced Remote Sensing	3	P GEO 5511 Advanced Remote Sensing	3	P GEO 5511 Advanced Remote Sensing	3
P GEO 5530 Introduction to GIS	3	P GEO 5530 Introduction to GIS	3	P GEO 5530 Introduction to GIS	3
P GEO 5560 Intermediate GIS	3	P GEO 5560 Intermediate GIS	3	P GEO 5560 Intermediate GIS	3
P GEO 5570 Advanced GIS	3	P GEO 5570 Advanced GIS	3	P GEO 5570 Advanced GIS	3
Environmental Geosystems Track	16	Environmental Geosystems Track	16	Environmental Geosystems Track	16
<i>Choose at least 9 hours from the following:</i>		<i>Choose at least 9 hours from the following:</i>		<i>Choose at least 9 hours from the following:</i>	
GEOL 6000 Environmental Geosystems	3	GEOL 6000 Environmental Geosystems	3	GEOL 6000 Environmental Geosystems	3
GEOL 6010 Case Studies in Env. Geosystems	3	GEOL 6010 Case Studies in Env. Geosystems	3	GEOL 6010 Case Studies in Env. Geosystems	3
GEOL 6020 Advanced Hydrogeology	3	GEOL 6020 Advanced Hydrogeology	3	GEOL 6020 Advanced Hydrogeology	3
P GEO 6060 Advanced Topics in Geoscience	1-6	P GEO 6060 Advanced Topics in Geoscience	1-6	P GEO 6060 Advanced Topics in Geoscience	1-6
<i>Choose no more than 7 hours from the following</i>		<i>Choose no more than 7 hours from the following</i>		<i>Choose no more than 7 hours from the following</i>	
GEOL 5040 Engineering Geology	3	GEOL 5040 Engineering Geology	3	GEOL 5040 Engineering Geology	3
GEOL 5120 Environmental Geology	5	GEOL 5120 Environmental Geology	5	GEOL 5120 Environmental Geology	5
GEOL 5130 Hydrogeology	5	GEOL 5130 Hydrogeology	5	GEOL 5130 Hydrogeology	5
GEOL 5150 Env. Applications of Hydrogeology	3	GEOL 5150 Env. Applications of Hydrogeology	3	GEOL 5150 Env. Applications of Hydrogeology	3
PLSO 5340 Soil Formation and Remediation	3	PLSO 5340 Soil Formation and Remediation	3	PLSO 5340 Soil Formation and Remediation	3
PLSO 5350 Soil Survey and Land Use	3	PLSO 5350 Soil Survey and Land Use	3	PLSO 5350 Soil Survey and Land Use	3
General Geosciences Track	16	General Geosciences Track	16	General Geosciences Track	16
<i>Choose at least 9 hours from the following:</i>		<i>Choose at least 9 hours from the following:</i>		<i>Choose at least 9 hours from the following:</i>	
P GEO 6040, 6050, or 6060;		P GEO 6040, 6050, or 6060;		P GEO 6040, 6050, or 6060;	
GEOL 6000, 6010, or 6020;		GEOL 6000, 6010, or 6020;		GEOL 6000, 6010, or 6020;	
COMS 6100; INFS 6500, 6710		COMS 6100; INFS 6500, 6710		COMS 6100; INFS 6500, 6710	
<i>Choose no more than 7 hours from the following</i>		<i>Choose no more than 7 hours from the following</i>		<i>Choose no more than 7 hours from the following</i>	
P GEO 5380, 5401, 5490, 5510, 5520, 5530		P GEO 5380, 5401, 5490, 5510, 5520, 5530		P GEO 5380, 5401, 5490, 5510, 5520, 5530	
P GEO 5560, 5570, GEOL 5000, 5020, 5030, 5040		P GEO 5560, 5570, GEOL 5000, 5020, 5030, 5040		P GEO 5560, 5570, GEOL 5000, 5020, 5030, 5040	
GEOL 5050, 5060, 5070, 5080, 5100, 5120, 5130		GEOL 5050, 5060, 5070, 5080, 5100, 5120, 5130		GEOL 5050, 5060, 5070, 5080, 5100, 5120, 5130	
GEOL 5140, 5150, 5401, 5402; PLSO 5340, 5350		GEOL 5140, 5150, 5401, 5402; PLSO 5340, 5350		GEOL 5140, 5150, 5401, 5402; PLSO 5340, 5350	
TOTAL CREDITS REQUIRED FOR DEGREE	36	TOTAL CREDITS REQUIRED FOR DEGREE	36	TOTAL CREDITS REQUIRED FOR DEGREE	36



**Middle Tennessee State University
Board of Trustees**

Tab 7

Report of the Board Secretary



Middle Tennessee State University Board of Trustees

MEETING: Winter Quarterly Board Meeting

SUBJECT: [Board Secretary Report](#)

DATE: December 11, 2018

PRESENTER: Board Secretary Heidi Zimmerman

ACTION REQUIRED: None

BACKGROUND INFORMATION:

The Board Secretary was delegated limited authority to make technical revisions in policies and rules with the condition that a report be made to the Board of Trustees concerning what revisions have been made.

Following is a list of technical revisions made since the last Board of Trustees meeting.

To be reported at Winter Board Meeting	Date	Action
12 Conflict of Interest	9/18/2018	Updated Employee Conflict of Interest Disclosure Statement form to include space for explanation.
70 Internal Audit	9/19/2018	Updated Burkhardt's title to Chief Audit Executive