I. Purpose

This policy describes the circumstances under which Middle Tennessee State University (MTSU or University) may apply the contested case hearing provisions of the Uniform Administrative Procedures Act (UAPA), T.C.A. §§ 4-5-101 et. seq. and the procedures for UAPA hearings.

II. Scope

The contested case procedures set forth in the UAPA may be applicable in all cases in which the legal rights, duties, and privileges of a party are required by any statute or constitutional provision to be determined by an agency after an opportunity for a hearing. These procedures may also apply when MTSU policy provides that a hearing take place pursuant to the provisions of the UAPA.

A. The contested case procedures in the UAPA may apply in the following cases:

1. demotion, suspension without pay, or termination of support staff employees where the employee has elected to pursue a UAPA hearing instead of an employee panel hearing as the final step of the grievance process (Policy 853 Classified Grievance and Complaint Policy and T.C.A. § 49-8-117);

2. suspension or expulsion of a student who elects and properly requests a UAPA hearing instead of an institutional hearing (Policy 540 Student Conduct);

3. revocation of the registration of a student organization who elects and properly requests a UAPA hearing instead of an institutional hearing (Policy 540 Student Conduct); and

4. any other case where law requires a contested case hearing and such a hearing is requested.
B. These procedures will not apply where different procedures are required by applicable law, such as:

1. Termination of certain faculty for adequate cause as such instances that are subject to the provisions of T.C.A. § 49-8-302 and Policy 204 Tenure.

2. Matters arising under Title IX of the Education Amendments of 1972 and Policy 29 Title IX Compliance.

III. Authority of the President

A. The President of MTSU is responsible for implementation of these procedures and has final decision-making authority in any proceeding subject to these procedures.

B. The authority and responsibilities of the President set forth herein may be delegated by him/her to individual designees who are members of the staff of MTSU. All references herein to the President include any designee of the President. The President shall be responsible for any action taken under a delegation of his/her authority.

IV. Selection of Administrative Judge, Hearing Officer, or Hearing Committee

A. The President shall determine, in his/her discretion, whether the hearing shall be held before an administrative judge appointed by the Administrative Procedures Division of the Office of the Secretary of State, a hearing officer, or a hearing committee.

B. As provided by T.C.A. § 49-7-167, the following individuals may serve as administrative judges/hearing officers:

1. A person licensed to practice law who is not employed as an attorney for the University;

2. A former state, county, or municipal judge or former federal judge or magistrate;

3. An employee of the University who has been trained to conduct contested cases, but who does not provide legal representation to University;

4. An employee of another public institution of higher education who has been trained to conduct contested cases; or,

5. An administrative judge employed by the Office of the Secretary of State pursuant to T.C.A. § 4-5-301(d) to hear contested cases.

C. A hearing committee may be appointed by the President from the administrative, professional staff, and/or appropriate employees or students at MTSU. The person
appointed by the President as administrative judge/hearing officer shall be deemed to be the chair of the hearing committee for purposes of presiding at the hearing.

D. For matters involving sexual assault, dating violence, domestic violence, or stalking, the administrative judge/hearing officer/hearing committee members shall complete training that satisfies the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. §1092(f)), and the federal regulations implementing those statutes, as amended. This training must take place no earlier than twelve (12) months prior to hearing the contested case.

V. Hearing Procedures

Unless specifically stated in another policy or applicable law to the contrary, the hearing procedures set forth in T.C.A. §§ 4-5-301, et. seq. and TENN. COMP. R. & REGS. 1360.04.01.01 et seq. shall apply to cases heard pursuant to this policy.

VI. Suspensions Pending a Contested Case Hearing

The President shall have authority to suspend a student or employee pending a contested case hearing. Grounds and procedures for interim suspension of a student are set forth in Policy 540 Student Conduct. Grounds and procedures for suspension of employees are set forth in Policy 851 Disciplinary Policy for Administrative and Classified Personnel.

Forms: none.

Revisions: June 5, 2017 (original); September 5, 2018; ____________2021.

Last Reviewed: ____ 2021.

References: Uniform Administrative Procedures Act; T.C.A. §§ 4-5-101 et seq., 4-5-301; 49-7-106; 49-7-167; 49-8-117; 49-8-302; TENN. COMP. R. & REGS. 1360.04.01.01 et seq.; Policies 29 Title IX Compliance; 204 Tenure; 540 Student Conduct; 851 Disciplinary Policy for Administrative and Classified Personnel; 853 Classified Grievance and Complaint Policy.