

3:02:01:00 POLICY INSURING STUDENT DUE PROCESS PROCEDURE

Institutions and Tennessee Colleges of Applied Technology governed by the Tennessee Board of Regents, in the implementation of Board approved policies and regulations pertaining to discipline and conduct of students, shall insure the constitutional rights of students by affording a system of constitutionally and legally sound procedures which provide the protection of due process of law.

If, in accordance with the institution or school regulations governing discipline in cases of student social misconduct, a hearing is requested, the following minimal procedures will be observed:

1. The student shall be advised of the time and place of the hearing.
2. The student shall be advised of the breach of regulations of which or she he is charged.
3. The student shall be advised of the following rights:
 - a. The right to present his or her case
 - b. The right to be accompanied by an advisor
 - c. The right to call witnesses in his or her behalf
 - d. The right to confront witnesses against him or her
4. The student shall be advised of the method of appeal.

Additionally,

(1) The decision of the committee shall be final and may be appealed within five days to the director. Any further appeal is limited by the terms of TBR Policy 1:02:11:00.

(2) A tape recording or summary transcription of the proceedings shall be kept and made available to the student upon request for the sole purpose of appeal. The student may also have a verbatim transcript made at his/her own expense.

(3) Pending the Hearing. Usually the student will attend classes and attend required school functions until a hearing is held and a decision is rendered. Exceptions to these are:

- (a) When a student's physical or emotional safety and well-being are endangered;

(b) When the general safety and well-being of the faculty, staff or other school personnel are

endangered;

(c) When the orderly progression of the education objectives of the school may be disrupted;

(d) When the school property is in jeopardy

(4) Types of Hearings:

(a) TUAPA (Policy 1:06:00:05). The only cases which are subject to a Tennessee Uniform Administrative Procedures Act (TUAPA) hearing are those which may result in:

1. Suspensions or expulsions of a student from the school for disciplinary offenses.

2. Revocation of registration of an official student organization during the term of registration. Those cases are subject to the contested case provisions of the TUAPA and shall be processed in accordance with the Uniform Contested case disposed of in accordance with the school procedures.

(b) If a student waives his/her right to a TUAPA hearing, then he/she will be provided a hearing under applicable school procedures:

A review committee shall be established which has the responsibility of reviewing the facts and making a decision regarding appropriate disposition of the case. The review committee will be designated by the Director and be composed of one (1) student representative, one (1) faculty member and two (2) non-faculty staff members. An alternate will be designated for any committee member who is personally involved in a particular case or who cannot otherwise be in attendance.

A student appearing before the review committee will be given a written statement of the cause for dismissal and a time established for the hearing. The hearing must be scheduled within five school days. The review committee may request testimony from any employee or student who they feel may have information pertinent to the case in question. A student may request assistance from an advisor who is not acting as an advocate (attorney) but offering help in explaining procedures and charges. The review committee will make a decision based on the facts presented within five (5) schooldays from the date of hearing. The decision will be in writing. The decision will be transmitted to the director.

If the final decision results in suspension or termination, the student will be given a formal statement of the findings. This written statement shall contain clear information concerning the student's right to appeal this decision to the director with procedures for obtaining the same.

In any case, where the director makes a decision which is adverse to the charge or claim of either party, the Director shall advise the person of any right of appeal provided by Board policy.

(5) Cases of alleged sexual assault. In cases involving alleged sexual assault, both the accuser and the accused shall be informed of the following:

(a) Both the accuser and the accused are entitled to the same opportunity to have others present during a disciplinary proceeding; and

(b) Both the accuser and the accused shall be informed of the outcome of any disciplinary proceeding involving allegations of sexual assault.

(6) Informal Meetings

(a) All other matters (i.e., absenteeism, failing grades, etc.) shall be dealt with informally by the director, but do not involve a right to a hearing unless there is a violation of state or federal law.