

## 1.06.00.05 Contested Cases Subject to the Uniform Administrative Procedures Act



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#### Policy/Guideline Area

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Governance, Organization, and General Policies

#### Applicable Divisions

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TCATs, Community Colleges, System Office

#### Purpose

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This policy sets forth the procedures for contested cases under the Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-101 et seq. (the UAPA). Contested cases are proceedings in which the legal rights, duties, or privileges of a student, employee, student organization, or other person are required by any statute or constitutional provision to be determined after an opportunity for a hearing.

#### Policy/Guideline

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- I. Scope
  - A. These procedures will apply to any case where a contested case hearing is properly requested and required by law to be offered, including:
    - 1. The suspension or expulsion of students, or revocation of recognition of a student organization, for misconduct or disciplinary reasons;
    - 2. Termination or suspension of a faculty member pursuant to the procedures in either Section II or III of TBR Policy 5.01.00.03 Faculty Disciplinary Action, other than following a finding of responsibility for sexual misconduct pursuant to [TBR Policy 6.03.00.00 Sexual Misconduct](#);

3. Support staff employees who are demoted, suspended without pay, or terminated and elect to pursue a UAPA hearing instead of an employee panel hearing as the final step of the grievance process; and
  4. Other matters in which the legal rights, duties, or privileges of a person are required by any statute or constitutional provision to be determined after an opportunity for a hearing.
- B. Prior to offering any hearing pursuant to this policy, the institution shall contact the Office of General Counsel for advice on the applicability of this policy and for possible assistance in the hearing of the case. Institutions are not authorized to create college policies that offer a UAPA contested case hearing unless the college policy is a restatement of a system policy offering a contested case hearing.

## II. Administrative Judges and Hearing Officers

- A. In any case where a contested case hearing is available, elected and properly requested, the president, chancellor or designee may make a request to the office of the secretary of state to have the contested case heard by an administrative judge or hearing officer employed in the office of the secretary of state.
- B. In lieu of asking the secretary of state to have the contested case heard by an administrative judge or hearing officer employed in the office of the secretary of state, the president, chancellor, or designee may determine, in his or her sole discretion, whether the hearing shall be held before:
1. A person who is licensed to practice law and who is not employed as an attorney for a TBR institution or TBR System Office;
  2. A former state, county, or municipal judge or a former federal judge or magistrate;

3. An employee of a TBR institution or TBR System Office who has been trained to conduct contested cases, but who does not provide legal representation to TBR or any TBR institution; or
  4. An employee of another public institution who has been trained to conduct contested cases.
- C. Any administrative judge or hearing officer who hears a case involving sexual harassment, sexual assault, domestic violence, dating violence, or stalking shall receive training as required by federal and/or state law.

### III. Procedures

- A. The UAPA and the Tennessee Department of State's Uniform Rules of Procedures for Hearing Contested Cases before State Administrative Agencies, Tennessee Department of State Rule Chapter 1360-04-01, shall be used for contested case hearings under this policy.
- B. For purposes of review and action following issuance of an initial order, the agency head will be the president or other head of a campus out of which the contested case arises, and the chancellor or chancellor's designee when the contested case arises out of the TBR System Office or when the president or other head of a campus is not available to serve as agency head due to a conflict of interest, recusal, disqualification, or other reason.

## Sources

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### Authority

T.C.A. §§ 49-8-203; 4-5-101 et seq.

### History

TBR Meetings, June 30, 1978; September 30, 1983; December 14, 1984; March 15, 2002; June 18, 2021, Board Meeting Effective October 11, 2021; Board approved revisions June 12, 2026 (effective July 1, 2026).

## **Related Policies**

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[3.02.00.01 General Policy on Student Conduct & Disciplinary Sanctions](#)