

SOUTHWEST TENNESSEE COMMUNITY COLLEGE**SUBJECT: Contested Cases Subject to the Uniform Administrative Procedures Act****EFFECTIVE DATE: October 11, 2021****Purpose**

This policy sets forth the procedures that Southwest Tennessee Community College (“Southwest” or “the College”) will use to conduct hearings in contested cases under the Uniform Administrative Procedures Act, Tennessee Code Annotated (“TCA”) §§ 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 (collectively referred to as a “person”) are required by any statute or constitutional provision to be determined only after that individual or entity has been provided an opportunity for a hearing.

Policy/Guideline**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. Suspension of employees for cause, or termination of employee when the termination is potentially in violation of the employee’s contract, e.g., termination prior to expiration of the contract term;
 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 by Southwest or TBR after an opportunity for a hearing.
- B. This policy is not applicable to termination of faculty for adequate cause. Any such termination is subject to the provisions of T.C.A. § 49-8-302, [TBR Policy 5.02.03.70](#), Academic Tenure for Community Colleges, and Southwest [5:02:03:01/38](#), Academic Tenure.
- C. Prior to offering a hearing pursuant to this policy, the College will contact the Office of General Counsel for advice on the applicability of the policy and for possible assistance in

the hearing of the case.

II. Administrative Judges and Hearing Officers

- A. When a contested case hearing is available, elected and properly requested, the President 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 Secretary of State's office.
- B. In lieu of asking the Secretary of State to have the contested case heard by an administrative judge or hearing officer employed in that office, the President or designee may determine, in the President's 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 Southwest, another TBR institution, or the TBR System Office;
 - 2. A former Tennessee state, county, municipal or federal judge or a former federal magistrate;
 - 3. An employee of the College, another TBR institution or the TBR System Office who has been trained to conduct contested cases, but who does not provide legal representation to Southwest, another TBR institution or the TBR System Office; 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.

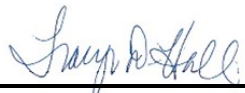
Procedures

- 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, will 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 Southwest President or the TBR Chancellor or Chancellor's designee when the College's President is not available to serve as agency head due to a conflict of interest, recusal, disqualification, or other reason.

Responsible
Source of Policy: _____ Administrator: President

TBR Policy Reference: 1.06.00.05

Related Policy: 3:02:00:01/8;
5:01:02:00/29; 5:02:03:00/30 TBR Guideline Reference: P-110; P-111

Approved:  Date: October 11, 2021
President