



Middle Tennessee State University Board of Trustees Audit and Compliance Committee

Tuesday, August 24, 2021
12:00 p.m.

MEC Meeting Room – 2nd Floor
Miller Education Center
503 East Bell Street
Murfreesboro, Tennessee 37130



**Middle Tennessee State University
Board of Trustees
Audit and Compliance Committee**

Tuesday, August 24, 2021
12:00 p.m.

AGENDA

Call to Order and Opening Remarks

Roll Call

Approval of Minutes (Action)Tab 1

Approval of Amendment to Rule (Action)Tab 2

 1. Rule 0240-07-06 Title IX Compliance

Rule Promulgation and Related Policy Revision (Action)Tab 3

 1. Policy 110 Cases Heard Pursuant to the Uniform Administrative
 Procedures Act

 2. Rule 0240-07-08 Cases Heard Pursuant to the Uniform Administrative
 Procedures Act

Annual Report for Audit and Consulting Services (Action).....Tab 4

Quarterly Report – Results of Internal Audit Reports (Information).....Tab 5

Compliance and Enterprise Risk Management Update (Information)

 1. Compliance and ERM Program Updates and EffectivenessTab 6

 1. Annual Compliance Trainings Effectiveness – FERPA, Ethics, and HIPPATab 7

Non-Public Executive Session – Discussion of Risk Assessments (Confidential
Materials) and Audits/Investigations (Information)

Adjourn Non-Public Executive Session

Public Session – Risk Assessment Reporting (Action)Tab 8

Closing Remarks

Adjourn Public Session



**Middle Tennessee State University
Board of Trustees**

Audit and Compliance Committee

Action Item

DATE: August 24, 2021

SUBJECT: **Approval of Minutes**

PRESENTER: Pete DeLay
Committee Chair

BACKGROUND INFORMATION:

The Audit and Compliance Committee met on May 25, 2021. Minutes from the meeting are provided for review and approval.

**MIDDLE TENNESSEE STATE UNIVERSITY
BOARD OF TRUSTEES**

**AUDIT AND COMPLIANCE COMMITTEE
MINUTES**

The Audit and Compliance Committee met on Tuesday, May 25, 2021 in the MEC Meeting Room in the Miller Education Center at Middle Tennessee State University.

Call to Order and Opening Remarks

Committee Chair Pete DeLay called the meeting to order at 10:35 a.m. and welcomed everyone in attendance.

Roll Call

The following Committee members were in attendance: Trustees Tom Boyd, Pete DeLay, Christine Karbowskiak, Mary Martin, Steve Smith, and Pam Wright. A quorum was declared present. Also present were Trustees J.B. Baker, Darrell Freeman Sr., Joey Jacobs, and Delanie McDonald.

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; Jeff Farrar, Associate University Counsel and Acting Board Secretary; and, Kim Edgar, Assistant to the President and Chief of Staff were also in attendance.

Approval of Minutes - Action

The first agenda item was approval of the minutes from the March 16, 2021 Audit and Compliance Committee meeting. Trustee Boyd moved to approve the minutes from the March 16, 2021 meeting and Trustee Wright seconded the motion. A voice vote was taken and, with all

Committee members voting “Aye,” the motion to approve the minutes from the March 16, 2021 meeting of the Audit and Compliance Committee carried unanimously.

Approval of Policy Revisions – Action

The next item on the agenda was the approval of policy revisions for Policy 25, Equal Opportunity, Affirmative Action, and Nondiscrimination presented by Ms. Christy Sigler, Interim Assistant to the President for Institutional Equity and Compliance. These revisions were drafted to accommodate the implementation of MTSU Policy 29 Title IX Compliance and related procedures, and to update job titles and terminology.

Trustee Martin moved to approve the proposed revisions to Policy 25, Equal Opportunity, Affirmative Action, and Nondiscrimination and Trustee Wright seconded the motion. A voice vote was taken and, with all Committee members voting “Aye,” the motion to approve the proposed revisions to Policy 25, Equal Opportunity, Affirmative Action, and Nondiscrimination carried unanimously.

Review and Approval of Audit Committee Charter – Action

The next item on the agenda was the review and approval of the Audit Committee Charter presented by Ms. Brenda Burkhart. The MTSU Audit and Compliance Committee Charter was approved in 2017 and is required in Section IV.G.1. of the charter to be reviewed every four years. The current charter was reviewed for compliance with state law and the Comptroller of the Treasury’s Guidelines for Audit Committee Charters. Other than updating the signatures to include the current Chair of the Audit and Compliance Committee, there were no proposed revisions to the current Audit and Compliance Committee Charter.

Trustee Karbowskiak made the motion to approve the Audit Committee Charter as presented and only update the signatures and Trustee Boyd seconded the motion. A voice vote was taken and, with all committee members voting “Aye,” the motion to approve the Audit Committee Charter as presented and only update the signatures carried unanimously.

Review and Approval of Audit Charter for the Audit Office – Action

The review and approval of the Audit Charter for the Audit Office was presented by Ms. Burkhart. Tennessee Code Annotated, 4-3-304 requires internal audit staffs of state entities to follow *The International Standards for the Professional Practice of Internal Auditing (Standards)* published by The Institute of Internal Auditors. The *Standards* require an internal audit charter for the internal audit function which formally defines the purpose, authority and responsibility of the internal audit activity. The internal audit charter must periodically be reviewed by the chief audit executive and presented to senior management and the board for approval.

The current charter was reviewed for compliance with the language recommended in the *Standards*, state law, and MTSU Policy 70 Internal Audit. There were no proposed revisions to the current audit charter for the Office of Audit and Consulting Services other than updating the signatures to include the current Chair of the Audit and Compliance Committee.

Trustee Martin made the motion to approve the Audit Charter presented for the Office of Audit and Consulting Services and only update the signatures and Trustee Wright seconded the motion. A voice vote was taken and, with all committee members voting “Aye,” the motion to approve the Audit Charter presented for the Office of Audit and Consulting Services and only update the signatures carried unanimously.

Report on Independence of Chief Audit Executive – Information

The report on independence of the Chief Audit Executive was presented by Ms. Burkhart. The Audit and Compliance Committee Charter, Section IV.D.1 requires the Audit and Compliance Committee to “ensure the Chief Audit Executive’s administrative reporting relationship to the President is independent.” The report on independence is also a requirement of the internal auditing standards which require the chief audit executive to confirm to the Board the organizational independence of the internal audit activity.

Organizational independence is achieved with the position of Chief Audit Executive reporting administratively to the President and functionally to the Audit and Compliance Committee of the Board. There were no problems or issues with independence to report. The President does not limit the scope of audit work performed, is supportive, and encourages the independence of the Chief Audit Executive.

Quarterly Report – Results of Internal Audit Reports – Information

Ms. Burkhart presented the results of two internal audit reports issued since the March 16, 2021 to the Audit and Compliance Committee. 1) Special Review of International Enrollment and Services was performed at the request of management and recommended that the employees involved in the immigration process receive appropriate training for their positions. 2) The Follow-up Review of the State Audit Performance Audit Report for the MTSU Board of Trustees (the Sunset Audit Report) concluded that management had implemented the corrective action of adding a manual review of the Clery daily crime log to ensure all reported crimes are included on the Clery daily crime log.

As noted in the minutes of the prior Audit and Compliance Committee meeting, an update on the corrective action to the Comptroller's Investigative Report concerning the use of student activity fees by two student organizations was to be provided. However, due to prolonged absences of critical staff members, the update on that corrective action was delayed and should be completed by the next meeting.

The current status of the Internal Audit Plan for Fiscal Year Ended June 30, 2021 was included for the Committee's review.

Non-Public Executive Session

The Committee adjourned the public session at 10:50 a.m. and entered non-public executive session at 10:51 a.m. to discuss audits and investigations. The non-public executive session adjourned at 11:02 a.m.

Respectfully submitted,
Audit and Compliance Committee



**Middle Tennessee State University
Board of Trustees**

Audit and Compliance Committee

Action Item

DATE: August 24, 2021

SUBJECT: **Approval of Amendment to Rule**

PRESENTER: Jeff Farrar, Associate
University Counsel

BACKGROUND INFORMATION:

The Board approved a new rule, Rule 0240-07-06 Title IX Compliance, at a rulemaking hearing last September. This proposed revision to that rule is a clean-up revision to add the definition of “Consent” to the rule, which was inadvertently omitted from the original rule. The proposed definition is consistent with the longstanding definition of that term in MTSU’s other sexual misconduct policies. This definition is already included in Policy 29 Title IX Compliance and no revision to that policy is required.

**Department of State
Division of Publications**

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Sequence Number: _____
Notice ID(s): _____
File Date: _____

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

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

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Lance Alexis, Director of ADA Compliance
Address:	1301 E. Main Street, 116 Cope Administration Building, Murfreesboro 37132
Phone:	615-898-2125
Email:	Lance.alexis@mtsu.edu

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Miller Education Center, MEC Meeting Room
Address 2:	503 E. Bell Street
City:	Murfreesboro
Zip:	37130
Hearing Date:	9/14/2021
Hearing Time:	1:00 p.m. CDT

Additional Hearing Information:

MTSU reserves the right to conduct this hearing electronically if it determines that such is necessary as a result of the ongoing COVID-19 pandemic. Information required to access and participate in this meeting electronically will be available at <https://www.mtsu.edu/boardoftrustees/index.php> in advance of the meeting. Interested parties may also submit written comments and questions for consideration at the hearing by emailing same to jeff.farrar@mtsu.edu.

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0240-07-06	Title IX Compliance

Rule Number	Rule Title
0240-07-06-.01	Definitions

Rules of
Middle Tennessee State University

Chapter 0240-07-06
Title IX Compliance

Amendment

Rule 0240-07-06-.01 is amended by adding paragraph (4) so that as amended, the new paragraphs shall read:

- (1) Actual knowledge: notice of sexual harassment or allegations of sexual harassment to MTSU's Title IX Coordinator or any MTSU official who has authority to institute corrective measures on behalf of MTSU. This definition is not met when the only MTSU official with actual knowledge is also the respondent.
- (2) Complainant: an individual who is alleged to be the victim of conduct that could constitute sexual harassment. Complainant does not mean the Title IX Coordinator when the Title IX Coordinator signs a formal complaint or is not otherwise an alleged victim of sexual harassment. References in this rule to the singular "complainant" include the plural, as applicable.
- (3) Deliberately indifferent: a response that is clearly unreasonable in light of the known circumstances.
- (4) Consent. An informed decision, freely given, made through mutually understandable words or actions that indicate a willingness to participate in mutually agreed upon sexual activity. Consent cannot be given by an individual who is asleep, unconscious, or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason, or is under duress, threat, coercion, or force. Past consent does not imply future consent. Silence or an absence of resistance does not imply consent. Consent can be withdrawn at any time.
- (5) Education program or activity: locations, events, or circumstances over which MTSU exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by MTSU.
- (6) Formal complaint: a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting MTSU investigate the allegation of sexual harassment. As used in this definition, the phrase "document filed by a complainant" means a document or electronic submission that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.
- (7) Hearing officer: the person who is the decision-maker with respect to the determination of responsibility after a live hearing. Hearing officer may also mean a committee that is the decision-maker with respect to the determination of responsibility after a live hearing. A hearing officer cannot be the same person(s) as the Title IX Coordinator or the investigator(s).
- (8) Party: either complainant or respondent. References in this rule to the plural "parties" includes complainant and respondent.
- (9) Respondent: an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. References in this rule to the singular "respondent" include the plural, as applicable.
- (10) Sexual harassment: conduct on the basis of sex that satisfies one (1) or more of the following:
 - (a) A MTSU employee conditioning the provision of an aid, benefit, or service of MTSU on an individual's participation in unwelcome sexual conduct;
 - (b) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to MTSU's education program or activity; or
 - (c) Sexual assault as defined by federal law, "dating violence" as defined by federal law, "domestic violence" as defined by federal or state law, or "stalking" as defined by federal law.

(11) Supportive measures: non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to MTSU's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or MTSU's educational environment, or deter sexual harassment. Supportive measures may include but are not limited to counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

(12) Title IX Coordinator: the person designated and authorized by MTSU to coordinate its efforts to comply with its Title IX responsibilities.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 7/15/21

Signature: _____

Name of Officer: James Floyd

Title of Officer: University Counsel

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Filed with the Department of State on: _____

Tre Hargett
Secretary of State



**Middle Tennessee State University
Board of Trustees**

Audit and Compliance Committee

Action Item

DATE: August 24, 2021

SUBJECT: **Rule Promulgation and Related
Policy Revision**

PRESENTER: James Floyd, University Counsel

BACKGROUND INFORMATION:

Revisions to Policy 110 Cases Heard Pursuant to the Uniform Administrative Procedures Act were drafted to reflect different procedures may be applicable to cases covered under the new federal Title IX regulations and the availability of administrative judges appointed by the Administrative Procedures Division of the Office of the Secretary of State.

A parallel new rule, Rule 0240-07-08 Cases Heard Pursuant to the Uniform Administrative Procedures Act, is also presented and will capture the revised version of Policy 110 as a formal rule. A Rulemaking Hearing is scheduled for the Board of Trustees meeting on September 14, 2021.



110 Cases Heard Pursuant to the Uniform Administrative Procedures Act

Approved by President

Sidney A. McPhee, President

Effective Date: ~~September 5, 2018~~ _____, 2021

Responsible Division: President

Responsible Office: Office of the University Counsel

Responsible Officer: University Counsel

I. Purpose

This policy describes the circumstances under which Middle Tennessee State University (MTSU or University) ~~will~~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:

- 1A. 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);
- 2B. suspension or expulsion of a student who elects and properly requests a UAPA hearing instead of an institutional hearing ([Policy 540 Student Conduct](#));
- 3C. 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

~~4D.~~ any other case where law requires a contested case hearing and such a hearing is requested.

B. These procedures ~~are will not apply where different procedures are required by applicable law, such as: not applicable to~~

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 Tenn.-Code.-Ann. § 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 ~~institution~~\[University\]\(#\);
 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 ~~hearing officer~~ 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~~September 2018~~.

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.



110 Cases Heard Pursuant to the Uniform Administrative Procedures Act

Approved by President

Sidney A. McPhee, President

Effective Date: _____, 2021

Responsible Division: President

Responsible Office: Office of the University Counsel

Responsible Officer: University Counsel

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](#).

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- 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.

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Notice of Rulemaking Hearing

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Agency/Board/Commission:	Middle Tennessee State University
Division:	
Contact Person:	James Floyd, University Counsel
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Phone:	615-898-2025
Email:	James.floyd@mtsu.edu

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Lance Alexis, Director of ADA Compliance
Address:	1301 E. Main Street, CAB 106, Murfreesboro, TN 37132
Phone:	615-898-2185
Email:	Lance.alexis@mtsu.edu

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Miller Education Center, MEC Meeting Room		
Address 2:	503 E. Bell Street		
City:	Murfreesboro		
Zip:	37130		
Hearing Date:	9/14/2021		
Hearing Time:	1:00 pm CDT		

Additional Hearing Information:

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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0240-07-08	Cases Heard Pursuant to the Uniform Administrative Procedures Act
Rule Number	Rule Title
0240-07-08-.01	Purpose
0240-07-08-.02	Scope
0240-07-08-.03	Authority of the President

0240-07-08-.04	Selection of Administrative Judge, Hearing Officer, or Hearing Committee
0240-07-08-.05	Hearing Procedures
0240-07-08-.06	Suspensions Pending a Contested Case Hearing

Rules of
Middle Tennessee State University

Chapter 0240-07-08
Cases Heard Pursuant to the Uniform Administrative Procedures Act

New Chapter

Table of Contents is added to Chapter 0240-07-08 Cases Heard Pursuant to the Uniform Administrative Procedures Act and shall read as follows:

0240-07-08-.01 Purpose
0240-07-08-.02 Scope
0240-07-08-.03 Authority of the President
0240-07-08-.04 Selection of Administrative Judge, Hearing Officer, or Hearing Committee
0240-07-08-.05 Hearing Procedures
0240-07-08-.06 Suspensions Pending a Contested Case Hearing

0240-07-08-.01 Purpose is added to Chapter 0240-07-08 Cases Heard Pursuant to the Uniform Administrative Procedures Act and shall read as follows:

0240-07-08-.01 Purpose

- (1) This rule 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.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-07-08-.02 Scope is added to Chapter 0240-07-08 Cases Heard Pursuant to the Uniform Administrative Procedures Act and shall read as follows:

0240-07-08-.02 Scope

- (1) 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 an MTSU rule provides that a hearing take place pursuant to the provisions of the UAPA.

Except as may be set forth by other applicable rule or law, the contested case procedures in the UAPA may apply in the following cases:

- (a) 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;
- (b) suspension or expulsion of a student who elects a UAPA hearing instead of an institutional hearing;
- (c) revocation of the registration of a student organization who elects a UAPA hearing instead of an institutional hearing; and
- (d) any other case where law requires a contested case hearing and such a hearing is requested.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-07-08-.03 Authority of the President is added to Chapter 0240-07-08 Cases Heard Pursuant to the Uniform

Administrative Procedures Act and shall read as follows:

0240-07-08-.03 Authority of the President

- (1) The President of MTSU is responsible for implementation of these procedures and has final decision-making authority in any proceeding subject to these procedures.
- (2) 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.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-07-08-.04 Selection of Administrative Judge, Hearing Officer, or Hearing Committee is added to Chapter 0240-07-08 Cases Heard Pursuant to the Uniform Administrative Procedures Act and shall read as follows:

0240-07-08-.04 Selection of Administrative Judge, Hearing Officer, or Hearing Committee

- (1) 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.
- (2) The following individuals may serve as administrative judges/hearing officers:
 - (a) A person licensed to practice law who is not employed as an attorney for the University;
 - (b) A former state, county, or municipal judge or former federal judge or magistrate;
 - (c) An employee of the University who has been trained to conduct contested cases, but who does not provide legal representation to the University;
 - (d) An employee of another public institution of higher education who has been trained to conduct contested cases; or,
 - (e) 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.
- (3) 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.
- (4) 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.

Authority: T.C.A. §§ 49-7-167, 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-07-08-.05 Hearing Procedures is added to Chapter 0240-07-08 Cases Heard Pursuant to the Uniform Administrative Procedures Act and shall read as follows:

0240-07-08-.05 Hearing Procedures

- (1) Except as may be set forth by other applicable rule or law, 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 rule.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-07-08-.06 Suspensions Pending a Contested Case Hearing is added to Chapter 0240-07-08 Cases Heard Pursuant to the Uniform Administrative Procedures Act and shall read as follows:

0240-07-08-.06 Suspensions Pending a Contested Case Hearing

- (1) The President shall have authority to suspend a student or employee pending a contested case hearing in the manner required by University rules.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 7/15/21

Signature: _____

Name of Officer: James Floyd

Title of Officer: University Counsel

Department of State Use Only

Filed with the Department of State on: _____

Tre Hargett
Secretary of State



**Middle Tennessee State University
Board of Trustees**

Audit and Compliance Committee

Action Item

DATE: August 24, 2021

SUBJECT: **Annual Report for Audit and Consulting Services**

PRESENTER: Brenda Burkhart
Chief Audit Executive

BACKGROUND INFORMATION:

TCA 49-14-102 along with the MTSU Board of Trustees Bylaws and Policy on Board Committees requires an annual comprehensive report on the internal audit function be submitted for the Committee's review. The report is submitted for the Committee's review.

MTSU Policy 70, Internal Audit, Section VII.C. requires approval of the audit plan by the Audit and Compliance Committee. The Internal Audit Plan for Fiscal Year 2021 is included on page 6 of the annual report and is presented to the Committee for approval.



Audit and Consulting Services

Annual Report Fiscal Year 2021

Audit and Consulting Services
Middle Tennessee State University
Murfreesboro, TN 37132

Audit and Consulting Services
Middle Tennessee State University
1301 East Main Street
Murfreesboro, TN 37132
Office: 615-898-2914 • Fax: 615-904-8046



August 6, 2021

MTSU Board of Trustees
Audit and Compliance Committee

and

Dr. Sidney A. McPhee, President
Middle Tennessee State University
1301 East Main Street
Murfreesboro, TN 37132

Trustees and Dr. McPhee:

Enclosed is the annual report for Audit and Consulting Services for the 2021 fiscal year. An annual report of audit work is required by TCA 49-14-102 and the Bylaws and Policies of the MTSU Board of Trustees. The Board Committee policy requires a comprehensive report on the internal audit function to the Board through the Audit and Compliance Committee at a stated meeting. The report includes the status of the 2021 annual audit plan noting the audits completed, in progress, and scheduled but not completed.

The report also includes an update on the fraud awareness activities and investigations along with a report of the financial resources of Audit and Consulting Services.

This report fulfills the annual reporting requirements and provides information to the Board of Trustees concerning the 2021 audit efforts of Audit and Consulting Services. The report also includes the annual audit plan for the 2022 fiscal year. This report is intended solely for the internal use of Middle Tennessee State University and the MTSU Board of Trustees. It is not intended to be and should not be used for any other purpose.

Respectfully submitted,

A handwritten signature in black ink that reads "Brenda H. Burkhart".

Brenda H. Burkhart, CPA
Chief Audit Executive

**Middle Tennessee State University
Audit and Consulting Services
Annual Report for Fiscal Year 2021**

Introduction:

TCA 49-14-102 and the Bylaws and Policies of the MTSU Board of Trustees require an annual report of audit work. The Board Committee policy requires a comprehensive report on the internal audit function to the Board through the Audit and Compliance Committee (ACC) at a stated meeting.

Audit Effort:

Audit and Consulting Services tracks audit effort by type of project and by university division. The majority of audit effort was in investigations and required audits within the following divisions: Student Affairs, Governance and Academic Affairs. Page two of the report includes details and charts of audit effort. The status of the 2021 audit plan is located on page three.

Fraud Awareness:

When allegations of improper or dishonest acts by an employee, outside contractor or vendor are received, an investigation is required. Three reviews were opened during the year. Three projects were closed with one project referred to the Comptroller's Office, one project concluded with an audit report and one project administratively closed. The four projects in progress will be included on the FY 2022 audit plan. See page four for additional information.

Resources:

The current budget of \$435,764 is adequate to fulfill the current responsibilities. Details of the current budget and actual expenses for the past two years are located on page five.

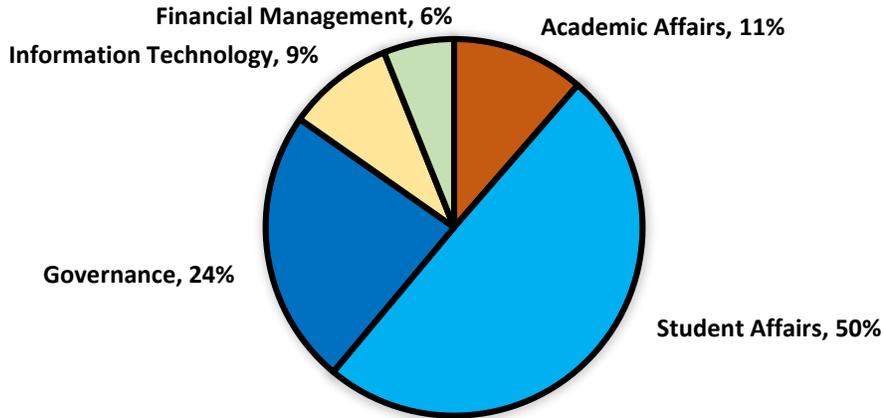
Planned Audit Efforts for 2022:

Along with the audits in progress and required audits, the planned audit effort for 2022 includes a review of the controls mitigating the risk areas of vendor provided services and four departmental/procedural reviews. The audit plan for 2022 is located on page six.

AUDIT EFFORT

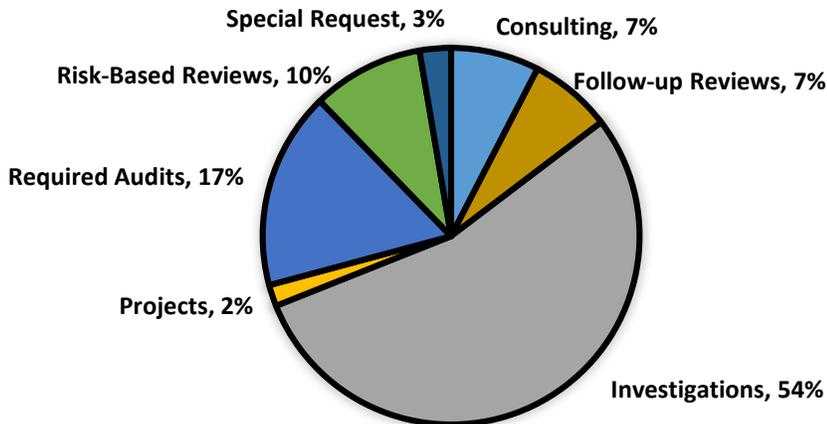
Audit and Consulting Services tracks audit effort by type of project and by university division as shown with the following charts. For the chart Audit Effort by Division, Governance includes the President's Division and general institutional support. The majority of audit effort (85%) focused on projects within Student Affairs, Governance, and Academic Affairs.

AUDIT EFFORT BY DIVISION



The type of audit work performed is defined by the source of the request or purpose of the audit work. Required audits (17%) are the result of a third party request or agreement that an audit or review be performed. This audit effort included the annual audit of the President's Office which is required by state law. The year-end reviews of inventory and cash counts are also included in this audit effort. Investigations represented 54% of the audit effort. Investigations are performed at the request of management or with the receipt of a hotline complaint of possible fraud, waste or abuse. Consulting (7%) represented efforts responding to general audit questions, assisting management with an audit concern and the Conflict of Interest Committee work.

AUDIT EFFORT BY TYPE OF AUDIT



Middle Tennessee State University
Status of Internal Audit Plan
Fiscal Year Ended June 30, 2021
as of June 30, 2021

Type	Area	Audit Project	Current Status	Audit Results
R	FM	Year-End Inventory FY2020	Report Issued 8/27/2020	No Reportable Issues
R	GV	Audit of President's Office	Report Issued 11/17/2020	No Reportable Issues
I	SS	INV1702	In Progress	
I	AA	INV1705	Draft Report	
I	AA	INV1801	In Progress	
I	AT	INV1904	In Progress	
I	SS	INV2101	Referred to Comptroller's Office	Report Issued 3/10/21
I	AA	INV2102	Closed 6/30/2021	No Reportable Issues
I	AA	Special Review International Enrollment and Services (INV2103)	Report Issued 4/28/2021	Recommended Improved Training
S	AA	Use of Mobile Production Truck	Report Issued 9/29/2020	Risk Identified/Mitigated
P	GV	IIA - Self Assessment & QAR	In Progress	
F	GV	State Audit Follow-Up to Sunset Review	Report Issued 5/7/2021	Implemented Corrective Action
C	GV	General Consultation/Risk Assessment	Project Throughout Year	n/a
I	GV	Unscheduled Investigations	Project Throughout Year	n/a
R	AT	Football Attendance Fall 2020	NCAA Waived Requirement	Cancelled
R	FM	Cash Counts FY2021	In Progress	
R	FM	Year-End Inventory FY2021	In Progress	
A	IT	Risk/Controls: Vendor Provided Services	Scheduled	
A	IT	Risk/Controls: PII Compliance	In Progress	
A	MC	Marketing & Communications	Scheduled	
A	FM	Payroll	Scheduled	
A	AA	Research Services Procedural Review	Scheduled	
A	FM	Property Management Contract Review	Scheduled	

Audit Types:

A - Risk-Based (Assessed)
C - Consulting
F - Follow-up Review
I - Investigation
M - Management's Risk Assessment
P - Project (Ongoing or Recurring)
R - Required
S - Special Request

Area = University Division

AA - Academic Affairs
AD - Advancement
AT - Athletics
FM - Financial Management
GV - Governance/Executive Office
IT - Information Technology
MC - Marketing and Communications
SS - Student Services

FRAUD AWARENESS

The University is committed to the responsible stewardship of resources and is required by state law to provide a means by which employees, students or others may report suspected or known improper or dishonest acts. Audit and Consulting Services manages the reporting process by which students, employees, taxpayers or other citizens may confidentially report suspected illegal, improper, wasteful or fraudulent activity. (TCA 49-14-103)

The "Fraud Awareness" brochure is a communication tool given to new employees that explains the reporting expectations and options for any individual who suspects improper or dishonest acts involving university employees, outside contractors or vendors. The "Fraud Awareness" information is also located on the Audit and Consulting Services webpage and includes an on-line reporting form.

When Audit and Consulting Services receives allegations of improper or dishonest acts by an employee, outside contractor or vendor, it is required to conduct an investigation. The purpose of the investigation or review is to determine if the allegation or concern is substantiated or unsubstantiated and if there are any internal control weaknesses or risks that management should address. If the allegation or concern is substantiated and corrective action is needed, an audit report is issued. A review is administratively closed with a memo to the file if the concern is unsubstantiated or referred to management or there are no recommendations for corrective action.

Below is a summary of the reviews pertaining to concerns of possible improper or dishonest acts.

Reviews brought forward from prior year	4
New reviews opened during year	3
Projects in Progress During the Year	<u>7</u>
Less Project Referred to State Audit	(1)
Less Report Issued	(1)
Less Administratively Closed	<u>(1)</u>
Reviews in Progress at June 30, 2021	<u><u>4</u></u>

In 2021, three new reviews of possible improper or dishonest acts were opened which matches the three year average of three reviews per year. New reviews for the past three years were: 1 in 2020, 5 in 2019 and 2 in 2018.

One project was referred to the Comptroller of the Treasury and the investigative report concerning the use of student activity fees received by the Somali Students Association and Muslim Students Association was issued on March 10, 2021. Management is taking corrective action to address the internal control and compliance deficiencies noted in the report.

The report issued in April 2021 was for the Special Review of International Enrollment and Services which was performed at the request of management. The scope focused on the enrollment of seven students into an unapproved certificate program and the information provided on the I-20 for the students. A series of decisions by a community of employees contributed to reporting errors on the I-20s. Management is implementing corrective action and providing additional training to the employees involved in the processing of immigration documentation.

One project was closed because the complaint was not substantiated as fraud, waste or abuse and there were no recommendations to improve the control environment. The projects in progress will be included on the 2022 annual audit plan.

RESOURCES

As defined in the MTSU Audit and Compliance Committee Charter, the Audit and Compliance Committee is responsible for ensuring Audit and Consulting Services has adequate resources in terms of staff and budget to effectively perform its responsibilities. The following is the estimated budget for 2021-2022 compared to the actual expenses of the prior two fiscal years.

	Estimated Budget (1) 2021-2022	Actual Expenses 2020-2021	Actual Expenses 2019-2020
Salaries:			
Chief Audit Executive	\$ 105,643	\$ 106,699	\$ 105,643
Assistant Director	67,168	67,831	66,342
Internal Auditors, 2 Professionals	90,184	46,991	46,215
Support Staff	28,402	29,008	28,040
Longevity for Staff	8,500	8,500	8,300
Benefits	123,484	121,937	120,306
Total Salaries and Benefits	<u>\$ 423,381</u>	<u>\$ 380,966</u>	<u>\$ 374,846</u>
Travel	5,000	-	700
Operating Expenses	7,383	3,142	3,521
Total Budget/Expenses	<u>\$ 435,764</u>	<u>\$ 384,108</u>	<u>\$ 379,067</u>

(1) The Estimated Budget for FY 2021-2022 will be finalized in October 2021.

The 2021-2022 budget for Audit and Consulting Services is adequate to fulfill the current responsibilities.

**Middle Tennessee State University
Internal Audit Plan
Fiscal Year Ended June 30, 2022
as of August 6, 2021**

Type	Area	Audit Project	Current Status	Audit Results
R	FM	Year-End Inventory FY2021	Completed 8/6/2021	No Reportable Issues
R	FM	Cash Counts FY2021	Completed 8/5/2021	No Reportable Issues
R	GV	Audit of President's Office	In Progress	
I	SS	INV1702	In Progress	
I	AA	INV1705	In Progress	
I	AA	INV1801	In Progress	
I	AT	INV1904	In Progress	
I	SS	INV2201	In Progress	
P	GV	IIA - Self Assessment & QAR	In Progress	
F	GV	State Audit Assistance/Follow-Up	Project Throughout Year	
C	GV	General Consultation/Risk Assessment	Project Throughout Year	
I	GV	Unscheduled Investigations	Scheduled	
R	FM	Cash Counts FY2022	Scheduled	
R	FM	Year-End Inventory FY2022	Scheduled	
A	IT	Risk/Controls: PII Compliance	In Progress	
A	IT	Risk/Controls: Vendor Provided Services	Scheduled	
A	MC	Marketing & Communications	Scheduled	
A	FM	Payroll	Scheduled	
A	AA	Research Services Procedural Review	Scheduled	
A	FM	Property Management Contract Review	Scheduled	

Audit Types:

A - Risk-Based (Assessed)
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P - Project (Ongoing or Recurring)
R - Required
S - Special Request

Area = University Division

AA - Academic Affairs
AD - Advancement
AT - Athletics
FM - Financial Management
GV - Governance/Executive Office
IT - Information Technology
MC - Marketing and Communications
SS - Student Affairs



**Middle Tennessee State University
Board of Trustees**

Audit and Compliance Committee

Information Item

DATE: August 24, 2021

SUBJECT: **Quarterly Report – Results of
Internal Audit Reports**

PRESENTER: Brenda Burkhart
Chief Audit Executive

BACKGROUND INFORMATION:

MTSU Policy 70 Internal Audit section IX.F requires significant results of internal audit reports be presented to the Audit and Compliance Committee quarterly.

Since the last meeting of the Audit and Compliance Committee, the following audit projects were completed:

1. Audit of Inventories for Fiscal Year Ended June 30, 2021 which concluded the inventory counts were accurate. There were no reportable issues.
2. Cash Counts for Fiscal Year Ended June 30, 2021 were completed with no reportable issues.

An update on the corrective action to the Comptroller's Investigative Report issued March 10, 2021 concerning the use of student activity fees by two student organizations will be provided.



**Middle Tennessee State University
Board of Trustees**

**Audit and Compliance Committee
Information Item**

DATE: August 24, 2021

SUBJECT: **Compliance and ERM Program
Updates and Effectiveness**

PRESENTER: Gené Stephens
Assistant Vice President
Office of Compliance and Enterprise
Risk Management

BACKGROUND INFORMATION:

As part of the University's Compliance and Enterprise Risk Management programming, below are updates for the Committees review related to the following areas:

1. Records Management;
2. Insurance Resource Database;
3. Summer Camp Safety and Risk Management Training;
4. Conflict of Interest Disclosure Form Enhancement; and
5. Family Educational Rights and Privacy Act (FERPA) Complaint Form and Procedures.

A separate discussion on the University's environmental, social, and

governance (ESG) compliance is also provided, which relates to effective compliance programming and risk management.

Records Management

The University continues to provide its annual Records Holding Report to the State's Records Management Division ("State RMD") by July 1, and continues to receive positive feedback from State RMD Director, Kevin Callaghan, regarding MTSU's work to comply with State requirements. The Records Holding Report ("Holdings Report") for this year was submitted on June 30, 2021 and included information on the University's records holdings (paper, electronic, and other record mediums), as well as data regarding the number of records destroyed, which is required by the State RMD and Public Records Commission. Similar to last year's reporting, the 2021 Holdings Report included data analytics, which compared the University's holdings from 2018 through 2021. The addition of data analytics continues to serve as an enhancement to the overall Holdings Report data for which MTSU continues to receive compliments from the State RMD.

Insurance Resource Database

An insurance database is in development as a value-enhancement tool to manage, maintain, track, and review the following information:

1. Certificates of Insurance (COIs) - to download into the Database (by year) for evidence of coverage related to University vendors and events.
2. Copy of the State of Tennessee's COI (under which State employees and student workers are covered).
3. Information detailing MTSU's minimum insurance coverage limit requirements (i.e. \$1M general liability; \$2M aggregate).

The Database will also offer a feature that will allow departments to download information from vendors regarding University events for review by the CAERM office for risk management purposes. In addition, the Database will provide a search feature to view COIs by year, insurance carrier, or by the insured parties.

Summer Camp and Risk Management Training

Due to COVID-19, campus training on Summer Camps was held virtually. For the first time in five years, attendance by employees viewing the training reached 44.

The purpose of the Summer Camp Safety and Risk Management Training is to provide camp management, staff, and volunteers with information regarding:

1. University Policy regarding Minors on Campus
2. Public safety and emergency management
3. ADA accessibility for campers
4. Insurance coverage
5. Risk management documentation and tools (e.g. Medication lists for campers; waivers; participation agreements; visitor logs and policies; emergency contact information)

Conflict of Interest Disclosure Dynamic Form

The Conflict of Interest (COI) Disclosure Form (Form) utilized by employees to disclose financial, relational, business, or other types of conflicts of interest was converted to a fillable, electronic dynamic Form. In addition, completed Forms are then stored onto a University secured electronic folder that is accessible by both the University Counsel's and CAERM offices. Use of the dynamic Form and auto-storage of the Form onto a secure electronic folder has created greater efficiency in the tracking of COI Forms.

FERPA Complaint Form and Procedures

A new FERPA Complaint Form was developed to enhance procedures and documentation concerning the receipt and processing of FERPA complaints by students. A link to the FERPA Complaint Form is available on the CAERM office webpage.

ESG Compliance and Applicability to Compliance and Risk Management

Environmental, social, and governance (ESG) compliance has become a part of ensuring the effectiveness of an organization's risk management and compliance program. Specifically, ESG compliance reviews an organization's environmental sustainability and innovation efforts; codes of conduct; diversity and inclusion efforts (D&I); supply chain processes; investor relations; data management; and due diligence reporting regarding business strategy. Several organizations now have ESG committees and departments to review ESG strategies, risk, and compliance.

While MTSU is not a public-traded agency, the University's "investors" are its students (customers), surrounding communities, regulators (federal and state), legislators, parents, and alumni. The following are the demonstrative ways the University advances ESG principles as part of its overall internal control system and compliance/risk management programming.

1. Environmental Sustainability and Innovation

Through its Center for Energy Efficiency (CEE), which is managed by the Facilities Department, the University promotes energy efficient activities on campus designed to educate employees and students on environmental stewardship. The CEE additionally promotes clean energy and recycling programs, as well as offers funding (through Student Affairs) to students and student organizations who facilitate clean energy initiative projects, such as lowering energy consumption, decreasing energy expenses, and utilization of alternative energy sources to reduce the University's energy footprint.

Recycling and energy efficiency efforts are also promoted in campus buildings by Facilities Services through visible recycling bins and use of environmentally friendly cleaning projects when, and where, appropriate. The focus on environmentally sustainable energy and spaces is also visible in the construction of new campus buildings and green space. Finally, the CEE works collaboratively with MTSU's academic departments, such as engineering technology and industrial studies, to provide work and scholarship opportunities to students in furtherance of sustainability and energy efficiency work.

2. Codes of Conduct and D&I

The University's policies align with its core values of honesty and integrity; respect for diversity; engagement in the community; and commitment to non-violence. Policies such as Ethics and Code of Conduct Policy 10 and Conflicts of Interest Policy 12 are among the University's policies that help to advance ESG compliance. In addition, the President's leadership and development of campus meetings to discuss D&I, as well as the development of the Presidential Fellow for Social Justice and Equality position, held by Dr. Louis Woods, has helped to advance social justice discussions.

3. Data Management and Reporting

Policies and procedure of the University outlines the importance of data management, accurate analytics, consistent reporting, and review of data to ensure continuous improvement of the internal control system, as well as timely information to MTSU's regulators, accreditors, students, and surrounding communities. The University additionally exhibits strength in this ESG area of reporting through its annual divisional and department objectives and performance metrics. Measurement of performance metrics and objectives are additionally supported by the University's:

- a. Information Technology Division (ITD) through management database creation to track department or division specific metrics, as well as ITD's leadership regarding MTSU's cybersecurity response plan.
- b. Marketing and Communications Division through its timely reporting of operational statistics, campus events, benchmarks, and MTSU milestones in industry and academics.
- c. Student Affairs Division through its timely and consistent information to students, parents, and families regarding housing, dining, and other student-support services to promote academic persistence and completion.
- d. Business and Finance Division through its system of financial controls and reporting in compliance with state and federal regulations and financial auditing standards and principles.
- e. Academic Affairs Division through its advancement and offerings of quality, accredited, and relevant academic programs for both undergraduate and graduate students.

Finally, the University Advancement Division ensure appropriate stewardship of MTSU's investments, as well as advances the University's fundraising efforts, alumni relations, corporate relations, and government lobbying.

All of the above divisions utilize the University's data management systems ensuring MTSU's internal controls are supportive of its business practices.



**Middle Tennessee State University
Board of Trustees**

**Audit and Compliance Committee
Information Item**

DATE: August 24, 2021

SUBJECT: **Annual Compliance Trainings
Effectiveness – FERPA, Ethics and
HIPPA**

PRESENTER: Gené Stephens
Assistant Vice President
Office of Compliance and Enterprise
Risk Management

BACKGROUND INFORMATION:

Annually, the Office of Compliance and Enterprise Risk Management (CAERM) is responsible for disseminating mandatory employee training regarding the following topics:

1. Family Educational Rights and Privacy Act (FERPA) – applicable to all full-time, part-time, and undergraduate and graduate student employees.
2. Ethics – applicable to all full-time and part-time employees.
3. Health Insurance Portability and Accountability Act of 1996 (HIPAA) –

applicable to Student Health Services, Campus Pharmacy, and the Speech Language and Pathology Clinic staff. The training is also utilized by Counseling Services.

4. Summer Camp Safety and Risk Management – applicable to Athletics coaches, the Governor’s School staff, and camp staff, management, and volunteers who hold either private or MTSU-sponsored camps involving minors on campus property.

A supplemental, training on Fraud, Waste, and Abuse (FWA) Prevention continues to reiterate the University’s commitment to FWA prevention and risk mitigation. In addition, the FERPA, Ethics, and HIPAA trainings continue to be distributed to employees during the Fall semester.

As part of the compliance communications from the CAERM office, the following provides additional data in employee training completions by yearly comparison:

Compliance Video Training	2018	2019	2020	Percentage Change (comparing 2019 to 2020)
Ethics	752	1,260	1,244	1% decrease
FERPA	600	1,266	2,557	102% increase
HIPAA	58	62	65	5% increase
Summer Camp Safety and Risk Management	n/a	n/a	122	n/a



**Middle Tennessee State University
Board of Trustees**

Audit and Compliance Committee

Action Item

DATE: August 24, 2021

SUBJECT: **Risk Assessment Reporting**

PRESENTER: Gené Stephens
Assistant Vice President
Office of Compliance and Enterprise
Risk Management

BACKGROUND INFORMATION:

Section 9-18-104 of the Financial Integrity Act requires institutions of higher education to prepare and provide a management assessment of risk to the State of Tennessee's Commissioner of Finance and Administration and to the Comptroller of the Treasury by December 31 annually.

For 2021, the Division of Academic Affairs and the Division of Business and Finance performed, and provided, risk assessment reporting. In addition, a risk assessment report was completed detailing university-wide risk and control activities.

Similar to MTSU's risk assessment reporting of 2020, the risk assessment documents are designated as confidential and are discussed in the non-public executive session of the Committee. The risk assessment reports are presented to the Committee for approval prior to the reports' submission to the State, as required by law.