



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

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Tuesday, March 16, 2021  
1:00 p.m.

MEC Meeting Room – 2<sup>nd</sup> Floor  
Miller Education Center  
503 East Bell Street  
Murfreesboro, Tennessee 37132





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

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Tuesday, March 16, 2021  
1:00 p.m.

**AGENDA**

Call to Order and Opening Remarks

Roll Call

Approval of Minutes (Action) .....Tab 1

Approval of Policy Revisions (Action) .....Tab 2

1. Policy 25 Equal Opportunity, Affirmative Action, and Nondiscrimination
2. Policy 90 Athletic Integrity and Conduct of Athletics Staff

Report of Conflict of Interest Disclosures in 2020 (Information) .....Tab 3

Review of President’s Statement of Disclosure of Interests for 2021 (Information) .....Tab 4

Report on Compliance with Public Records Policy (Information) .....Tab 5

Results of External Reviews (Information) .....Tab 6

1. Tennessee Comptroller of the Treasury, Financial and Compliance Audit Report for the Year Ended June 30, 2020
2. Tennessee Comptroller’s Report – NCAA Agreed-Upon Procedures Applied to the Athletic Programs Statement of Revenue & Expenses for the Year Ended June 30, 2020
3. U.S. Small Business Administration – Financial Examination of the TN Small Business Development Center, Program Year 2019
4. Tennessee Student Assistance Corporation (TSAC) Program Review for the 2019-2020 Award Year

Quarterly Report – Results of Internal Audit Reports (Information) .....Tab 7

Closing Remarks

Adjourn Public Session

Non-Public Executive Session – Audits/Investigations/Litigation (Information)

Adjourn Non-Public Executive Session





**Middle Tennessee State University  
Board of Trustees**

**Audit and Compliance Committee**

**Action Item**

DATE: March 16, 2021

SUBJECT: **Approval of Minutes**

PRESENTER: Pete DeLay  
Committee Chair

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**BACKGROUND INFORMATION:**

The Audit and Compliance Committee met on November 10, 2020. 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, November 10, 2020 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 11:53 a.m. and welcomed everyone in attendance.

**Roll Call**

The following Committee members were in attendance: Trustees Tom Boyd, Pete DeLay, Mary Martin, Steve Smith, and Pam Wright. Trustee Christine Karbowskiak participated electronically and, pursuant to T.C.A. § 8-44-108(c)(3), she confirmed that she could hear clearly and no one was present in the room with her. 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; Heidi Zimmerman, University Counsel and 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 August 18, 2020 Audit and Compliance Committee meeting. Trustee Boyd moved to approve the minutes from the August 18, 2020 meeting and Trustee Wright seconded the motion. A roll call vote was taken and, with

all Committee members voting “Aye,” the motion to approve the minutes from the August 18, 2020 meeting of the Audit and Compliance Committee carried.

### **Results of External Reviews - Information**

Ms. Burkhart presented the results of one external review. In September, the Office of Criminal Justice Programs of the Tennessee Department of Finance and Administration completed an on-site monitoring review of the Victims of Crime Act (VOCA) Contract for the fiscal year ending June 30, 2020. There were no findings of noncompliance.

### **Quarterly Report – Results of Internal Audit Reports – Information**

Ms. Burkhart presented the results of two internal audit reports issued since the August 18, 2020 report of audit results to the Audit and Compliance Committee. 1) The Audit of Inventories for Fiscal Year Ended June 30, 2020 concluded that inventory counts were accurate and in compliance with the procedures. There were no reportable issues. 2) The Review of the Use of the MTSU Mobile Production Lab for the Period July 1, 2018 to June 30, 2020 concluded the risk of personal use was minimal and the procedures for managing the asset were adequate. This report contained no findings or recommendations; however, one observation was included in the report. This observation, regarding an emergency communication risk that no employee other than the employees on the production site knew the names of the production crew members, was quickly mitigated by management.

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 11:58 a.m. and entered non-public executive session at 12:00 p.m. to discuss audits and investigations. The non-public executive session adjourned at 12:28 p.m.

Respectfully submitted,

Audit and Compliance Committee





**Middle Tennessee State University  
Board of Trustees**

**Audit and Compliance Committee**

**Action Item**

DATE: March 16, 2021

SUBJECT: **Approval of Policy Revisions**

PRESENTERS: Christy Sigler  
Interim Assistant to the President for  
Institutional Equity and Compliance  
  
Gené Stephens  
Assistant Vice-President,  
Office of Compliance and Enterprise  
Risk Management

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**BACKGROUND INFORMATION:**

**Policy 25 Equal Opportunity, Affirmative Action, and Nondiscrimination**

The proposed revisions are drafted to reflect the adoption of MTSU Policy 29 Title IX Compliance and to update job titles and terminology.

**Policy 90 Athletic Integrity and Conduct of Athletics Staff**

The proposed revisions are drafted to clarify that matters covered by the University's discrimination-based investigation policies (Policies 26, 27, and 29) and matters covered by NCAA or Conference-USA rules are not subject to review under Policy 90. In addition, cross-references and policy names are updated and corrected.





## 25 Equal Opportunity, Affirmative Action, and Nondiscrimination

Approved by Board of Trustees

Effective Date: ~~June 5, 2017~~ \_\_\_\_\_, 2021

Responsible Division: President

Responsible Office: Institutional Equity and Compliance

Responsible Officer: Assistant to the President for Institutional Equity and Compliance

### I. Statement of Nondiscrimination

It is the intent of Middle Tennessee State University (MTSU or University) to fully comply with the applicable provisions of federal and state civil rights laws, including, but not limited to, Executive Order 11246, as amended; the Rehabilitation Act of 1973, as amended; the Americans with Disabilities Act of 1990, as amended; the Vietnam Era Veterans Readjustment Act of 1974, as amended; the Equal Pay Act of 1963, as amended; Titles VI and VII of the Civil Rights Act of 1964, as amended; Title IX of the Educational Amendments of 1972, as amended; the Age Discrimination in Employment Act of 1967; the Age Discrimination Act of 1975; the Pregnancy Discrimination Act; the Genetic Information Nondiscrimination Act of 2008; Section 485(f) of the HEA, as amended by Section 304 of the Violence Against Women Reauthorization Act of 2013, the regulations implementing these Acts found at 34 CFR § 668.41, §668.46, and Appendix A to Subpart D of Part 668 and regulations promulgated pursuant thereto.

MTSU will promote equal opportunity for all persons without regard to race, color, religion, creed, ethnic or national origin, sex (including pregnancy), sexual orientation, gender identity/expression, disability, age (as applicable), status as a protected veteran, genetic information, and any other legally protected class. In doing so, MTSU affirms that it will not tolerate discrimination against any employee or applicant for employment and will not subject any student to discrimination or harassment under any educational program and no student shall be discriminatorily excluded from participation nor denied the benefits of any educational program on the basis of any of the protected categories listed above.

### II. Procedures to Address Claims of Discrimination or Harassment

Because different legal requirements apply to claims of discrimination and harassment, depending on the protected category claimed to have been violated, separate policies describe the different procedures applicable to claims based on particular protected categories.

- A. Allegations of discrimination and harassment based on sex (including pregnancy), sexual orientation, gender identity/expression, and sexual misconduct will be addressed pursuant to the procedures set forth in [Policies 27 Misconduct, Discrimination and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression](#) and [29 Title IX Compliance](#).
- B. Allegations of discrimination and harassment based on categories other than sex, sexual orientation, and gender identity/expression (for example, harassment based on race or disability status) will be addressed pursuant to the procedures set forth in [Policy 26 Discrimination and Harassment based on Protected Categories other than Sex](#).

Complaints ~~alleging violations of discrimination and harassment policies~~ may be filed ~~and will be adjudicated by any current or former student, applicant for employment, or current or former employee who believes he/she has been subjected to prohibited discrimination or harassment, or who believes he/she has observed such activities taking place.~~ Complaints against students alleging discrimination or harassment under either of these policies shall be addressed by the Office of Student Conduct pursuant to the procedures outlined in the applicable policy. Complaints against administrators, faculty, staff, contractors, or third parties alleging discrimination or harassment under either of these policies shall be addressed by the ~~Office of Institutional Equity and Compliance (IE&C)~~ pursuant to the procedures set forth in the applicable policy.

Complaints filed with any external agency, such as the Equal Employment Opportunity Commission, the Office for Civil Rights, or the Tennessee Human Rights Commission, must be forwarded to the Office of the University Counsel once received. This office will coordinate and submit a response on behalf of the University.

### III. Statement of Policy

In accordance with the statement of nondiscrimination and letter of commitment from the President, set forth in Section II. of the Affirmative Action Plan, MTSU shall not engage in practices which would discriminate against any individual or group for reasons of race, sex, sexual orientation, gender identity/expression, age (as applicable), color, religion, creed, ethnic or national origin, disability, status as a covered veteran, or genetic information. MTSU specifically finds that diversity of students, faculty, administrators, and staff is a crucial element of the educational process and reaffirms its commitment to enhancing education through affirmative action to increase diversity at all levels.

MTSU will take affirmative action to ensure that applicants for employment and employees are treated in a nondiscriminatory manner. Such action shall include, but not be limited to:

- A. Making employment decisions which further the principle of equal opportunity and affirmative action;

- B. Recruiting, hiring, training, and promoting persons in all job titles, without regard to any of the foregoing prohibited factors;
- C. Ensuring that promotion decisions are in accord with principles of equal opportunity and affirmative action by imposing only valid requirements for job, educational, and other opportunities; and,
- D. Ensuring that all employment decisions are implemented without prohibited discrimination.

Similarly, in compliance with Title IX of the Educational Amendments of 1972, as amended, MTSU shall not, on the basis of sex, subject any student to discrimination under any educational program. No student shall be discriminatorily excluded from participation in, or denied the benefits of, any educational program on the basis of a protected status.

#### IV. Implementation

##### A. Administrative Responsibility

The President of MTSU has appointed IE&C as the area responsible for developing and implementing the University's equal opportunity and affirmative action program and for ensuring fair practices in employment and education.

Pursuant to this appointment, IE&C shall:

1. Ensure that plans are prepared and administered effectively within the time frame established.
2. Promote the equal opportunity program and affirmative action plan and ensure compliance with federal, state, and local laws and statutes, and University policies.
3. Receive and investigate complaints alleging violation of federal, state, or local statutes, or University policies that provide protection from discrimination, harassment, and retaliation on the bases of race, color, religion, creed, ethnic or national origin, sex (including pregnancy), sexual orientation, gender identity/expression, disability, age (as applicable), status as a protected veteran, genetic information, and any other legally protected class.
4. Assess the effectiveness of the program and recommend improvements.
5. Ensure that affirmative action plans are developed annually, and implemented as a means of aggressively pursuing the principles of equal employment opportunity.

6. Ensure that affirmative action goals and timetables are developed to correct problem areas and situations contributing to the under-utilization, under-representation, or inequitable treatment of protected class employees.
  7. Provide positive leadership in the implementation of affirmative action programs on the campus and ensure that appropriate attention is devoted to the program in staff and faculty meetings. This shall include informing all supervisors that their performance evaluation will include an assessment of the effectiveness of their participation in the equal opportunity programs and affirmative action plan in compliance with [Policy 810 Performance Evaluation Reviews](#).
  8. Gather and report data related to the equal opportunity program and affirmative action plan.
  9. Ensure that policies and procedures are implemented to address all forms of harassment, including a procedure to receive and investigate complaints and recommend necessary action to the appropriate decision-maker ~~President~~.
  10. Develop and implement educational programs regarding all types of harassment.
- B. Supervisory Responsibility. Each Vice President and other supervisory personnel shall:
1. Disseminate this policy to the employees in the offices and operations for which he/she has immediate responsibility.
  2. Discuss this and other related policies directly with employees, to answer questions about them, to support them, and to urge support and cooperation by employees.
  3. Seek the assistance of IE&C as necessary.

## V. Plan for Affirmative Action

The affirmative action plan is designed to promote and ensure equal opportunity at MTSU. Its goal is to ensure additional efforts to recruit, employ, and promote qualified members of groups and persons formerly excluded, even where exclusion cannot be traced to particular discriminatory actions on the part of the employer. Further, it is the intent of the affirmative action plan to overcome the effects of systematic institutional forms of exclusion and discrimination, which in practice tend to perpetuate the status quo. This plan requires that MTSU determine the under-utilization of minorities-individuals of color and women, set goals and timetables for remedy of under-utilization of same, and describe plans and procedures for correcting said under-utilization of underrepresented individuals (persons of color protected by law)-minorities and women. Minorities-eople of color are defined for this purpose by the Department of Labor as ~~Native American, Asian,~~ Black/~~or~~ African American, Hispanic/Latino, Asian/Pacific Islander, American Indian/Alaskan Native and ~~or~~ two (2) or more races. ~~In addition,~~

~~for data collection purposes, provision shall be made to report the number of respondents who are Hispanic or Latino.~~

Under-utilization, for the purpose of this plan, is defined as "having fewer women or people of color minorities in a particular job than would reasonably be expected by their availability." Goals will be established considering availability and the results of the utilization analysis. The University shall adopt the whole person measure ~~straight parity or any difference measure~~ in compliance with regulations of the Office of Federal Contract Compliance Programs (OFCCP). Specifically, percentage goals will be established by EEO-6 category and job group. Goals and objectives by organizational unit shall be established to correct identifiable deficiencies. Goals by organizational unit shall refer to action-oriented efforts rather than percentage goals. Where problem areas are identified by organizational units, the affirmative action plan shall include a description of the efforts which the University has taken or will take to correct those problem areas in accordance with OFCCP requirement 41 CFR 60-2.13(d).

Under-representation, for purposes of this plan, is defined as having fewer individuals of color minorities or females in a particular section of the contractor's work force, (i.e., department, job title, etc.) than would be expected in terms of their overall representation in the contractor's work force or relevant sector of that work force.

#### Utilization Analyses

- A. An analysis of the utilization of minorities and women will be performed. This analysis will include, but not be limited to, the following:
  1. Ensuring that the EEO-6 Report is completed for all categories of employees (executive/administrative/managerial, faculty, professional/non-faculty, clerical, technical/paraprofessional, skilled crafts, service maintenance).
  2. Considering the number of women and individuals of color minorities employed by EEO-6 category and job group and the reasons for any under-utilization.
  3. Comparing, as necessary, the salaries and wages of men and women by job classification.
- B. The following factors must be considered in establishing goals:
  1. The percentage of individuals of color minorities or women with requisite skills in the reasonable recruitment area, where "reasonable recruitment area" refers to the geographical area from which the contractor usually seeks, or reasonably could seek, workers to fill the positions in question; and
  2. The percentage of individuals of color minorities or women among those promotable, transferable, and trainable within the contractor's organization, where

"trainable" refers to employees who could, with appropriate training, become promotable or transferable within the AAP year.

- C. In compliance with Title 41, Chapter 60 of the Code of Federal Regulations, MTSU will undertake one (1) or both of the following steps:
1. Determine which job groups are "feeder pools" for the job group in question. The feeder pools are job groups from which individuals are promoted.
  2. Ascertain which employees could be promoted or transferred with appropriate training.
- D. Distribution of Affirmative Action Plan. Copies of the affirmative action plan ~~shall be distributed to all major organizational units~~ are distributed to Academic Affairs, Human Resources, the President's Office (kept in IEC), and made available to the public in the University library. Each College Dean also receives the University data, as well as their specific college and department data. These units shall ensure distribution to all personnel within the appropriate units who have responsibility for the implementation thereof. The affirmative action plan shall also be made available, upon request, to any employee, applicant, recruitment source, minority and women's organizations, and equal employment opportunity monitoring authorities.

## VI. Personnel Action, Policies, and Procedures

The University will establish in reasonable detail and make available upon request the standards and procedures which govern all employment practices in the operation of the institution. Included in these standards and procedures shall be policies relating to the following:

- A. Recruitment, Assignment, Transfer, and Promotion
1. Position announcements shall be distributed for consideration by all interested individuals. Announcements shall indicate the duties, responsibilities, and authorities of the position and the minimum qualifications needed by the applicant. Announcements shall carry a filing date, the method of filing an application, and the person to whom the application is to be made.
  2. Recruitment literature and vacancy announcements shall carry clear statements that the University is an equal opportunity/affirmative action employer and that positions are open to all applicants unless there is a bona fide occupational qualification requirement.
  3. Recruitment literature and vacancy announcements shall be sent to all recognized sources of candidates according to the type of position and in ways designed to



- solicit and encourage applications from qualified applicants who are female and/or individuals of color ~~minority and female applicants~~.
4. Recruitment sources and advertising media utilized shall include ~~relevant minority and women's~~ organizations and community agencies related to female and/or individuals of color. Each applicant's qualifications shall be evaluated by comparing him/her with realistic job standards developed on the basis of work requirement.
  5. For professional positions such factors as education, professional experience, scholarly achievement, leadership ability, understanding of problems with which the position is to deal, demonstrated drive, tact, and initiative would be considered.
  6. For non-professional positions such factors as education, experience, and demonstrated ability will be considered, and appropriate skills tests will be utilized.
  7. The receipt and disposition of all applications shall be recorded, and all applicants shall be informed as to when their application will become inactive.
  8. Employee qualifications shall be evaluated against position requirements. Consideration shall be given to past performance and recommendations of colleagues and others in a position to evaluate potential performance.
  9. All personnel involved in recruiting, screening, selection, and promotion of employees shall be carefully selected and trained to ensure elimination of bias in all personnel actions.
  10. If the use of any tests other than skills tests is contemplated in evaluating applicants or employees, they must be validated by a professional psychometrist prior to use as a screening device.

#### B. Compensation

1. Faculty, Administrative, and Professional Staff: Faculty salaries shall be determined by earned degrees, experience, academic rank, and other appropriate factors. Administrative and Professional staff salaries shall be determined by factors such as job responsibilities, level of training and experience, and demonstrated effectiveness.
2. Classified Staff: Job classifications and salary schedules will be established for clerical and support positions. The appropriate classifications and salaries shall be applied uniformly and equitably.
3. The average salaries of males and females within the same job classification shall be compared, and any noticeable discrepancies shall be analyzed to determine the

reasons therefore. If differences cannot be accounted for in terms of relative merit and/or seniority, immediate action shall be taken to correct the discrepancy.

#### C. Training

1. When appropriate, training shall be provided to enable University personnel to increase their skill levels for more responsible positions. The University shall develop formal training programs to aid in the advancement of personnel.
2. The University shall consider the degree to which on-the-job training can be administered to individuals of color ~~minorities~~ and women in job categories wherein they are under-utilized, and where feasible, shall institute such training as a means of providing a greater opportunity for advancement.

#### D. Communication

1. Official equal opportunity signs shall be posted at appropriate places on campus and will be kept current.
2. The equal opportunity/affirmative action statement shall be placed on all appropriate University documents, including, but not limited to, stationary, bulletins, newsletters, contracts, purchase orders, advertisements, graduate and undergraduate catalogs, faculty, staff, and student handbooks, etc.
3. Recruitment sources, ~~minority and women's~~ organizations related to individuals of color and/or females, community agencies, and community leaders shall be notified periodically and in writing of the University policy on equal opportunity.
4. The equal opportunity/affirmative action policy shall be distributed to all employees of the University and discussed in orientation programs.
5. Equal opportunity/affirmative action shall be a topic of regular discussion by managers at staff meetings.

#### E. Other Personnel Actions. All other personnel actions, i.e., discipline, discharge, layoff, demotion, etc., shall be conducted indiscriminately. The following criteria will be established and applied without prohibited discrimination:

1. testing criteria;
2. evaluation criteria;
3. professional qualifications (degrees, experience, etc.); and

4. criteria for promotion and tenure.

## VII. Sexual Orientation and Gender Identity/Expression

It is the policy of MTSU that neither its students nor its employees be discriminated against on the basis of that individual's sexual orientation or gender identity/expression. Such a policy helps ensure that only relevant factors are considered, and that equitable and consistent standards of conduct and performance will be applied. For the purpose of this policy, sexual orientation concerns the emotional, romantic, sexual, or affectional attraction to members of the same sex, opposite sex, or both sexes. Gender identity/expression concerns how an individual perceives his or her own gender, which may or may not be consistent with his or her anatomic sex or gender role. Any individual who has a discrimination complaint based upon his or her sexual orientation or gender identity/expression should follow the procedures set forth in Section II. above.

This policy shall not be construed to (1) infringe upon the free exchange of ideas essential to the academic environment, (2) limit the freedom of religious association, or (3) establish a duty to engage in affirmative action measures on the basis of sexual orientation or gender identity/expression. Further, this policy shall not be construed to require the compliance of external government agencies, University programs governed by external government agencies, in which nondiscrimination does not include sexual orientation (i.e., ROTC), or programs that discriminate as a matter of policy. Notwithstanding the language set forth in this policy, eligibility of employees for employment benefits is determined by the laws and regulations of the State of Tennessee, and is not affected by this policy.

Forms: none.

Revisions: June 5, 2017 (original); \_\_\_\_\_, 2021~~none~~.

Last Reviewed: \_\_\_\_\_ 2021~~June 2017~~.

References: Executive Order 11246; Rehabilitation Act of 1973; Americans with Disabilities Act of 1990; Vietnam Era Veterans Readjustment Act of 1974; Equal Pay Act of 1963; Age Discrimination in Employment Act of 1967; Age Discrimination Act of 1975; Pregnancy Discrimination Act; Civil Rights Act of 1964; Title IX of the Education Amendments; Policies 26 Discrimination and Harassment Based on Categories Other than Sex; 27 Misconduct, Discrimination, and Harassment Based on Sex including Pregnancy, Sexual Orientation, and Gender Identity/Expression; 29 Title IX Compliance; 810 Performance Evaluation Reviews.





## **25 Equal Opportunity, Affirmative Action, and Nondiscrimination**

**Approved by Board of Trustees**

**Effective Date:** \_\_\_\_\_, 2021

**Responsible Division:** President

**Responsible Office:** Institutional Equity and Compliance

**Responsible Officer:** Assistant to the President for Institutional Equity and Compliance

### **I. Statement of Nondiscrimination**

It is the intent of Middle Tennessee State University (MTSU or University) to fully comply with the applicable provisions of federal and state civil rights laws, including, but not limited to, Executive Order 11246, as amended; the Rehabilitation Act of 1973, as amended; the Americans with Disabilities Act of 1990, as amended; the Vietnam Era Veterans Readjustment Act of 1974, as amended; the Equal Pay Act of 1963, as amended; Titles VI and VII of the Civil Rights Act of 1964, as amended; Title IX of the Educational Amendments of 1972, as amended; the Age Discrimination in Employment Act of 1967; the Age Discrimination Act of 1975; the Pregnancy Discrimination Act; the Genetic Information Nondiscrimination Act of 2008; Section 485(f) of the HEA, as amended by Section 304 of the Violence Against Women Reauthorization Act of 2013, the regulations implementing these Acts found at 34 CFR § 668.41, §668.46, and Appendix A to Subpart D of Part 668 and regulations promulgated pursuant thereto.

MTSU will promote equal opportunity for all persons without regard to race, color, religion, creed, ethnic or national origin, sex (including pregnancy), sexual orientation, gender identity/expression, disability, age (as applicable), status as a protected veteran, genetic information, and any other legally protected class. In doing so, MTSU affirms that it will not tolerate discrimination against any employee or applicant for employment and will not subject any student to discrimination or harassment under any educational program and no student shall be discriminatorily excluded from participation nor denied the benefits of any educational program on the basis of any of the protected categories listed above.

### **II. Procedures to Address Claims of Discrimination or Harassment**

Because different legal requirements apply to claims of discrimination and harassment, depending on the protected category claimed to have been violated, separate policies describe the different procedures applicable to claims based on particular protected categories.

- A. Allegations of discrimination and harassment based on sex (including pregnancy), sexual orientation, gender identity/expression, and sexual misconduct will be addressed pursuant to the procedures set forth in Policies [27 Misconduct, Discrimination and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression](#) and [29 Title IX Compliance](#).
- B. Allegations of discrimination and harassment based on categories other than sex, sexual orientation, and gender identity/expression (for example, harassment based on race or disability status) will be addressed pursuant to the procedures set forth in [Policy 26 Discrimination and Harassment based on Protected Categories other than Sex](#).

Complaints alleging violations of discrimination and harassment policies may be filed and will be adjudicated pursuant to the procedures set forth in the applicable policy.

Complaints filed with any external agency, such as the Equal Employment Opportunity Commission, the Office for Civil Rights, or the Tennessee Human Rights Commission, must be forwarded to the Office of the University Counsel once received. This office will coordinate and submit a response on behalf of the University.

### III. Statement of Policy

In accordance with the statement of nondiscrimination and letter of commitment from the President, set forth in Section II. of the Affirmative Action Plan, MTSU shall not engage in practices which would discriminate against any individual or group for reasons of race, sex, sexual orientation, gender identity/expression, age (as applicable), color, religion, creed, ethnic or national origin, disability, status as a covered veteran, or genetic information. MTSU specifically finds that diversity of students, faculty, administrators, and staff is a crucial element of the educational process and reaffirms its commitment to enhancing education through affirmative action to increase diversity at all levels.

MTSU will take affirmative action to ensure that applicants for employment and employees are treated in a nondiscriminatory manner. Such action shall include, but not be limited to:

- A. Making employment decisions which further the principle of equal opportunity and affirmative action;
- B. Recruiting, hiring, training, and promoting persons in all job titles, without regard to any of the foregoing prohibited factors;
- C. Ensuring that promotion decisions are in accord with principles of equal opportunity and affirmative action by imposing only valid requirements for job, educational, and other opportunities; and,

- D. Ensuring that all employment decisions are implemented without prohibited discrimination.

Similarly, in compliance with Title IX of the Educational Amendments of 1972, as amended, MTSU shall not, on the basis of sex, subject any student to discrimination under any educational program. No student shall be discriminatorily excluded from participation in, or denied the benefits of, any educational program on the basis of a protected status.

#### **IV. Implementation**

##### **A. Administrative Responsibility**

The President of MTSU has appointed IEC as the area responsible for developing and implementing the University's equal opportunity and affirmative action program and for ensuring fair practices in employment and education.

Pursuant to this appointment, IEC shall:

1. Ensure that plans are prepared and administered effectively within the time frame established.
2. Promote the equal opportunity program and affirmative action plan and ensure compliance with federal, state, and local laws and statutes, and University policies.
3. Receive and investigate complaints alleging violation of federal, state, or local statutes, or University policies that provide protection from discrimination, harassment, and retaliation on the bases of race, color, religion, creed, ethnic or national origin, sex (including pregnancy), sexual orientation, gender identity/expression, disability, age (as applicable), status as a protected veteran, genetic information, and any other legally protected class.
4. Assess the effectiveness of the program and recommend improvements.
5. Ensure that affirmative action plans are developed annually, and implemented as a means of aggressively pursuing the principles of equal employment opportunity.
6. Ensure that affirmative action goals and timetables are developed to correct problem areas and situations contributing to the under-utilization, under-representation, or inequitable treatment of protected class employees.
7. Provide positive leadership in the implementation of affirmative action programs on the campus and ensure that appropriate attention is devoted to the program in staff and faculty meetings. This shall include informing all supervisors that their performance evaluation will include an assessment of the effectiveness of their

participation in the equal opportunity programs and affirmative action plan in compliance with [Policy 810 Performance Evaluation Reviews](#).

8. Gather and report data related to the equal opportunity program and affirmative action plan.
9. Ensure that policies and procedures are implemented to address all forms of harassment, including a procedure to receive and investigate complaints and recommend necessary action to the appropriate decision-maker.
10. Develop and implement educational programs regarding all types of harassment.

B. Supervisory Responsibility. Each Vice President and other supervisory personnel shall:

1. Disseminate this policy to the employees in the offices and operations for which he/she has immediate responsibility.
2. Discuss this and other related policies directly with employees, to answer questions about them, to support them, and to urge support and cooperation by employees.
3. Seek the assistance of IEC as necessary.

#### **V. Plan for Affirmative Action**

The affirmative action plan is designed to promote and ensure equal opportunity at MTSU. Its goal is to ensure additional efforts to recruit, employ, and promote qualified members of groups and persons formerly excluded, even where exclusion cannot be traced to particular discriminatory actions on the part of the employer. Further, it is the intent of the affirmative action plan to overcome the effects of systematic institutional forms of exclusion and discrimination, which in practice tend to perpetuate the status quo. This plan requires that MTSU determine the under-utilization of individuals of color and women, set goals and timetables for remedy of under-utilization of same, and describe plans and procedures for correcting said under-utilization of underrepresented individuals (persons of color protected by law) and women. People of color are defined for this purpose by the Department of Labor as Black/African American, Hispanic/Latino, Asian/Pacific Islander, American Indian/Alaskan Native and two (2) or more races.

Under-utilization, for the purpose of this plan, is defined as "having fewer women or people of color in a particular job than would reasonably be expected by their availability." Goals will be established considering availability and the results of the utilization analysis. The University shall adopt the whole person measure in compliance with regulations of the Office of Federal Contract Compliance Programs (OFCCP). Specifically, percentage goals will be established by EEO-6 category and job group. Goals and objectives by organizational unit shall be established to correct identifiable deficiencies. Goals by organizational unit shall refer to action-oriented



efforts rather than percentage goals. Where problem areas are identified by organizational units, the affirmative action plan shall include a description of the efforts which the University has taken or will take to correct those problem areas in accordance with OFCCP requirement 41 CFR 60-2.13(d).

Under-representation, for purposes of this plan, is defined as having fewer individuals of color or females in a particular section of the contractor's work force, (i.e., department, job title, etc.) than would be expected in terms of their overall representation in the contractor's work force or relevant sector of that work force.

#### Utilization Analyses

- A. An analysis of the utilization of minorities and women will be performed. This analysis will include, but not be limited to, the following:
  1. Ensuring that the EEO-6 Report is completed for all categories of employees (executive/administrative/managerial, faculty, professional/non-faculty, clerical, technical/paraprofessional, skilled crafts, service maintenance).
  2. Considering the number of women and individuals of color employed by EEO-6 category and job group and the reasons for any under-utilization.
  3. Comparing, as necessary, the salaries and wages of men and women by job classification.
  
- B. The following factors must be considered in establishing goals:
  1. The percentage of individuals of color or women with requisite skills in the reasonable recruitment area, where "reasonable recruitment area" refers to the geographical area from which the contractor usually seeks, or reasonably could seek, workers to fill the positions in question; and
  2. The percentage of individuals of color or women among those promotable, transferable, and trainable within the contractor's organization, where "trainable" refers to employees who could, with appropriate training, become promotable or transferable within the AAP year.
  
- C. In compliance with Title 41, Chapter 60 of the Code of Federal Regulations, MTSU will undertake one (1) or both of the following steps:
  1. Determine which job groups are "feeder pools" for the job group in question. The feeder pools are job groups from which individuals are promoted.

2. Ascertain which employees could be promoted or transferred with appropriate training.
- D. Distribution of Affirmative Action Plan. Copies of the affirmative action plan are distributed to Academic Affairs, Human Resources, the President's Office (kept in IEC), and made available to the public in the University library. Each College Dean also receives the University data, as well as their specific college and department data.

## **VI. Personnel Action, Policies, and Procedures**

The University will establish in reasonable detail and make available upon request the standards and procedures which govern all employment practices in the operation of the institution. Included in these standards and procedures shall be policies relating to the following:

- A. Recruitment, Assignment, Transfer, and Promotion
  1. Position announcements shall be distributed for consideration by all interested individuals. Announcements shall indicate the duties, responsibilities, and authorities of the position and the minimum qualifications needed by the applicant. Announcements shall carry a filing date, the method of filing an application, and the person to whom the application is to be made.
  2. Recruitment literature and vacancy announcements shall carry clear statements that the University is an equal opportunity/affirmative action employer and that positions are open to all applicants unless there is a bona fide occupational qualification requirement.
  3. Recruitment literature and vacancy announcements shall be sent to all recognized sources of candidates according to the type of position and in ways designed to solicit and encourage applications from qualified applicants who are female and/or individuals of color.
  4. Recruitment sources and advertising media utilized shall include organizations and community agencies related to female and/or individuals of color. Each applicant's qualifications shall be evaluated by comparing him/her with realistic job standards developed on the basis of work requirement.
  5. For professional positions such factors as education, professional experience, scholarly achievement, leadership ability, understanding of problems with which the position is to deal, demonstrated drive, tact, and initiative would be considered.
  6. For non-professional positions such factors as education, experience, and demonstrated ability will be considered, and appropriate skills tests will be utilized.

7. The receipt and disposition of all applications shall be recorded, and all applicants shall be informed as to when their application will become inactive.
8. Employee qualifications shall be evaluated against position requirements. Consideration shall be given to past performance and recommendations of colleagues and others in a position to evaluate potential performance.
9. All personnel involved in recruiting, screening, selection, and promotion of employees shall be carefully selected and trained to ensure elimination of bias in all personnel actions.
10. If the use of any tests other than skills tests is contemplated in evaluating applicants or employees, they must be validated by a professional psychometrist prior to use as a screening device.

#### B. Compensation

1. Faculty, Administrative, and Professional Staff: Faculty salaries shall be determined by earned degrees, experience, academic rank, and other appropriate factors. Administrative and Professional staff salaries shall be determined by factors such as job responsibilities, level of training and experience, and demonstrated effectiveness.
2. Classified Staff: Job classifications and salary schedules will be established for clerical and support positions. The appropriate classifications and salaries shall be applied uniformly and equitably.
3. The average salaries of males and females within the same job classification shall be compared, and any noticeable discrepancies shall be analyzed to determine the reasons therefore. If differences cannot be accounted for in terms of relative merit and/or seniority, immediate action shall be taken to correct the discrepancy.

#### C. Training

1. When appropriate, training shall be provided to enable University personnel to increase their skill levels for more responsible positions. The University shall develop formal training programs to aid in the advancement of personnel.
2. The University shall consider the degree to which on-the-job training can be administered to individuals of color and women in job categories wherein they are under-utilized, and where feasible, shall institute such training as a means of providing a greater opportunity for advancement.

#### D. Communication

1. Official equal opportunity signs shall be posted at appropriate places on campus and will be kept current.
2. The equal opportunity/affirmative action statement shall be placed on all appropriate University documents, including, but not limited to, stationary, bulletins, newsletters, contracts, purchase orders, advertisements, graduate and undergraduate catalogs, faculty, staff, and student handbooks, etc.
3. Recruitment sources, organizations related to individuals of color and/or females, community agencies, and community leaders shall be notified periodically and in writing of the University policy on equal opportunity.
4. The equal opportunity/affirmative action policy shall be distributed to all employees of the University and discussed in orientation programs.
5. Equal opportunity/affirmative action shall be a topic of regular discussion by managers at staff meetings.

#### E. Other Personnel Actions. All other personnel actions, i.e., discipline, discharge, layoff, demotion, etc., shall be conducted indiscriminately. The following criteria will be established and applied without prohibited discrimination:

1. testing criteria;
2. evaluation criteria;
3. professional qualifications (degrees, experience, etc.); and
4. criteria for promotion and tenure.

### **VII. Sexual Orientation and Gender Identity/Expression**

It is the policy of MTSU that neither its students nor its employees be discriminated against on the basis of that individual's sexual orientation or gender identity/expression. Such a policy helps ensure that only relevant factors are considered, and that equitable and consistent standards of conduct and performance will be applied. For the purpose of this policy, sexual orientation concerns the emotional, romantic, sexual, or affectional attraction to members of the same sex, opposite sex, or both sexes. Gender identity/expression concerns how an individual perceives his or her own gender, which may or may not be consistent with his or her anatomic sex or gender role. Any individual who has a discrimination complaint based upon his or her sexual orientation or gender identity/expression should follow the procedures set forth in Section II. above.

This policy shall not be construed to (1) infringe upon the free exchange of ideas essential to the academic environment, (2) limit the freedom of religious association, or (3) establish a duty to engage in affirmative action measures on the basis of sexual orientation or gender identity/expression. Further, this policy shall not be construed to require the compliance of external government agencies, University programs governed by external government agencies, in which nondiscrimination does not include sexual orientation (i.e., ROTC), or programs that discriminate as a matter of policy. Notwithstanding the language set forth in this policy, eligibility of employees for employment benefits is determined by the laws and regulations of the State of Tennessee, and is not affected by this policy.

Forms: none.

Revisions: June 5, 2017 (original); \_\_\_\_\_, 2021.

Last Reviewed: \_\_\_\_\_ 2021.

References: Executive Order 11246; Rehabilitation Act of 1973; Americans with Disabilities Act of 1990; Vietnam Era Veterans Readjustment Act of 1974; Equal Pay Act of 1963; Age Discrimination in Employment Act of 1967; Age Discrimination Act of 1975; Pregnancy Discrimination Act; Civil Rights Act of 1964; Title IX of the Education Amendments; Policies 26 Discrimination and Harassment Based on Categories Other than Sex; 27 Misconduct, Discrimination, and Harassment Based on Sex including Pregnancy, Sexual Orientation, and Gender Identity/Expression; 29 Title IX Compliance; 810 Performance Evaluation Reviews.





## 90 Athletics Integrity and Conduct of Athletics Staff

Approved by Board of Trustees

Effective Date: ~~December 10, 2019~~ \_\_\_\_\_, 2021

Responsible Division: Business and Finance

Responsible Office: Compliance and Enterprise Risk Management

Responsible Officer: Assistant Vice President for Compliance and Enterprise Risk Management

### I. Purpose

Coaches, administrators, staff, and volunteers of the University Athletics Department (collectively "Athletics Staff") are covered by the laws, regulations, policies, and procedures applicable to other members of the University community. In addition, Athletics Staff and the University itself are subject to a wide variety of special requirements including those of the National Collegiate Athletic Association (NCAA), Conference USA (C-USA) or other applicable conferences, professional coaches' and sports' organizations, and federal and state government authorities (collectively "special requirements"). Such special requirements are designed to protect student-athletes, ensure the integrity of the University's athletic programs, and promote fair competition.

Middle Tennessee State University (MTSU or University) is committed to full compliance with all of these special requirements and engages in extensive oversight, education, and training to ensure that all Athletics Staff understand and are in compliance.

### II. Scope

This policy applies to all Athletics Staff insofar as their job responsibilities are primarily in support of student-athletes or the MTSU athletic program, regardless of whether employed full-time, part-time, or temporary. The policy applies to volunteers, student workers, interns, and graduate assistants, where appropriate.

### III. Definitions

- A. Athletics Staff. Includes all employees insofar as their job responsibilities are primarily in support of student-athletes or the MTSU athletic program, regardless of whether employed full-time, part-time, or temporary. The policy includes volunteers, interns, graduate assistants, and student workers, where appropriate.

- B. Special requirements. Those policies and other expectations of the NCAA, C-USA, or other applicable conferences, professional coaches' and sports organizations, and federal and state government authorities.

#### IV. Policy

- A. General. [Policy 851 Disciplinary Policy for Administrative and Classified Personnel](#) applies to all Athletics Staff. In addition, all Athletics Staff are required to abide by the [MTSU Statement on the Conduct of Athletics Staff](#).
- B. Statement of Athletics Values. Student athletic programs are an integral piece of MTSU's mission and purpose. These programs strive to provide opportunities for academic success, competitive excellence, personal and physical development, and involvement in the campus community. These programs further strive to reflect a commitment to the spirit of fair, honest, skillful, and civil competition.

The University is also committed to the core values of honesty, integrity, respect for diversity, engagement in the community, and commitment to non-violence. As part of the University's core values, all Athletics Staff are expected to promote the best interests of students; treat others with respect and civility; conduct all activities with the highest level of ethical standards and integrity; utilize resources in a manner that avoids waste, fraud, and abuse; and maintain a culturally rich and diverse environment in which to work and learn.

All MTSU Athletics Staff will adhere to the highest standards of conduct, including all elements of the [MTSU Statement on the Conduct of Athletics Staff](#).

- C. Procedures for responding to grievances or complaints from student-athletes. As noted, MTSU is committed to the core values of honesty, integrity, respect for diversity, engagement in the community, and commitment to non-violence. Accordingly, all Athletics Staff are expected to promote the best interests of student-athletes and to treat student-athletes with respect and civility while teaching and encouraging students to meet their full competitive potential. Athletics Staff shall conduct themselves in accordance with the rules of their sports and of the University, and shall avoid conduct that demeans, harasses, or threatens any person.

These expectations are contextual, however, as some behaviors that are common on the playing field would be considered disrespectful in the classroom. The intent and force of this policy are to prevent clearly prohibited behavior, including bullying, physical abuse, verbal abuse, or harassment.

Student-athletes who wish to report Athletics Staff behavior that is believed to be in violation of this policy may initiate a complaint based upon the approved [MTSU](#)



[Student-Athlete Conflict Resolution Process](#) as outlined in the Student-Athlete Handbook. The process includes provisions for anonymous reporting and third-party reporting, as may be appropriate. The process outlines the procedures and goals of reporting, the method of investigation, and resolution.

It is the intent of this policy that complaints be effectively resolved at the lowest possible level. However, the student-athlete may enter the conflict resolution process at any level by contacting any Athletics Staff member. It is the responsibility of all Athletics Staff to be familiar with this policy and with the [MTSU Student-Athlete Conflict Resolution Process](#) as outlined in the Student-Athlete Handbook, so that they can assist any student-athlete bringing forward a concern.

- D. The MTSU Student-Athlete Conflict Resolution Process set forth above will not apply to the following:
1. Allegations of misconduct, discrimination, or harassment based on protected status that are covered under Policy 26 Discrimination and Harassment Based on Protected Categories Other than Sex and Policy 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression, and Policy 29 Title IX Compliance. These allegations will be addressed in the manner set forth in the appropriate policy.
  2. Allegations of violations of NCAA or Conference-USA rules that do not involve mistreatment of one (1) or more student-athletes. These alleged rule violations will be investigated by the Athletic Compliance Office. If, however, the alleged rule violation also results in mistreatment of one (1) or more student-athletes, the allegation will be reviewed as set forth in the MTSU Student-Athlete Conflict Resolution Process.
- E. Risk Management. Primary leadership, direction, oversight, and advocacy of the Athletics Department rests with the Director of Athletics. However, the activities of collegiate athletics programs on university campuses carry unique risks related to policy compliance, student safety and wellness, public perception, and legal issues.

In an effort to effectively manage student-athlete wellness and institutional risk, the Office of Compliance and Enterprise Risk Management is charged with serving as an unbiased third party for the purposes of providing effective training of Athletics Staff; appropriate oversight of compliance and risk-related issues; referrals to the Office of the University Counsel (where appropriate) on legal matters; advocacy for student-athletes (in collaboration with other University departments including, but not limited to, Athletics); and timely investigation and resolution of serious student-athlete complaints that cannot be resolved through the internal procedures of the Athletics Department.

- F. **Scope and Coordination with Athletics.** As is true for every other MTSU student, the full range of MTSU staff are available to assist student-athletes as they navigate their university experience. In addition, approved MTSU procedures for responding to student-athlete wellness and complaints are outlined in the Student-Athlete Handbook. In most cases, student-athletes should address their concerns directly with their coach, the athletics administrator assigned to their sport, the Senior Associate AD, or the Athletics Director.

However, in circumstances in which the student-athlete does not feel that consulting with Athletics Staff will be effective, the student-athlete may instead consult with Compliance and Risk Manager in the Office of Compliance and Enterprise Risk Management. Specific processes for addressing student-athlete issues with that office are also included in the approved [MTSU Student-Athlete Conflict Resolution Process](#) as outlined in the Student-Athlete Handbook.

- G. **Education and Training.** MTSU Athletics is charged with primary responsibility for providing effective initial and on-going training to Athletics Staff related to NCAA and C-USA compliance, policies, and procedures. In addition, MTSU Athletics is responsible for providing both individual and team training for student-athletes related to NCAA and C-USA compliance, eligibility, team and university rules, drug testing, and other Athletics Department policies and procedures.

In collaboration with MTSU Athletics and other University offices and departments, as appropriate, the MTSU Office of Compliance and Enterprise Risk Management is responsible for ensuring that student-athletes also receive training regarding student-athlete rights and responsibilities, procedures for reporting and resolving conflicts and complaints, and University resources available to assist with personal development, safety, health, wellness, counseling needs, and/or referrals for such resources.

- H. **Student-Athlete Mental Health.** Athletics Staff may refer student-athletes to MTSU Counseling Services for assistance with a variety of mental health issues. In addition, student-athletes may access MTSU Counseling Services on their own, without contacting their coach, or through a referral by a coach or other member of the Athletics or University staff. Student contact with MTSU Counseling Services is confidential. Information about appointments or content of counseling sessions will not be shared with Athletics Staff, except as permitted by law and required to protect the life/safety of the student-athlete or when the student-athlete grants permission to share specific information.

MTSU Athletics and MTSU Counseling Services will work in collaboration to develop programs, protocols, and best practices to serve the mental health and wellness needs of student-athletes.

## V. Athletics Staff Disciplinary Procedures

Athletics Staff are subject to [Policy 851 Disciplinary Policy for Administrative and Classified Personnel](#), which outlines a progressive disciplinary policy, [Policy 852 Administrative, Professional, and Faculty Grievance or Complaint](#), and [Policy 853 Classified Grievance and Complaint Policy](#), which outline employee grievance processes. ~~In addition, [Policy 26 Discrimination and Harassment Based on Protected Categories Other than Sex](#) and [Policy 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression](#), which prohibit misconduct, discrimination, and harassment based on various protected categories, may contain other specific investigative and discipline procedures.~~

While MTSU will generally take disciplinary action in a progressive manner, it reserves the right, in its sole discretion, to determine whether and what disciplinary action will be taken in a given situation.

Forms: none.

Revisions: ~~[December 10, 2019 \(original\)](#); \_\_\_\_\_, 2021. none.~~

Last Reviewed: ~~[December 2019](#)~~ 2021.

References: Policies 26 Discrimination and Harassment Based on Protected Categories Other than Sex; 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression; [29 Title IX Compliance](#); 851 Disciplinary Policy for Administrative and Classified Personnel; 852 Administrative, Professional, and Faculty Grievance or Complaint; 853 Classified Grievance and Complaint Policy; Student-Athlete Handbook.





## 90 Athletics Integrity and Conduct of Athletics Staff

**Approved by Board of Trustees**

**Effective Date:** \_\_\_\_\_, 2021

**Responsible Division:** Business and Finance

**Responsible Office:** Compliance and Enterprise Risk Management

**Responsible Officer:** Assistant Vice President for Compliance and Enterprise Risk Management

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### II. Scope

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All MTSU Athletics Staff will adhere to the highest standards of conduct, including all elements of the [MTSU Statement on the Conduct of Athletics Staff](#).

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- F. Scope and Coordination with Athletics. As is true for every other MTSU student, the full range of MTSU staff are available to assist student-athletes as they navigate their university experience. In addition, approved MTSU procedures for responding to student-athlete wellness and complaints are outlined in the Student-Athlete Handbook. In most cases, student-athletes should address their concerns directly with their coach, the athletics administrator assigned to their sport, the Senior Associate AD, or the Athletics Director.

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While MTSU will generally take disciplinary action in a progressive manner, it reserves the right, in its sole discretion, to determine whether and what disciplinary action will be taken in a given situation.

Forms: none.

Revisions: December 10, 2019 (original); \_\_\_\_\_, 2021.

Last Reviewed: \_\_\_\_\_ 2021.

References: Policies 26 Discrimination and Harassment Based on Protected Categories Other than Sex; 27 Misconduct, Discrimination, and Harassment Based on Sex Including Pregnancy, Sexual Orientation, and Gender Identity/Expression; 29 Title IX Compliance; 851 Disciplinary Policy for Administrative and Classified Personnel; 852 Administrative, Professional, and Faculty Grievance or Complaint; 853 Classified Grievance and Complaint Policy; Student-Athlete Handbook.





**Middle Tennessee State University  
Board of Trustees**

**Audit and Compliance Committee**

**Information Item**

DATE: March 16, 2021

SUBJECT: **Report of Conflict of Interest  
Disclosures in 2020**

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

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**BACKGROUND INFORMATION:**

In the Audit and Compliance Committee (“Committee”) Charter Section IV. Responsibilities, G.4, the Committee is to ensure that all potential conflicts of interest are adequately resolved and documented.

Included in the materials is the 2020 report of the conflict of interest disclosures reviewed by the Conflict of Interest Committee.



**Conflict of Interest Committee**  
 Middle Tennessee State University  
 1301 East Main Street  
 Murfreesboro, Tennessee 37132



January 14, 2021

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

Dear Dr. McPhee:

This is the 2020 calendar year report for the Conflict of Interest Committee (Committee). Per MTSU Policy 12 Conflict of Interest, the Committee is an advisory group reporting to the President's Office. The Committee will evaluate conflict of interest (COI) disclosures and determine whether a conflict exists. For any conflict that is not a violation of federal or state law, the Committee is permitted to make the following determinations: 1) the conflict is de minimis and is permitted to continue; 2) the conflict may be managed by placing restrictions on the employee; or 3) the conflict may not be managed so the employee must eliminate the conflict.

Below is a summary of the types of conflict of interest disclosures reviewed and the Committee's conclusions for 2020. There were no conflicts identified as violations of federal or state law.


<u>Type of Disclosure</u>	<u>No COI</u>	<u>De Minimis</u>	<u>Managed</u>	<u>Eliminated</u>	<u>Referred to Academic Affairs</u>	<u>Totals</u>	<u>Prior Year Totals</u>
Educational Materials	-	-	1	-	-	1	8
Acceptance of Gifts	-	-	1	-	-	1	-
Family Relationship	-	-	3	-	-	3	2
Consensual Relationship	-	-	-	-	-	-	1
Financial/Business Interest	3	3	1	1	-	8	4
Other	-	-	1	1	-	2	2
<b>Total Disclosures Reviewed</b>	<b>3</b>	<b>3</b>	<b>7</b>	<b>2</b>	<b>-</b>	<b>15</b>	<b>17</b>

If you have any questions or need any additional information, please contact Ms. Gené Stephens, Assistant Vice-President, Compliance & Enterprise Risk Management at 615-494-8812. This report will be presented to the Audit and Compliance Committee as an informational item.

Respectfully submitted,  
 Members of the COI Committee

  
 \_\_\_\_\_

Office of University Counsel

  
 \_\_\_\_\_  
 Compliance and Enterprise Risk Management

  
 \_\_\_\_\_  
 Digitally signed by Alan R. Thomas,  
 Vice President for Business and  
 Finance, acting for and on behalf of  
 Middle Tennessee State University  
 Date: 2021.01.15 14:39:48 -06'00'

Business and Finance

  
 \_\_\_\_\_  
 Audit and Consulting Services

Middle Tennessee State University is an AA/EEO employer and does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities. The following person has been designated to handle inquiries regarding the nondiscrimination policies: Executive Director of Institutional Equity and Compliance, 1301 E. Main Street, CAB 116, Murfreesboro, TN 37132, 615-898-2185. Additionally, the MTSU Title IX Coordinator, designated to monitor and oversee Title IX complaints, may be contacted at: Sam Ingram Building 2269 Middle Tennessee Blvd. Murfreesboro, TN 37132 615-898-5133, or via this webpage: <http://www.mtsu.edu/titleix/>.





**Middle Tennessee State University  
Board of Trustees**

**Audit and Compliance Committee**

**Information Item**

DATE: March 16, 2021

SUBJECT: **Review of President's Statement of  
Disclosure of Interests for 2021**

PRESENTER: Brenda Burkhart  
Chief Audit Executive

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**BACKGROUND INFORMATION:**

MTSU Policy 12 Conflict of Interest states, "The President's disclosure [Form ss8005] shall be evaluated by the Board of Trustees or a duly appointed committee thereof."

The Audit and Compliance Committee is charged with assisting the Board in exercising oversight of standards of conduct and ensuring compliance with legal and regulatory requirements. Dr. McPhee's 2021 Disclosure of Interests form is presented for the Committee's review.







## Statement of Disclosure of Interests (ss-8005)

### Report Year

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2021

### Date of Filing

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2021-01-13

### Filer Contact Information

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**SIDNEY MCPHEE** [View all statements](#)  
MIDDLE TENNESSEE STATE UNIVERSITY, 1301 EAST MAIN ST - CAB 204  
MURFREESBORO, TENNESSEE 37132

### Office Held or Sought

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Incumbent  
President - University governed by Board of Trustees

### Sources of Income

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SUN TRUST BANK BOARD MURFREESBORO, TN: Income received by Filer  
SUN TRUST BANK BOARD NASHVILLE, TN: Income received by Filer  
CONSULTING SERVICES FOR BAHAMAS MINISTRY OF TOURISM: Income received by Filer  
CONSULTING SERVICES FOR THE COLLEGE OF THE BAHAMAS - MINISTRY OF EDUCATION AND FINANCE:  
Income received by Filer

### Investments

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TIAA CREF SUPPLEMENTAL RETIREMENT FUND: Held by Filer  
AIG VALIC RETIREMENT FUND; STATE OF TN RETIREMENT: Held by Spouse

### Lobbying

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None

## Professional Services

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None

## Retainer Fees

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SUN TRUST BANK BOARD MURFREESBORO, TN

SUN TRUST BANK BOARD NASHVILLE, TN

## Bankruptcy

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None

## Loans

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None

## Certification

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**I certify.**

You certify that all of the information you have entered is true, correct, and complete in accordance with the Conflict of Interest Disclosure Act to the best of your knowledge.

I, the undersigned, do hereby witness that the above information was entered in my presence.

**Witness Name** KIMBERLY EDGAR

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**Middle Tennessee State University  
Board of Trustees**

**Audit and Compliance Committee**

**Information Item**

DATE: March 16, 2021

SUBJECT: **Report on Compliance with Public  
Records Policy**

PRESENTER: Jeff Farrar  
Associate University Counsel

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**BACKGROUND INFORMATION:**

MTSU Policy 120 Public Records, Section III.B.3 requires the Public Records Coordinator to annually report to the Board concerning the institution's compliance with the Tennessee Public Records Act and make recommendations, if any, for revisions to this policy.

A summary of the number of records requests received in 2020 is provided for the Committee's review.



## Annual Summary of Records Requests Received for 2020

<b>2020 Records Requests</b>	Denied	Provided	Total
Athletics - Reports	11	11	22
Athletics-Coach Contracts	10	10	20
Procurement/Contracts	29	10	39
Employment Records	6	4	10
Misc.	10	10	20
Police Reports	0	5	5
Student Records	10	30	40
<b>TOTAL</b>	76	80	156

For comparison purposes, the prior three year requests received were as follows:

Year	Requests Received
2019	170
2018	124
2017	59

Fewer requests were received in 2020 than in 2019, probably due to less business activity due to COVID.





**Middle Tennessee State University  
Board of Trustees**

**Audit and Compliance Committee**

**Information Item**

DATE: March 16, 2021

SUBJECT: **Results of External Reviews**

PRESENTER: Brenda Burkhart  
Chief Audit Executive

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**BACKGROUND INFORMATION:**

**1. TN Comptroller of the Treasury, Financial and Compliance Audit Report for the Year Ended June 30, 2020**

The Tennessee Comptroller of the Treasury issued the financial and compliance audit report for the year ended June 30, 2020 on February 11, 2021. The independent auditor's report included unmodified opinions on the fairness of the presentation of the financial statements. The audit report contained no audit findings. A copy of the "Audit Highlights" page from the audit report is included in the materials for your review.

A complete copy of the audit report is located on the Comptroller of the Treasury webpage at:

<https://comptroller.tn.gov/content/dam/cot/sa/advanced-search/disclaimer/2021/ag20100.pdf>

**2. TN Comptroller of the Treasury, NCAA Agreed-Upon Procedures Applied to the Athletic Programs Statement of Revenues & Expenses for the Year Ended June 30, 2020**

On January 13, 2021, the Tennessee Comptroller of the Treasury released the results of the agreed-upon procedures applied to the statement of revenues and expenses of the athletics programs in compliance with the National Collegiate Athletic Association (NCAA) Bylaw 3.2.4.15 for the year ended June 30, 2020. There were no exceptions noted.

### **3. U.S. Small Business Administration – Financial Examination of the TN Small Business Development Center, Program Year 2019**

The U.S. Small Business Administration transmitted the financial examination report for the Tennessee Small Business Development Center (TN-SBDC) for the 2019 program year on January 13, 2021. The scope of the financial examination focused on validating the adequacy of the TN-SBDC procedures for network financial management to ensure compliance with financial laws, regulations, and policies of the Small Business Development Center (SBDC) Program. Overall, the TN-SBDC is in compliance with the financial objectives of the SBDC Program. There were no findings requiring attention.

### **4. Tennessee Student Assistance Corporation (TSAC) Program Review for the 2019-2020 Award Year**

TSAC completed a program desk review of MTSU’s state financial aid programs for the 2019-2020 award year. The review consisted of an examination of the procedures for administering the state financial aid and Lottery funded programs and a review of the records of a sample of recipients of those funds. The report concluded, “No substantive discrepancies were identified” and the financial aid staff was congratulated “on the quality of the administration of the institution’s student financial aid programs.”



State of Tennessee

# Audit Highlights

Comptroller of the Treasury

Division of State Audit

Financial and Compliance Audit

## Middle Tennessee State University

For the Year Ended June 30, 2020

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### Opinions on the Financial Statements

The opinions on the financial statements are unmodified.

### Audit Findings

The audit report contains no findings.





**Middle Tennessee State University  
Board of Trustees**

**Audit and Compliance Committee**

**Information Item**

DATE: March 16, 2021

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

PRESENTER: Brenda Burkhart  
Chief Audit Executive

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**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 project was completed:

1. Audit of the Office of the President for Fiscal Year 2020 is an annual audit required by state law. There were no reportable issues.

The current status of the Internal Audit Plan for Fiscal Year 2021 is included for the Committee's review.



**Middle Tennessee State University  
Internal Audit Plan  
Fiscal Year Ended June 30, 2021  
as of February 28, 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	In Progress	
I	AA	INV2102	In Progress	
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 Assistance/Follow-Up	Project Throughout Year	
C	GV	General Consultation/Risk Assessment	Project Throughout Year	
I	GV	Unscheduled Investigations	In Progress	
R	AT	Football Attendance Fall 2020	NCAA Waived Requirement	Cancelled
R	FM	Cash Counts FY2021	Scheduled	
R	FM	Year-End Inventory FY2021	Scheduled	
A	IT	Risk/Controls: Vendor Provided Services	Scheduled	
A	IT	Risk/Controls: PII Compliance	Scheduled	
A	MC	Marketing & Communications	Scheduled	
A	FM	Payroll	Scheduled	
A	AA	Research Services Procedural Review	Scheduled	
A	FM	Property Management Contract Review	Scheduled	

<p><b>Audit Types:</b>  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</p>	<p><b>Area = University Division</b>  AA - Academic Affairs  AD - Advancement  AT - Athletics  FM - Financial Management  GV - Governance/Executive Office  IT - Information Technology  MC - Marketing and Communications  SS - Student Services</p>
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