



FACULTY LEGAL UPDATE

Dannelle Whiteside, Vice President for Legal Affairs and Organizational Strategy

Purpose and Ground Rules



Objectives

Explain new and amended Tennessee laws affecting higher education and how they apply at APSU

Clarify resulting changes to institutional policy and compliance obligations

Create space for questions



My Role Today

I'm presenting the law as enacted by the General Assembly — not this office's policy preference, and not my personal view

Legal compliance and personal or scholarly opinion are separate questions; today is about the former

Where a law affects your work, I want you to leave knowing what's required — not what I think about it



Presentation and Discussion Norms

Respectful dialogue and charitable interpretation

Distinguish law, policy, and personal opinion

Questions are welcome — disagreement with a law's wisdom doesn't change the compliance obligation

Charlie Kirk Act

- The relevant provisions are codified at T.C.A. §§ 49-7-3201, et. seq.
- PC 831 (SB1741), signed by the Gov. on April 27, 2026
- For purposes of adopting policies, effective immediately; for all other purposes, effective July 1.
- Key Changes
 - Requires TN institutions of higher education to adopt a policy on freedom expression similar to the Chicago Principles
 - Requires TN institutions of higher education to adopt a policy on institutional neutrality similar to the Kalven Report

Charlie Kirk Act, cont.

- Key Changes
 - Faculty member shall not:
 - Disinvite a speaker in response to threatened protests or because of viewpoints
 - Discriminate or retaliate against a person because of the person's
 - Religious belief
 - Position concerning abortion, homosexuality, or transgender behavior
 - Deny recognition to a student group because of the group's
 - Religious belief
 - Position concerning abortion, homosexuality, or transgender behavior

Charlie Kirk Act, cont.

- Key Changes
 - A public institution of higher education shall not retaliate in any way or discriminate in any manner against a faculty member on account of the viewpoints expressed in the faculty member's scholarly work, or on account of any speech or writing protected by the First Amendment of the United States Constitution.
 - Relevant Institutional Policy- Codified in Policy 4:003 Access to and Use of Campus Property and Facilities by Affiliated Individuals/Entities and Freedom of Expression

Charlie Kirk American Heritage Act

- The relevant provisions are codified at T.C.A. § 49-7-194
- PC 701 (SB1828), signed by the Gov. on April 14, 2026
- Effective July 1, applies to the 2026-2027 academic year and each academic year thereafter.
- Key Change: When providing instruction on the topic of American history, faculty at a public institution of higher education may provide instruction on the positive impacts of religion on American history (includes a laundry list of examples).

Tennessee Tenure Law

- The relevant provisions are codified at T.C.A. §§ 49-8-300, et. seq.
- PC 761 (HB 2194), signed by the Gov. on April 16, 2026
- For purposes of adopting policies, effective immediately; for all other purposes, effective July 1.
- Key Changes
 - Separates tenure from discipline
 - Centralizes authority with administrators for misconduct
 - Places responsibility on institutions to define process and safeguards
 - Law affirms academic freedom, freedom of speech, and First Amendment rights

Key Changes to Faculty Discipline Policy (2:066)

- Clarified that misconduct is governed by Policy 5:029
 - Misconduct definition now explicitly tied to institutional discipline policy
- Established a clear transition trigger
 - If conduct may warrant suspension or termination:
 - Case immediately moves out of faculty process
 - Referred to administrative process (5:029)
- Limited faculty role to lower-level discipline
 - Faculty participate in Levels 1–4 (informal → reprimand/other sanctions)
 - Faculty do not control:
 - Suspension
 - Termination
- Removed faculty authority over termination decisions
 - Termination decisions no longer governed by faculty committee process
 - Shift to administrative adjudication
- Retained progressive discipline structure
 - Maintains familiar escalation model
 - Allows non-linear escalation based on severity

Recognizing Judea and Samaria Act

- The relevant provisions are codified at T.C.A. §4-1-432.
- PC 877 (HB1446), signed by the Gov. on April 27, 2026
- Effective July 1, 2026.
- Key Changes
 - A state agency shall not:
 - Use the term "West Bank" to refer to Judea and Samaria in official government material
 - Use state funds to create official government material that refers to Judea and Samaria as "West Bank."
 - Not intended to restrict lecture content, classroom remarks, scholarly articles, research publications, or other expressive academic work of faculty at public institutions of higher education

On Issues of Sex...

- Tennessee
 - Riley Gaines Women's Safety and Protection Act. The relevant provisions are codified at T.C.A. § § 68-107-101, et. seq. Effective July 1, 2026.
 - Key Provisions
 - Legal definitions of male, female, boys, girls.
 - Institutions of higher education shall designate multi-occupancy restrooms to a single sex or family restroom.
 - A student must not be required to share a room with a person of the opposite sex.
 - Cannot prohibit distinctions between the sexes with respect to athletics.
- U.S. Supreme Court
 - *Little v. Hecox* and *B.P.J. v. West Virginia*- the Court held that Idaho's and West Virginia's laws limiting girls' and women's school sports to biological females do not violate Title IX or the Equal Protection Clause.

Speaking of Sex...

- The TN General Assembly made a series of amendments to code relative to definitions of biological sex.
- PC 938 (HB1271), signed by the Gov. on May 7, 2026
- Takes effective upon signature, but some provisions require action no later than January 1, 2027.
- Key Changes
 - State entities must revise any policies, rules, or procedures that include reference to sex or gender to define them as “immutable characteristics of the person's reproductive system that identify the person as male or female, as determined by anatomy and genetics existing at the time of birth.”
 - State entities cannot adopt a rule, policy, or procedure that defines sex in any way other than what is stated above.
 - Provides a cause of action for a person to file a complain in court of jurisdiction if the entity is not in compliance with the above OR comptroller can initiate the withholding of state funds for noncompliance.

State Aid to International Students

- State aid to international students is under scrutiny- PC 1106 (SB1915), relevant provisions are codified at T.C.A. §§4-58-102; signed by the Gov. on May 22, 2026; effective July 1, 2026
 - Key Provisions
 - State entities have an affirmative obligation to verify a person's citizenship or lawful presence in the state before providing a state benefit
 - If a person receiving a state benefit is not a U.S. citizen or "qualified alien," the state entity shall terminate the benefit and pursue action against the applicant
 - A natural person who has "defrauded" a state entity by providing a state benefit to a non-citizen can be held criminally liable under the False Claims Act.

Immigration Rules Affecting International Students

- U.S. Immigration and Customs Enforcement, Student and Exchange Visitor Information System (SEVIS) rules are changing
 - DHS published a final rule in the Federal Register on July 17, 2026
 - Rule takes effect September 15, 2026 — 60 days after publication (but could be delayed by congressional action, lawsuits, etc.)
 - Key Changes:
 - Duration of Status is ending; capping now at four years
 - Students on these visas will no longer be able to change schools or programs of study and automatically transfer their status
 - Extension of Stay now goes through USCIS
 - Additional compliance reporting by the school's Designated School Official (DSO)

DEI Attestation Requirement

- The relevant provisions are codified at §49-7-192
- PC 1083 (SB1713), signed by the Gov. on May 22, 2026
- Effective upon signature.
- Key Changes:
 - Institutions of higher education must submit attestation to the TN Comptroller of the Treasury that it has not to used a discriminatory preference in an effort to increase diversity, equity, or inclusion or establish or maintain an office, division, or department for such purposes by January 1, 2027 and every year thereafter.



I know this covers a lot. My door is open — for compliance questions and for everything underneath them.

Office of Legal Affairs
Browning 151
931-221-7572
legalaffairs_apsu@apsu.edu