

SOUTHWEST TENNESSEE COMMUNITY COLLEGE**SUBJECT:** Southwest Employees' Debt to the College**EFFECTIVE DATE:** July 1, 2000; Revised September 15, 2024**Purpose**

The purpose of this policy is to memorialize the debt collection obligations of Southwest Tennessee Community College ("Southwest" or "the College") as they related to College employees.

Policy

Pursuant to Tennessee Code Annotated Section 9-4-604, the College may not pay any funds due an employee if the employee has an outstanding indebtedness. Tennessee Board of Regents (TBR) Guideline B-010 provides that an employee be given an opportunity to appeal or otherwise have a hearing concerning the obligation before the amount due is deducted from a payment to the employee, i.e. wages, travel claims, or refunds. This policy describes how an employee will be given notice of the indebtedness, and how the employee may appeal or request a hearing concerning the indebtedness.

I. Notice

Employee receivables (including student employees) may result from, among other things, traffic and parking fines, library fines, College services, or bad checks.

- A. In order to recoup the amount owed from the employee's paycheck, notice of intent to withhold must be sent to the employee by registered or certified mail, email, or personally delivered (Attachment A).
1. The notice shall be provided prior to deducting any debt from amounts due the employee.
 2. The notice shall be provided by the Chief Financial Officer (CFO) through the Payroll Office in the case of salary-related debts, or provided by the Bursar's Office in the case of parking fines and other instances.
 3. The notice should inform the employee of the amount alleged to be owed and should specify that they may elect to pay the debt in full, authorize deductions from their paycheck, or if the employee is terminating, the check for accrued but unused annual leave, or contest the intent to withhold through a hearing.
 4. Subsequent to receiving a pre-deprivation notice of the debt owing, the employee, within 15 calendar days of receipt of such notice, must:
 - a. Pay the debt in full;
 - b. Authorize the College to withhold a designated amount from each subsequent paycheck or, if the employee is terminating, from the accrued but unused annual leave until the debt is paid in full;
 - c. Elect to contest the intent to withhold through a College hearing; or,
 - d. Elect to contest the intent to withhold through a contested case hearing held pursuant to T.C.A. § 4-5-301, et seq.

5. If there has been no response, a second letter (Attachment B) is mailed to the employee. This notice will state that if the employee does not pay the indebtedness or request a hearing by a specified date, the debt shall be deducted from the employee's next paycheck and/or other payment due the employee.
6. In cases of salary overpayment or termination of employment, a shorter time than 15 calendar days may be allowed if necessary to permit deduction of the debt from the next salary or wage payment.

II. Hearing

A. If the employee elects a College hearing, the employee shall appear on behalf of themselves, but is entitled to be advised by counsel.

1. The (CFO) shall be present to conduct the hearing whereby the employee will be provided an opportunity to review the documentation of the indebtedness and allowed to provide evidence to dispute the debt.
2. A representative from the department from which the debt was generated may be present at the hearing to answer questions by either the (CFO) and/or the employee.
3. The hearing should be held within one week of the decision to elect the hearing.
4. The (CFO) shall render a decision on the validity of the debt. If the debt is ruled valid, the debt shall be deducted from the employee's payroll check beginning at the end of the next appropriate pay period in accordance with deduction schedules.
5. If the employee elects a UAPA hearing, the Office of General Counsel should be notified immediately.
6. If the employee refuses to pay, authorize deduction, or specify or waive a hearing process, a UAPA hearing must be initiated.
7. The employee's failure to appear at either a College or UAPA hearing will constitute default, or, if a prima facie case is presented that the debt is owed, it will be deemed valid; the appropriate deductions may then be made.
8. Additionally, if a UAPA hearing, a Default Order must be issued.
9. If the employee does not appeal the Default Order, funds may be deducted as specified.

III. Appeal

An appeal by the employee of the decision by the (CFO) concerning indebtedness may be made to the appropriate Vice President with the exception of appeals of parking fines heard by the Faculty/Staff Parking Ticket Appeals Committee. The Committee's decision may not be appealed.

IV. Limitations on Amounts to be Withheld

The deduction from any check shall not exceed the maximum deductible under state garnishment laws. Normally the amount deducted from any single paycheck will not exceed the maximum amount that would be deductible under state garnishment laws. An exception may be made at termination of employment.

- A. The maximum amount of disposable earnings of an individual for any work week that is subjected to garnishment may not exceed:
1. Twenty-five percent (25%) of their disposable earnings for that week; or

2. Thirty (30) times the federal minimum hourly wage at the time the earnings for any pay period become due and payable, whichever is less.

B. In the case of earnings from any pay period other than a week, an equivalent amount shall be in effect.

C. These limits are applicable to retirements funds but are not applicable to checks for accumulated annual leave.

D. Additionally, the above limits do not apply to employee overpayments.

If a former employee is found to owe a debt to the state, retirement funds may be utilized to pay off the amount owing to the extent permitted by Tennessee law.

A. The same procedural steps outlined above for notice and the opportunity for a hearing must be followed.

B. Accumulated retirement contributions of a former employee terminated for any reason and for which they have made application, or monthly benefits of a retired employee are subject to withholding to the extent permitted by Tennessee law.

C. A copy of the final order resulting from a College or UAPA hearing, or a signed waiver of hearing and written agreement of the former employee authorizing deductions should be sent to the director of the retirement system along with a written request to withhold, specifying the reason for the claim and the total amount involved.

V. Payment Arrangement

Normally the College may not allow an employee to pay an indebtedness by periodic payments. However, depending on the circumstances, the (CFO) may approve a periodic payment arrangement. A request for periodic payment must be made in writing to the Bursar's Office. Any payment arrangements are not subject to a hearing or an appeal.

VI. Fraud and Embezzlement

Special procedures will apply to cases involving fraud and/or embezzlement before funds will be withheld.

Responsible

Source of Policy: Business and Finance

Administrator: Chief Financial Officer

Related Policy: _____

TBR Guideline Reference: B-010

Approved: _____

President

Date: September 15, 2024

ATTACHMENT A

SOUTHWEST TENNESSEE COMMUNITY COLLEGE
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P.O. Box 780 Memphis, TN 38101-0780

Date

Employee

 Drive
Memphis, Tennessee

Dear Employee:

Our records indicate that your account with Southwest Tennessee Community College in the amount of (Amount Due) is overdue. This represents an employee account receivable balance from (Date) for (Description).

In the past, employee accounts receivable have been deducted from employees' paychecks after failure to pay the amount due. We have been advised by legal counsel that we may not deduct employer charges from paychecks without authorization or due process under the Tennessee Administrative Procedures Act (TAPA).

If you have any questions regarding your account, please call the Bursar's Office at (901) 333-5290 or (901) 333-4210. Otherwise, we will expect to receive your payment within the next ten (10) working days. Checks should be made payable to Southwest Tennessee Community College and mailed to the Bursar's Office, Southwest Tennessee Community College, P.O. Box 780, Memphis, Tennessee 38101-0780.

If you prefer not sending payments to settle your account and you are still employed at Southwest Tennessee Community College, you may sign the attached authorization and send it to the Payroll Office requesting the balance be deducted from your next paycheck. This authorization must be received by the Payroll Office no later than (Deadline). This action will prevent further embarrassing collection letters from being sent to you.

Sincerely,

(Insert Name)

ATTACHMENT A.1

SOUTHWEST TENNESSEE COMMUNITY COLLEGE

P.O. Box 780 Memphis, TN 38101-0780

PAYROLL DEDUCTION AUTHORIZATION

NAME _____ SS# _____

I authorize Southwest Tennessee Community College to deduct _____ (insert amount)

From my next paycheck as payment of my current accounts receivable charge.

EMPLOYEE

SIGNATURE _____ DATE _____

ATTACHMENT B

SOUTHWEST TENNESSEE COMMUNITY COLLEGE

P.O. Box 780 Memphis, TN 38101-0780

Date

Employee

_____ Drive
Memphis, Tennessee _____

SUBJECT: Notice of Intent to Withhold Funds

Dear Employee:

Pursuant to T.C.A. Section 9-4-604, this letter shall serve as notice of our intent to withhold funds in payment of (Description) in the amount of (Amount Due) which our records indicate are now delinquent.

If you believe that the above amount is incorrect, or that you do not owe a debt to Southwest Tennessee Community College, you have the right to request a hearing in this matter under the provisions of the Tennessee Uniform Administrative Procedures Act. As an alternative, you may elect to have a hearing pursuant to alternative institutional hearing procedures, or you may elect to waive your right to a hearing in this matter. Please notify this office, in writing, within ten (10) working days of the date of this letter if you elect to have a hearing, and designate whether you wish a hearing under the Tennessee Uniform Administrative Procedures Act, or under alternative institutional procedures. If you elect to waive your right to a hearing in this matter, please sign the enclosed Waiver of Hearing form, and return the same to the following address:

Chief Financial Officer
Southwest Tennessee Community College
P.O. Box 780
Memphis, TN 38101-0780

Waiver of a hearing and application of the funds owed you in payment of the above debt do not relieve you of any additional debt to the institution including, but not limited to, that arising from any subsequent legal prosecution.

If you have any questions concerning this notice, or your rights in this matter, please contact the Bursar's Office at (901) 333-5292 or (901) 333-4210.

Sincerely,
(Insert Name)

ATTACHMENT B.1.

SOUTHWEST TENNESSEE COMMUNITY COLLEGE

P.O. Box 780 Memphis, TN 38101-0780

I, _____, being an employee of Southwest Tennessee Community College, do hereby knowingly and voluntarily waive my rights to a hearing pursuant to the Tennessee Administrative Procedures Act (T.C.A., Section 4-5-102 et seq.), and pursuant to any other law or constitutional provision, being fully aware of my right to a hearing under said act and law.

EMPLOYEE
SIGNATURE _____ DATE _____

PAYROLL DEDUCTION AUTHORIZATION

NAME _____ SS# _____

I authorize Southwest Tennessee Community College to deduct _____ from my next paycheck as payment of my current accounts receivable charge.

EMPLOYEE
SIGNATURE _____ DATE _____