

**RULES  
OF  
TENNESSEE DEPARTMENT OF HUMAN RESOURCES**

**CHAPTER 1120-10  
DISCIPLINARY ACTION**

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**1120-10-.01 DISCIPLINE.** The supervisor is responsible for maintaining the proper job performance level, conduct, and discipline of the employees under his or her supervision. When corrective action is necessary, the supervisor should administer disciplinary action at the step appropriate to the infraction, conduct, or performance, as determined by the supervisor.

**Authority:** T.C.A. §§ 8-30-104, 8-30-105, 8-30-313, 8-30-315, 8-30-316, 8-30-318, and 8-30-319.  
**Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

**1120-10-.02 CAUSES FOR DISCIPLINARY ACTION.** Causes for disciplinary action fall into two (2) categories:

- (1) causes relating to performance of duties; or
- (2) causes relating to conduct which may affect an employee's ability to successfully fulfill the requirements of the job.

**Authority:** T.C.A. §§ 8-30-104, 8-30-105, 8-30-313, 8-30-315, 8-30-316, 8-30-318, and 8-30-319.  
**Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

**1120-10-.03 EXAMPLES OF DISCIPLINARY OFFENSES.** The following are examples of acts that may warrant disciplinary action. This list is not exclusive and shall not be construed to limit an Appointing Authority's discretion in disciplinary matters:

- (1) Inefficiency in the performance of duties;
- (2) Incompetency in the performance of duties;
- (3) Negligence in the performance of duties;
- (4) Misconduct involving public officials and employees pursuant to T.C.A. Title 39, Chapter 16, Part 4;
- (5) Careless, negligent, or improper use of state property or equipment;

(Rule 1120-10-.03, continued)

- (6) Failure to maintain satisfactory and harmonious working relationships with the public and fellow employees;
- (7) Habitual improper use of sick leave;
- (8) Habitual pattern of failure to report for duty at the assigned time and place;
- (9) Failure to obtain or maintain a current license or certificate or other qualification required by law or rule as a condition of continued employment;
- (10) Gross misconduct;
- (11) Conduct unbecoming of an employee in state service;
- (12) Conviction of a felony;
- (13) Willful abuse or misappropriation of state funds, property or equipment;
- (14) Falsification of an official document relating to or affecting employment;
- (15) Participation in any action that would in any way seriously disrupt or disturb the normal operation of the agency, institution, department, or any other segment of the state service or that would interfere with the ability of management to manage;
- (16) Trespassing on the property of any state officer or employee for the purpose of harassment;
- (17) Damage or destruction of state property;
- (18) Acts that would endanger the lives and property of others;
- (19) Possession of unauthorized firearms, lethal weapons, alcohol or illegal drugs on the job;
- (20) Brutality in the performance of duties;
- (21) Refusal to accept a reasonable and proper assignment from an authorized supervisor (insubordination);
- (22) Reporting to work under the influence of alcohol or illegal drugs, or partaking of such on the job;
- (23) Sleeping or failure to remain alert during duty hours;
- (24) Unauthorized disclosure of confidential information;
- (25) Political activity prohibited by T.C.A., Title 2, Chapter 19 (the "Little Hatch Act") or by U.S.C., Title 5, Chapter 15 (the "Federal Hatch Act"); and
- (26) For the good of the service as outlined in T.C.A. § 8-30-316.

**Authority:** T.C.A. §§ 8-30-104, 8-30-105, 8-30-313, 8-30-315, 8-30-316, 8-30-318, 8-30-319, and 5 U.S.C. § 1501 – 1508. **Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 5, 2012; effective October 3, 2012.

**1120-10-.04 TYPES OF DISCIPLINARY ACTIONS.** Corrective actions may include the following:

- (1) Oral Warning.
  - (a) The supervisor shall meet with the employee to:
    - (1) Review with the employee the expected performance and/or conduct.
    - (2) Explain to the employee why the employee's performance and/or conduct does not meet expectations.
    - (3) Provide the employee an opportunity to explain his or her performance and/or conduct.
    - (4) Make suggestions for employee action to correct the performance and/or conduct.
    - (5) Provide the employee with written follow-up documenting the date of the discussion and other necessary information regarding expectations for improvement.
  - (b) Written follow-up to an oral warning should not be construed as a written warning as described in paragraph (2) of this rule and shall not be maintained as part of the employee's official human resources file.
- (2) Written Warning.
  - (a) The supervisor shall meet with the employee and shall:
    - (1) Review the points covered in the oral warning, if an oral warning was issued.
    - (2) Review with the employee the expected performance and/or conduct.
    - (3) Explain to the employee why the employee's performance and/or conduct does not meet expectations.
    - (4) Provide the employee an opportunity to explain his or her performance and/or conduct.
    - (5) Make suggestions for employee action to correct the performance and/or conduct.
    - (6) Explain to the employee that future performance and/or conduct issues may lead to further disciplinary action.
    - (7) Tell the employee that the discussion shall be documented in a letter covering the significant points of the discussion.
  - (b) A copy of the written warning shall be placed in the employee's human resources file. After a period of two (2) years, an employee may submit a written request to expunge the written warning from the employee's file. Such request shall be granted, provided that the employee has had no further disciplinary actions with respect to the performance, conduct, and/or discipline during the two (2) year period. The request shall not be considered a part of the employee's human resources file.

(Rule 1120-10-.04, continued)

- (c) Request for Review of a Written Warning. A preferred employee who wishes to contest a written warning may request a review of the warning. The employee shall submit a written request for review to the Appointing Authority no later than fourteen (14) days from receipt of the written warning. The request for review should include documentation of any mitigating circumstances causing the employee to believe that the warning is undeserved. The Appointing Authority shall provide a written decision to the employee within fifteen (15) days of receipt of request for review. The Appointing Authority's written decision is final and not subject to appeal. If the Appointing Authority fails to provide a written decision within the prescribed time, the written warning shall be removed from the employee's file.
- (3) Suspension Without Pay.
- (a) An Appointing Authority may suspend an employee without pay, for disciplinary purposes, for such length of time as the authority considers appropriate, not to exceed thirty (30) days in any twelve (12) month period. With the approval of the Commissioner, an employee may be suspended for a longer period pending the appeal or the processing of an appeal in accordance with this chapter.
  - (b) Any employee who is suspended shall receive a written notice from the Appointing Authority that contains the following:
    - (1) an account of the circumstances which led to the suspension, including the statute, rule or policy that the employee allegedly violated;
    - (2) the beginning and ending dates of the suspension; and
    - (3) information to the employee concerning the appeal process as outlined in these rules.
  - (c) A copy of the notice shall be placed in the employee's human resources file.
  - (d) The ability to appeal for suspensions of less than three (3) days is limited to the Appointing Authority under Step I and the Commissioner under Step II of the appeal process. An employee shall not be entitled to appeal a suspension of less than three (3) days to the Board of Appeals.
- (4) Dismissal.
- (a) An Appointing Authority may dismiss any employee for performance and/or conduct.
  - (b) The Appointing Authority shall submit written notice to the employee and copy the Department at the time a preferred employee is dismissed. The notice shall specify the circumstances leading to the dismissal, including the statute, rule or policy that the employee allegedly violated, and inform the employee of the appeal process, if any. The notice shall become part of the employee's human resource's file.

The date of this written notification shall serve as the beginning date for the appeal period. An employee shall continue to receive compensation for ten (10) days following the date of notification but is not required to report to work during this period. The employee's accumulated annual leave balance may be used during this period only if the dismissal was for gross misconduct.
  - (c) When the dismissal is for gross misconduct, the written notice shall describe the job-related misconduct and provide applicable section(s) of Tennessee Code Annotated or other relevant law under which the employee may be criminally prosecuted.

(Rule 1120-10-.04, continued)

- (5) Transfer or Demotion. If the Appointing Authority determines that a preferred employee's ability to satisfactorily perform the required duties of the position is beyond the capabilities of the employee or the employee has been compromised by conduct that renders the employee ineffective, the Appointing Authority may choose to demote or transfer the preferred employee to another position. An employee who is demoted shall receive written information concerning the appeal process as outlined in these rules. An employee who is transferred does not have the ability to appeal.

**Authority:** T.C.A. §§ 8-30-104, 8-30-105, 8-30-313, 8-30-315, 8-30-316, 8-30-318, and 8-30-319.  
**Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introductions at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal and new rule filed July 3, 2012; effective October 3, 2012.

#### **1120-10-05 REPEALED.**

**Authority:** T.C.A. §§ 8-30-104, 8-30-105, 8-30-313, 8-30-315, § 8-30-316, 8-30-318, and 8-30-319.  
**Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal filed July 5, 2012; effective October 3, 2012.

#### **1120-10-06 REPEALED.**

**Authority:** T.C.A. §§ 8-30-104, 8-30-105, 8-30-313, 8-30-315, § 8-30-316, 8-30-318, and 8-30-319.  
**Administrative History:** (For history prior to January 2, 1988 see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed May 6, 1996; effective July 20, 1996. Repeal and new rule filed December 14, 2010; effective May 31, 2011.

#### **1120-10-07 REPEALED.**

**Authority:** T.C.A. §§ 8-30-104, 8-30-105, 8-30-313, 8-30-315, 8-30-316, 8-30-318, and 8-30-319.  
**Administrative History:** (For history prior to January 2, 1988 see pages 1-2 in the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Amendment filed October 25, 1995; effective February 28, 1996. Repeal and new rule filed December 14, 2010; effective May 31, 2011. Repeal filed July 5, 2012; effective October 3, 2012.

#### **1120-10-08 REPEALED.**

**Authority:** T.C.A. §§ 8-30-104, 8-30-105, 8-30-313, 8-30-315, § 8-30-316, 8-30-318, and 8-30-319.  
**Administrative History:** New rule filed December 14, 2010; effective May 31, 2011. Repeal filed July 5, 2012; effective October 3, 2012.