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For Department of State Use Only

Sequence Number: 12-19-16
Rule ID(s): 4483-4895
File Date: 12/14/2016
Effective Date: 05/31/2011

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

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Revision Type (check all that apply):

- Amendment
- New
- Repeal

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

Chapter Number	Chapter Title
1120-01	Definitions
Rule Number	Rule Title
1120-01-.01	Definitions

Chapter Number	Chapter Title
1120-02	Employment Practices
Rule Number	Rule Title
1120-02-.01	Responsibility
1120-02-.02	Divisions of State Service
1120-02-.03	Application for Employment
1120-02-.04	Examinations
1120-02-.05	Eligible List
1120-02-.06	Certification of Eligibles
1120-02-.07	Veterans Preference Points
1120-02-.08	Certification and Use of Referred Lists
1120-02-.09	Other Lists
1120-02-.10	Other Matters Related to Lists
1120-02-.11	Filling Positions
1120-02-.12	Appointments
1120-02-.13	Probationary Period
1120-02-.14	Promotions
1120-02-.15	Employee Transfer, Lateral Reclassification, Demotion and Reduction in Rank

1120-02-.16	Tenure, Employee Reclassification, Suspension, and Separation
1120-02-.17	Certification of Payrolls
1120-02-.18	Records and Reports

Chapter Number	Chapter Title
1120-03	Classification
Rule Number	Rule Title
1120-03-.01	Creating a Classification Plan
1120-03-.02	Classification Plan
1120-03-.03	Classification Specifications
1120-03-.04	Use of Classification Titles
1120-03-.05	Position Classification Actions

Chapter Number	Chapter Title
1120-04	Cash Compensation
Rule Number	Rule Title
1120-04-.01	The Compensation Plan
1120-04-.02	Changes to the Compensation Plan
1120-04-.03	Appointments
1120-04-.04	Promotions
1120-04-.05	Demotions
1120-04-.06	Involuntary Reduction in Rank
1120-04-.07	Voluntary Reduction in Rank
1120-04-.08	Employee Transfer and Lateral Reclassification
1120-04-.09	Rates Above Specified Salary Range
1120-04-.10	Salary Grade Adjustments
1120-04-.11	Salary Increases for Obtaining Professional Certification
1120-04-.12	Longevity
1120-04-.13	Merit Pay or Salary Step Adjustments
1120-04-.14	Salary Differentials
1120-04-.15	Assigning Duties of a Higher Level Classification
1120-04-.16	Fair Labor Standards Act

Chapter Number	Chapter Title
1120-05	Job Performance Planning and Evaluation
Rule Number	Rule Title
1120-05-.01	Evaluations
1120-05-.02	Employees to be Evaluated
1120-05-.03	Evaluation Process
1120-05-.04	Use in Making Human Resources Decisions
1120-05-.05	Records
1120-05-.06	Training
1120-05-.07	Appeal

Chapter Number	Chapter Title
1120-06	Attendance and Leave
Rule Number	Rule Title
1120-06-.01	Responsibility
1120-06-.02	Regular Work Schedule
1120-06-.03	Workweek
1120-06-.04	Cash Overtime and/or Accrual of Compensatory Time
1120-06-.05	Compensatory Time
1120-06-.06	Lunch Period
1120-06-.07	Rest Breaks
1120-06-.08	Absence Due to Specific Circumstances
1120-06-.09	Eligibility to Accrue Leave
1120-06-.10	Annual Leave
1120-06-.11	Sick Leave

1120-06-.12	Bereavement Leave
1120-06-.13	Special Leave
1120-06-.14	Holidays
1120-06-.15	Civil Leave
1120-06-.16	Educational Leave
1120-06-.17	Military Leave
1120-06-.18	Administrative Leave for Disaster
1120-06-.19	Parental Leave
1120-06-.20	Family and Medical Leave
1120-06-.21	Division of Claims Administration Leave
1120-06-.22	Terminal Leave
1120-06-.23	Accrued Leave Paid at Death
1120-06-.24	Paid Leave for Excused Absences
1120-06-.25	Responsibility for Records and Reports

Chapter Number	Chapter Title
1120-07	Equal Employment Opportunities
Rule Number	Rule Title
1120-07-.01	Statement of Policy
1120-07-.02	Agency Responsibilities
1120-07-.03	Department of Human Resources Responsibilities

Chapter Number	Chapter Title
1120-08	Learning and Development
Rule Number	Rule Title
1120-08-.01	Learning and Development Provided by the Department
1120-08-.02	Requests for Continuing Education and Learning
1120-08-.03	Continuing Education and Learning
1120-08-.04	Exclusions

Chapter Number	Chapter Title
1120-09	Programs Administered by the Department of Human Resources
Rule Number	Rule Title
1120-09-.01	Tennessee Employees' Charitable Campaign
1120-09-.02	Sick Leave Bank
1120-09-.03	Employee Service Awards
1120-09-.04	Employee Suggestion Award Program

Chapter Number	Chapter Title
1120-10	Disciplinary Actions
Rule Number	Rule Title
1120-10-.01	Policy
1120-10-.02	Minimum Due Process
1120-10-.03	Exception to Minimum Due Process
1120-10-.04	Causes for Disciplinary Action
1120-10-.05	Examples of Disciplinary Offenses
1120-10-.06	Progressive Discipline Action
1120-10-.07	Review of Written Warning
1120-10-.08	Executive Service Employee

Chapter Number	Chapter Title
1120-11	Grievance
Rule Number	Rule Title
1120-11-.01	Policy
1120-11-.02	Responsibility
1120-11-.03	Basic Standards
1120-11-.04	Procedures
1120-11-.05	Scope of Procedure

1120-11-.06	Grievable Matters
1120-11-.07	Exceptions and Non-Grievable Matters
1120-11-.08	Technical Advice and Assistance

Chapter Number	Chapter Title
1120-12	Awards of Attorney's Fees and Costs
Rule Number	Rule Title
1120-12-.01	Policy

Chapter Number	Chapter Title
1120-13	Rules and Regulations for Access to Public Records
Rule Number	Rule Title
1120-13-.01	Production Costs
1120-13-.02	Payment of Production Costs
1120-13-.03	Waiver of Production Costs
1120-13-.04	Reduction of Fees

**RULES
OF THE
TENNESSEE DEPARTMENT OF HUMAN RESOURCES**

**Chapter 1120-01
DEFINITIONS**

1120-01-.01 DEFINITIONS. The following definitions shall apply to terms as they appear in these Rules, unless the context clearly requires otherwise:

- (1) **Act.** Tennessee Civil Service Act as codified in Tennessee Code Annotated.
- (2) **Active Pay Status.** Term applied to an employee who is actually working or who is using paid leave other than paid terminal leave or sick leave bank leave.
- (3) **Affirmative Action Plan.** A statistical document which identifies and analyzes patterns in the participation and utilization of women and minorities in the workforce.
- (4) **Agency.** Any entity that employs and exercises authority over any employee in state service in the executive branch.
- (5) **Appointing Authority.** An officer having power to make appointments to and separations from positions in state service.
- (6) **Appointment.** The official designation of a person to fill a position in state service as an employee.
- (7) **Bona Fide Offer.** An offer of employment to a career employee affected by a reduction in force to a position at a comparable level and in a location previously declared acceptable by the employee.
- (8) **Career Employee.** An employee who holds a position in an agency in state service in which the employee has obtained career status.
- (9) **Career Service.** All positions in state service subject to the civil service provisions of the Act.
- (10) **Career Status.** The status granted an employee by an agency upon completion of any probationary period required for the job classification in that agency.
- (11) **Classification/Class of Positions.** A group of positions sufficiently alike in duties, authority and responsibilities such that the same general qualifications may reasonably be required and the same schedule of pay equitably applied to all positions in the group.
- (12) **Classification Specification.** A description of a class of positions including classification title, summary, distinguishing features, examples of duties and responsibilities, minimum qualifications, necessary special qualifications, and examination method.
- (13) **Commission.** The Tennessee Civil Service Commission.
- (14) **Commissioner.** The Commissioner of the Department of Human Resources.
- (15) **Compensation Plan.** A series of salary ranges to which classes of positions are assigned so that classifications evaluated as substantially equal are assigned to the same salary range.

- (16) Demotion. The change of an employee to a position in a classification at a lower salary grade for causes related to performance of duties or conduct which affects an employee's ability to successfully fulfill the requirements of the job.
- (17) Department. The Department of Human Resources.
- (18) Dismissal. The termination from state service of an employee for causes related to performance of duties or conduct which may affect an employee's ability to successfully fulfill the requirements of the job.
- (19) Eligible. A person who has qualified for appointment to a position in the career service.
- (20) Eligible List. A list of names of all qualified applicants for positions in the career service.
- (21) Emergency Appointment. The appointment of a person to a position in the career service, for a period not to exceed one hundred twenty (120) days, when an emergency makes it impractical or impossible to fill the position through standard appointment procedures.
- (22) Examination. A test or series of tests designed to assess the relative fitness of individuals to perform the duties associated with a particular class of positions.
- (23) Executive Service. All positions in the state service not subject to the civil service provisions of the Act.
- (24) Executive Service Employee. An employee who holds a position in the executive service.
- (25) Flex-Class Position. A position in a job classification series which may be filled with an employee qualified to perform the job at the trainee, entry, intermediate or working level.
- (26) Full-Time. A position or an employee budgeted for or scheduled to work a full-time schedule as defined by the Commissioner and the Commissioner of Finance and Administration, usually one thousand nine hundred and fifty (1,950) hours or more per year.
- (27) Grievance. An unresolved complaint concerning a condition, act or omission that an employee alleges adversely affects the employee's condition of employment that is within the discretion, jurisdiction, or control of the appointing authority or Commission.
- (28) Gross Misconduct. Any job related misconduct which may subject an employee to criminal prosecution.
- (29) Initial Probation/Initial Probationary Period. The first probationary period an employee serves in a continuous period of employment in an agency prior to becoming a career employee in that agency.
- (30) Interim Appointment. The appointment of a person to a position in the career service for a period of one (1) year.
- (31) Involuntary Reduction in Rank. The change of an employee to a position in a classification at a lower salary grade as a result of a reduction in force or in compliance with T.C.A. § 8-30-212.
- (32) Lateral Reclassification. A change from a position in one classification to a position in another classification with the same salary grade and similar duties, authority, responsibilities, and qualification requirements.
- (33) Layoff. A separation of an employee from state service as the result of a reduction in force.
- (34) Legal Residence. The county in which an individual's home is located and to which the individual plans to return if temporarily absent.
- (35) Limited Term Appointment. The governor, the governor's cabinet, and members of boards, commissions, agencies and authorities receive limited executive service appointments. Limited term appointments do not require the use of eligible lists.

- (36) List. A compilation of eligibles who may be appointed to positions in accordance with these Rules, such as appointment list, promotional list, layoff list, reemployment list, and transfer list.
- (37) Major Portion of a Month. One-tenth (0.1) of one (1) hour over fifty percent (50%) of the regularly scheduled working hours.
- (38) Manager. An employee who supervises, plans and coordinates the work of other supervisors or an employee who serves in a staff policy making or recommending capacity in an agency. Managers may conduct and/or review performance evaluations.
- (39) Merit Factor. An employee's job performance, conduct, or any knowledge, skill, ability, or competency on which administrative actions can be based.
- (40) Non-Career Employee. Employees who fall outside of T.C.A. § 8-30-208 and serve in one of the following appointment types: interim, emergency, part-time, seasonal, temporary, temporary provisional or temporary employment of retired state employees. Employees in this category do not gain career status and are not considered career employees.
- (41) Non-Merit Factor. Any factor not defined in item thirty-nine (39) above on which an administrative action can be based.
- (42) Official Duty Station. The town or city where the majority of the employee's duties are performed.
- (43) Organizational or Business Unit. Any agency, board, commission, department, or subdivision recognized as a unit for purposes of administration.
- (44) Part-Time. A position or an employee budgeted or scheduled to work a part-time schedule as defined by the Commissioner and the Commissioner of Finance and Administration, usually less than sixteen hundred (1,600) hours per year.
- (45) Position. A job consisting of assigned duties, authority, and responsibilities typically performed by one (1) person.
- (46) Position Reclassification. A change in a job classification, typically resulting from a significant reassignment in job duties and responsibilities.
- (47) Probationary Period. A period of at least six (6) months duration used to provide an employee with the opportunity to demonstrate ability to adequately perform the duties of the job.
- (48) Promotion. The change of an employee to a position in a classification at a higher salary grade.
- (49) Reallocation/Reallocated. A change from one classification to a new or existing classification based on a change in the nature or structure of the classification plan.
- (50) Reduction in Force. Any job action due to a shortage of work or funds, or the abolition of a position or other material change in duties or organization that may result in the layoff of a career employee.
- (51) Reemployment/Reappointment List. A list of persons who may be appointed to a class of positions without further certification or examination due to their prior career status in the classification or related classification.
- (52) Referred List. The document or record containing the names of the highest ranking available eligibles for a class of positions for consideration by an appointing authority in filling a vacancy.
- (53) Regular Appointment. The appointment of a person to a regular position in either the career or executive service for an indeterminate period of time.

- (54) **Regular Position.** A position which is funded on an annual basis and is expected to continue to receive funding.
- (55) **Salary Grade.** A numeric value which defines the level of the job classification and designates the salary range for a class of positions.
- (56) **Salary Range.** The minimum to the maximum rates of pay established for a class of positions.
- (57) **Seasonal Appointment.** An executive service appointment of a person for an indeterminate period of time to be scheduled to work for a certain period usually recurring each year and generally not exceeding sixteen hundred (1,600) hours per year.
- (58) **Seasonal Position.** An executive service position which is funded for a specific period of time, typically less than one (1) year, and is expected to continue to receive funding.
- (59) **Sick Leave Bank.** A pool of sick leave hours donated by member employees for use by qualifying members who are medically certified as unable to perform the duties of their jobs as a result of a personal illness, injury, accident, disability, medical condition, or quarantine.
- (60) **State.** The State of Tennessee.
- (61) **State Employee.** A person employed in a position in state government. For the purposes of these Rules only, "state employee" excludes employees of state universities and local education agencies.
- (62) **State Service.** All officers and positions of trust or employment in the executive branch and all boards, commissions and agencies in state government except those specifically excluded by the Act.
- (63) **Subsequent Probation.** Any probationary period served by a career employee in an agency after the successful completion of an initial probationary period in that agency or after the employee obtains career status in that agency.
- (64) **Supervisor.** An employee who directly plans and evaluates the work of one or more employees, including the performance evaluation process.
- (65) **Suspension.** An enforced leave of absence without pay for disciplinary purposes or pending an investigation or adjudication of charges made against an employee.
- (66) **Temporary Appointment.** The appointment of a person to an executive service position for a temporary period, usually less than six (6) months.
- (67) **Temporary Provisional Appointment.** The appointment of a person to a position in the career service, for a period not to exceed four (4) months, when there is an insufficient referred list or no established eligible list.
- (68) **Terminal Leave.** The annual leave balance of a retiring employee. Any leave balance remaining after the employee's last actual workday is considered terminal leave.
- (69) **Termination.** Any action taken that officially separates an employee from state service. This includes employees who elect to resign, retire or who are dismissed from state service.
- (70) **Time Period.** Time period for most employees is defined as the work week beginning on Sunday and ending Saturday.
- (71) **Transfer.** A change from one position in a classification to another position in the same classification.
- (72) **Voluntary Reduction in Rank.** The change of an employee to a position in a classification at a lower salary grade based on an employee's request and the concurrence of the appointing authority.
- (73) **Workday.** A scheduled day of work exclusive of holidays or other authorized leave days.

(74) **Work Test Period.** The probationary period served by an employee with a disability when substituted for a written and/or performance examination required for appointment or promotion to a class of positions.

Authority: T.C.A. § 8-30-201.

**RULES
OF THE
TENNESSEE DEPARTMENT OF HUMAN RESOURCES**

**Chapter 1120-02
EMPLOYMENT PRACTICES**

TABLE OF CONTENTS

1120-02-.01	Responsibility	1120-02-.11	Filling Positions
1120-02-.02	Divisions of State Service	1120-02-.12	Appointments
1120-02-.03	Application for Employment	1120-02-.13	Probationary Period
1120-02-.04	Examinations	1120-02-.14	Promotions
1120-02-.05	Eligible List	1120-02-.15	Employee Transfer, Lateral Reclassification, Demotion and Reduction in Rank
1120-02-.06	Certification of Eligibles	1120-02-.16	Tenure, Employee Reclassification, Suspension and Separation
1120-02-.07	Veterans Preference Points	1120-02-.17	Certification of Payrolls
1120-02-.08	Certification and Use of Referred List	1120-02-.18	Records and Reports
1120-02-.09	Other Lists		
1120-02-.10	Other Matters Related to Lists		

1120-02-.01 RESPONSIBILITY. The Commissioner is responsible for administering the Act, these Rules, and establishing policies and procedures.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, and T.C.A. § 8-30-204.

1120-02-.02 DIVISIONS OF STATE SERVICE. The state service is divided into the career service and the executive service.

Authority: T.C.A. § 8-30-208.

1120-02-.03 APPLICATION FOR EMPLOYMENT.

- (1) Applying for Positions in the Career Service. All applications for employment in career service positions must be made in a manner prescribed by the Commissioner.
- (2) Disqualification of Applicants. The Commissioner may refuse to examine or, after examination, may disqualify an applicant or remove an applicant's name from an eligible or referred list for a period of time as prescribed by the Commissioner, if the applicant:
 - (a) is found to lack any of the minimum or special qualification requirements established for the class of positions;
 - (b) has willfully or intentionally submitted false information or documents in support of any application or has intentionally omitted information in any application which materially affects score, position on a list, or eligibility for employment consideration;
 - (c) has previously been dismissed from any public service for delinquency, gross misconduct, or other similar cause;
 - (d) has used or attempted to use political pressure or bribery to secure an advantage in examination or appointment;
 - (e) has directly or indirectly obtained information regarding an examination to which the applicant was not entitled;
 - (f) has failed to submit an application correctly or within the prescribed time limit;

- (g) has taken part in the compilation, administration, or correction of the examination; or
 - (h) has otherwise violated provisions of this Rule or related policies established and distributed by the Commissioner.
- (3) **Appeal of Removal from Eligible Lists.** An eligible whose name has been removed from an eligible list for any of the reasons specified in T.C.A. § 8-30-305, by Rule, or by policy may appeal to the Commissioner for reconsideration. Such appeal must be filed in writing with the Commissioner within fifteen (15) calendar days after the date of the notification. The Commissioner, after consideration, shall make a decision and notify the applicant accordingly.
 - (4) **Equal Employment Opportunities.** The provisions of this section shall be administered consistent with the State's equal employment opportunities policies and obligations. All actions taken pursuant to this section shall be in strict compliance with all applicable state and federal civil rights laws.

Authority: T.C.A. § 8-30-222, T.C.A. § 8-30-302, T.C.A. § 8-30-304, and T.C.A. § 8-30-305.

1120-02-.04 EXAMINATIONS.

- (1) **Notice of Examinations.** The Commissioner will give public notice of all examinations, at least two (2) weeks in advance of the closing date for receipt of applications, by posting notices throughout the State. Public notice of examinations will specify the title and salary range of the class of positions, examples of duties to be performed, the minimum or desirable qualifications required, the final date on which applications will be received, and other conditions of competition, including the relative weights assigned to the various parts in the examination.
- (2) **Promotional Examinations.** Promotional examinations may be limited to employees of a defined organizational unit or may be open to all employees in the career service. The Commissioner shall determine and specify in the notice of examinations the classifications in an organizational unit or units eligible to compete. Any career employee in such classification(s) in the organizational unit(s) shall be eligible to compete in the promotional examination, provided the employee possesses the minimum qualifications required for the class of positions for which the examination is held. The Commissioner will grant additional performance bonus points to the examination scores of career employees who attain good, superior, or exceptional ratings on their probationary or annual performance evaluation as follows:
 - (a) Good overall performance 1 performance bonus point
 - (b) Superior overall performance 2 performance bonus points
 - (c) Exceptional overall performance..... 3 performance bonus points

Performance bonus points are granted to employees only on a promotional list of eligibles.

- (3) **Admission to Examinations.** Examinations will be open to all persons who meet the requirements specified in the respective public notices. Each applicant admitted to an examination will be notified of the time, date and place of the examination. Applicants not meeting the requirements for a class of positions may appeal the decision by requesting that the Commissioner reevaluate their qualifications based on documents submitted during the application process which were received during the open examination period. The Commissioner may also request other documents from the applicant. Applicants reevaluated as meeting the requirements may then be admitted to the examination at the discretion of the Commissioner.
- (4) **Employees in Positions Added to the Career Service.** An employee in a position which is added to the career service may, within one (1) year after the establishment of such positions in the career service, be given a noncompetitive test prescribed by the Commissioner to determine if the employee is fit to satisfactorily perform the duties of the position. The Commissioner shall certify whether each employee tested has met a reasonable standard of fitness qualifying such employee to retain such position, and each person so certified shall be deemed to be a career employee.

- (5) **Conduct of Examinations.** All examinations will be approved by the Commissioner with every precaution taken to prevent unauthorized persons from gaining knowledge of the nature or content of the tests. Examinations will be conducted in locations that are practical for proper administration. All applicants admitted to sit for civil service examinations must adhere to the Department's established testing rules and procedures. The Commissioner may take any appropriate action, up to and including criminal prosecution, against applicants who do not adhere to these established Rules and procedures.
- (6) **Scoring Examinations.** The Commissioner will determine a final examination score for each applicant in accordance with the weights established on the announcement of the examination. Failure in one part of any examination may disqualify the applicant from the entire examination.
- (7) **Reapplying for Examination.** Applicants rejected for not meeting minimum qualifications may reapply during an open examination period provided they can furnish evidence that they meet the required education, experience, or special qualifications. Applicants failing a written or performance test or wanting to improve their current score may retake the examination in accordance with established policy. An applicant's score is based on the latest examination results. Applicants may reapply for examination when changes in job minimum qualifications or examination method results in the abolishment of an eligible list and the establishment of a new eligible list.
- (8) **Promotional Rating Update.** The Commissioner may establish a procedure and develop the manner by which state employees may update scores based on a rating of education and experience after gaining additional education or experience.
- (9) **Rating Training and Experience.** When education, training and/or experience form a part or all of an examination, the Commissioner will establish a procedure for the evaluation of the education, training, and experience qualifications, including licenses, certifications, approved Continuing Education Units (CEU's), and other merit factors as deemed appropriate by the Commissioner.
- (10) **Work Test Period.** With input from the Division of Rehabilitation Services, Department of Human Services, the Commissioner may substitute a working test period in lieu of a written examination for an applicant with a disability. Such test period shall be the same as the individual's established probationary period.
- (11) **Investigations.** The Commissioner or any appointing authority may investigate an applicant's education, training, and experience to verify the statements contained in the application form or to verify statements regarding the applicant's character and fitness. If this investigation shows any falsification, including false information or documents submitted in support of any application or intentionally omitted information in any application which materially affects score, position on a list, or eligibility for employment consideration, the applicant may be removed from consideration for employment or, if employed, may be dismissed and disqualified from future examinations. Lesser discrepancies in applicant information may result in a reevaluation of examination scores as necessary.
- (12) **Oral Examinations.** When an oral examination is part of the examination for a class of positions, the Commissioner will appoint or approve one or more oral examination boards as needed.
- (13) **Notice of Examination Results.** The Commissioner will notify an applicant in writing of their examination results as soon as scoring has been completed. Scores based on the rating of an employment application including education, experience, and other merit factors as deemed appropriate shall be reported to the applicant within ninety (90) calendar days or a reasonable time period thereafter when the number of applicants applying for a particular job class prevents the scoring process from being completed within the ninety (90) calendar day period. An error in the scoring of any phase of an examination will be corrected, if called to the attention of the Commissioner; however, such correction will not invalidate any appointment previously made to a class of positions.
- (14) **Examination Records.** The Commissioner will maintain all records pertinent to an examination program. The retention of applications and other necessary examination records shall be maintained as prescribed by law.

- (15) **Rescheduling Examinations.** When an applicant is unable to appear for an examination, the applicant may, upon satisfactorily showing the cause of his failure to appear, be granted permission by the Commissioner to take the examination at a later date.

Authority: T.C.A. § 8-30-222, T.C.A. § 8-30-301, T.C.A. § 8-30-302, T.C.A. § 8-30-303, T.C.A. § 8-30-305, T.C.A. § 8-30-307 and T.C.A. § 10-7-504.

1120-02-.05 ELIGIBLE LIST.

- (1) **Establishment of Eligible List.** The Commissioner will establish an eligible list for competitive career service job classifications no later than four (4) months after the date on which the test was held, unless such time is extended by the Commissioner for reasons which the Commissioner shall record in the official records of the Department. The Commissioner may establish a promotional eligible list or roster of employee names in addition to or in lieu of an employment eligible list. A promotion list or employment list which has been in force for six (6) months or more shall be deemed cancelled upon the establishment of a new promotion list or employment list, as the case may be, for the same class of positions.
- (2) **Supplementing Eligible Lists.** The Commissioner will routinely review existing employment eligible lists to determine whether there is an adequate number of eligibles available to meet the needs of the service. When the Commissioner determines that a particular eligible list is inadequate or is likely to become inadequate, the Commissioner may order a supplemental examination for the class of positions. The public announcement for supplemental examinations will give notice of the dates when applications will be accepted and, where applicable, when written examinations will be administered.

Eligible lists for job classifications examined on a continuous basis are supplemented daily as applicants are scored.

- (3) **Duration of Eligible Lists.** All scores based on a rating of an applicant's education, training, and experience will be in effect for two (2) years unless the score is otherwise ruled ineligible or unless the eligible list is abolished. All scores derived as a result of a written examination will remain in effect until such time as prescribed by the Commissioner. Subject to the limitations of the Act and these Rules, the Commissioner may consolidate or cancel an eligible list at any time after it has been established.
- (4) **Removal and Notification of Names from an Eligible List.** Any applicant whose name is removed from an eligible list for any reason shall receive written notice of such action within ten (10) days of the date of removal.
- (a) The name of an eligible may be removed or made inactive on an eligible list for a class of positions for any of the following:
- (1) an eligible receives a regular appointment to a vacancy in that class of positions;
 - (2) the agency advises the Commissioner that the eligible is unwilling to accept appointment;
 - (3) an eligible declines an appointment offered under conditions the eligible had previously indicated would be acceptable;
 - (4) an eligible fails to respond within seven (7) days of the date of an invitation to interview;
 - (5) an eligible cannot be located;
 - (6) an eligible falsifies his legal residence;
 - (7) An eligible has been convicted of a crime related to the position or class of positions for which he or she has applied; or
 - (8) any cause occurs as specified in the Act or Rules regarding the rejection or disqualification of applicants.

- (5) Removal of Names from a Referred List. The Commissioner may remove the name of an eligible from a referred list who has been considered and rejected for three (3) different positions in the same classification in an agency.
- (6) Reinstatement to an Eligible List. An eligible's name may be reinstated to an eligible list upon showing of satisfactory cause to the Commissioner.

Authority: T.C.A. § 8-30-307, T.C.A. § 8-30-308, and T.C.A. § 8-30-309.

1120-02-.06 CERTIFICATION OF ELIGIBLES.

- (1) Eligible List. The Commissioner shall certify an eligible list containing qualified applicants for the position to be filled by the requesting agency.
- (2) Request for a Referred List. When a vacancy occurs, the agency shall request a referred list.
- (3) Referred List. If requested by the agency, a list of eligibles may be narrowed by the geographic area, organizational unit, or promotional criteria. The Commissioner shall issue a policy that agencies may use to establish a referred list.

Authority: T.C.A. § 8-30-307, T.C.A. § 8-30-308, and T.C.A. § 8-30-309.

1120-02-.07 VETERANS PREFERENCE POINTS.

The Commissioner will grant additional points to eligible veterans attaining a passing examination score in compliance with T.C.A. § 8-30-306 and any other applicable statutes, rules, or policies.

Authority: T.C.A. § 8-30-306 and T.C.A. § 8-30-310.

1120-02-.08 CERTIFICATION AND USE OF REFERRED LISTS.

- (1) Request for Certification. When a vacancy occurs in one (1) or more established positions in a classification in the career service, the appointing authority may request a list to fill the position(s) in a manner prescribed by the Commissioner.
- (2) Methods of Certification. The Commissioner will certify to the appointing authority the names of eligibles from the appropriate referred list for the classification. When requesting a referred list for a flexibly staffed position, the appointing authority may request a referred list for the working level or one of the trainee level classifications.
- (3) Appointment from a Referred List. An appointment made from a referred list must be made from the five (5) highest ranking eligibles plus any other eligible with a score equal to the score of the fifth ranked eligible. An appointing authority is not required to consider a referred list that contains the names of less than three (3) eligibles.
- (4) Promotion from a Referred List. A promotion made from a referred list must be made from the three (3) highest ranking eligibles plus any other eligible with a score equal to the score of the third ranked eligible. An appointing authority is not required to consider a promotional list that contains the names of less than three (3) eligibles.
- (5) Contacting Eligibles on a Referred List. The appointing authority must invite in writing all eligibles in the original top five (5) on a referred list for appointment and the original top three (3) on a referred list for promotion to interview for the position prior to the final selection of a candidate for appointment or promotion. All eligibles who are interviewed but not selected will be notified in writing that they were not selected.

Authority: T.C.A. § 8-30-307, T.C.A. § 8-30-308, and T.C.A. § 8-30-309.

1120-02-.09 OTHER LISTS.

- (1) **Transfer List.** An agency may request a list of career employees in career service positions who wish to transfer to other agencies or locations in their current job classification.
- (2) **Layoff List.** All career employees affected by a reduction in force shall be placed on a layoff list. Employees so listed shall have a priority right to transfer, promotion, or reappointment to the location or job classification held prior to any reduction in force.
- (3) **Reemployment/Reappointment.** A person may be appointed to a class of positions without further certification or examination because that employee previously held career status in the classification or a related classification.
- (4) **Selective Certification.** An individual position or group of positions in a classification may, under special circumstance, be placed into a sub-classification because the group requires unique or special qualifications. Requests for selective certification must be made in writing and approved by the Commissioner. Appointments must be made from the top five (5) or, if promotional, top three (3) eligibles possessing the special qualifications.

Authority: T.C.A. § 8-30-318, T.C.A. § 8-30-322, and T.C.A. § 8-30-323.

1120-02-.10 OTHER MATTERS RELATED TO LISTS.

- (1) **Reinstatement on an Eligible List.** Any career employee who leaves state service in good standing may have his name reinstated to the eligible list for the job classification from which appointed or promoted, provided:
 - (a) the eligible list has not been abolished or expired; and
 - (b) the applicant's score is not older than the time for which the score would have been otherwise eligible.
- (2) **Three Considerations.** Any applicant who has been considered for three (3) different positions in the same classification in an agency will be ineligible to be referred for other positions in that classification to that agency. This ineligibility will last until one of the following occurs:
 - (a) the expiration of the score in effect at the time of the third consideration;
 - (c) the eligible list from which the eligible was certified is abolished;
 - (d) the appointing authority requests that the three (3) considerations be removed from the eligible's record; or
 - (e) the applicant re-applies for that classification.
- (3) **Non-Competitive Classifications.** The Commissioner may designate unskilled or semi-skilled classifications as non-competitive. Generally, appointments to non-competitive classifications do not require a referred list; however, the Commissioner may require the use of a referred list for certain non-competitive classifications. Applicants for all non-competitive classifications must meet the minimum qualifications for the class of positions.

Authority: T.C.A. § 8-30-209, T.C.A. § 8-30-308, T.C.A. § 8-30-309, T.C.A. § 8-30-311, T.C.A. § 8-30-313, and T.C.A. § 8-30-317.

1120-02-.11 FILLING POSITIONS.

- (1) **Career Service Positions.** All career service positions are regular full-time positions. These positions may be filled on a regular full-time basis by persons who have been successful in a competitive process by being

among the top available eligibles on a referred list or who have achieved career status in a classification and have the right to be reemployed or reappointed to that classification or to a related classification to which they could be reclassified without further examination or certification as determined by the Commissioner.

Certain unskilled and semi-skilled classifications are designated "non-competitive" by the Commissioner. Qualified persons may be employed in these classifications on a regular full-time basis without competition.

Career service positions may be filled on a full-time temporary basis outside the competitive process by qualified persons as determined by the Commissioner by temporary provisional appointment, emergency appointment, or interim appointment. Career service positions may also be filled on a part-time temporary basis outside the competitive process by a regular part-time appointment or on a temporary basis with a seasonal appointment.

- (2) Executive Service Positions. Referred lists are not required to fill executive service positions. Executive service positions may be filled in the following manner:
 - (a) Regular full-time positions may be filled by one (1) of the following appointment types:
 - (1) regular full-time;
 - (2) regular part-time;
 - (3) temporary full-time;
 - (4) temporary part-time;
 - (5) seasonal full-time;
 - (6) seasonal part-time; or
 - (7) limited term appointment.
 - (b) Regular part-time positions may be filled by one (1) of the following appointment types:
 - (1) regular part-time;
 - (2) temporary part-time;
 - (3) seasonal part-time; or
 - (4) limited term part-time appointment.
 - (c) Seasonal part-time positions may be filled on that basis alone.
- (3) Overlap. An appointing authority may place more than one (1) employee in a single position in an overlap status subject to budgetary limitations and the approval of the Commissioner.
- (4) Job Sharing. An appointing authority may place more than one (1) part-time employee in a single full-time position in a job sharing status subject to budgetary limitations and the approval of the Commissioner. Agencies are responsible for ensuring that the number of hours worked by all employees assigned to the position number do not exceed the maximum number of full-time hours assigned to that position in a fiscal year. Positions used for job sharing are considered to be in the executive service.
- (5) Mismatch. An appointing authority may request approval from the Commissioner to appoint an employee to a classification different from the classification of the position, provided the employee's classification is not higher than the classification of the position.

For career service appointments the mismatch should be in the same or related classification series. The employee appointed should be able to meet the qualifications for the classification of the position upon attainment of additional education, experience or credentials. Career service mismatches should not exceed one (1) year except for employees in lower level flex classes with probationary periods longer than one (1) year.

Authority: T.C.A. § 8-30-201, T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-208, T.C.A. § 8-30-309, T.C.A. § 8-30-311, T.C.A. § 8-30-315, T.C.A. § 8-30-316, T.C.A. § 8-30-317, T.C.A. § 8-30-318, T.C.A. § 8-30-322, and T.C.A. § 8-30-323.

1120-02-.12 APPOINTMENTS.

- (1) **Regular Appointment.** A regular appointment is an appointment to either a career or executive service position for an indeterminate period of time. A regular appointment is expected to continue contingent upon satisfactory performance and behavior by the employee and upon continued funding, classification and utilization of the position by the State. In the executive service, a regular appointment continues at the pleasure of the appointing authority.
- (2) **Temporary Provisional Appointment.** A temporary provisional appointment is an appointment to a full-time career position for a period not to exceed four (4) months and may be made when there is an insufficient referred list or no established eligible list. Temporary provisional appointees must meet the minimum qualifications for the class of positions to which appointed. A temporary provisional appointment may not be renewed and no person can receive more than one (1) temporary provisional appointment in a twelve (12) month period. Temporary provisional appointments do not require the use of eligible lists.
- (3) **Emergency Appointment.** An emergency appointment is an appointment to a full-time career service position for a period of service not to exceed one hundred twenty (120) days and may be made when conditions exist that necessitate an immediate short term appointment. Emergency appointees must meet the minimum qualifications for the class of positions to which appointed. An emergency appointment may not be renewed and no person may receive more than one (1) emergency appointment in a twelve (12) month period. Emergency appointments do not require the use of eligible lists. Time served in an emergency appointment does not constitute creditable service for sick and annual leave accrual or service credit except for the purpose of longevity payments. Emergency appointments are not eligible for participation in the state insurance plan, but may be eligible for participation in the Tennessee Consolidated Retirement System (TCRS) as outlined in TCRS rules and policies.
- (4) **Interim Appointment.** Based on written justification submitted by an appointing authority, the Commissioner may approve an interim appointment to a full-time career service position for a period not to exceed one (1) year. Based on written justification submitted by an appointing authority, the Commissioner may approve, up to a one (1) year extension, after determining that such an extension is in the best interest of the State.

To be eligible for an interim appointment, the employee must meet the minimum qualifications for the job classification to which the employee is appointed. If the interim appointment is made using a referred list, the appointing authority may grant the employee a regular appointment in the position using the referred list from which the interim appointment was made, provided:

 - (a) the employee was within the original top five (5) or top three (3) eligibles on a referred list, and
 - (b) the rules for contacting eligibles were followed and applicants on the eligible list were notified that the interim appointment could change to a regular appointment at a later time.
- (5) **Seasonal Appointment.** Seasonal appointments may be made to seasonal positions in the executive service. Seasonal appointments do not require the use of eligible lists.
- (6) **Temporary Appointment.** A temporary appointment is an appointment to an executive service position for a limited period, usually less than six (6) months, and does not require the use of eligible lists.
- (7) **Limited Term Appointment.** The governor, the governor's cabinet, and members of boards, commissions, agencies and authorities receive limited-term appointments pursuant to statute. Limited term appointments do not require the use of eligible lists.
- (8) **Temporary Employment of Retired State Employees.** Retired State employees may temporarily return under certain conditions as outlined in the temporary employment form obtained from the Retirement Division of the Treasury Department. The retired employee may accept employment with a covered employer for up to one hundred twenty (120) days (900 hours for employees on a seven and a half (7.5) hour work day or 960 hours for employees on an eight (8) hour work day) during a twelve (12) month period.

- (9) Reemployment of Former Career Employees. Unless otherwise stated in statute, an appointing authority may reappoint a former career employee without further examination or certification under the following provisions:
- (a) Reappointment to any classification in which the employee formerly held career status or to any related classification to which the employee could have been demoted, reduced in rank, or transferred without further examination or certification, provided the employee returns to the career service within three (3) years of the date of separation from State employment. The three (3) year reemployment eligibility period commences with the employee's separation from State government and expires three (3) years later, regardless of subsequent State employment; or
 - (b) A former career employee who obtained career status in a classification and held that same career service classification in State government for five (5) or more years has permanent reemployment eligibility to that classification and to any related classification to which the employee could have been demoted, reduced in rank, or transferred without further examination or certification. Permanent reemployment eligibility is based on an employee's cumulative periods of employment in classification and not on a continuous employment period.

Note that this Rule does not provide a right to reappointment for any employee. Any decision to reappoint a former career employee in accordance with this Rule is solely at the discretion of the appointing authority.

- (10) Reappointment of Current State Employees. Any State employee who is a current or former career employee is eligible for appointment to any classification in which the employee formerly held career status or to any related classification to which the employee could have been demoted, reduced in rank, or transferred without further examination or certification, provided the employee has not had a break in State government employment.
- (11) Appointments to Flex Class Positions. To fill the vacancy of a flex class position, the appointing authority must request from the Commissioner a referred list of applicants for either one of the trainee level classifications or the working level class. Any eligible appointed to a flex class position from the referred list for either the trainee or working level class shall serve a period of probationary employment as prescribed by the Commissioner for the classification. During the last month of the probationary period, the appointing authority shall certify to the Commissioner whether the employee has successfully completed the period of probationary employment and should, therefore, be made a career employee in the position in the working level classification without further examination or certification. The employee must be removed from the position if the probationary period has not been successfully completed. Such notification should be made in the same manner as prescribed for any other period of probationary employment.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-208, T.C.A. § 8-30-309, T.C.A. § 8-30-311, T.C.A. § 8-30-315, T.C.A. § 8-30-316, T.C.A. § 8-30-323, T.C.A. § 8-50-801, and T.C.A. § 8-50-802.

1120-02-.13 PROBATIONARY PERIOD.

- (1) Purpose of the Probationary Period. The probationary period is an essential part of the employment process, and is used for the adjustment of an employee to a new position and to provide an employee with the opportunity to demonstrate ability to perform the job.
- (2) Probationary Period for the Career Service. For career service positions, a probationary period of at least six (6) months is required for all employees who receive regular appointments from a referred list. An appointing authority also has discretion to impose a probationary period for employees who receive regular appointments through reemployment, reappointment, demotion, voluntary reduction in rank, or interdepartmental transfers. The probationary period for a regular appointment may be reduced by the amount of time served in a temporary provisional, emergency or interim appointment provided the appointment is for the same appointing authority in the same class of positions and there is no break in service. Employees serving temporary provisional, emergency or interim appointments do not serve a probationary period. Successful completion of a probationary period in a trainee, entry, or intermediate

level classification satisfies the probationary period requirement necessary for career status when the position is deemed to be the working level classification.

- (3) **Duration of the Probationary Period.** A period of probation is completed at the close of business or shift on the day the employee completes the number of months of probationary status required for the class of positions.
- (4) **Initial Probationary Period.** The initial probationary period is the first probationary period an employee serves in a department or agency in a continuous period of employment prior to becoming a career employee in that agency.

An employee on initial probation may not be dismissed for cause relating to performance of duties before completion of one (1) month's service. Employees dismissed during their initial probationary period have neither right of appeal nor right of hearing. The appointing authority must submit a written reason for dismissal to the Commissioner. Initial probationary employees not terminated or otherwise removed from the classification by the end of the probationary period become career employees.

- (5) **Subsequent Probationary Period.** Any probationary periods served by an employee who holds career status in that agency are considered subsequent probations. Career employees serving subsequent probations retain grievance rights except when demoted to their former classification. Employees serving a subsequent probationary period retain career status in the classification in which that status was most recently attained.
- (6) **Promotion During Probation.** The probationary period for the class of positions to which an employee on probation is promoted begins with the date of appointment to such higher classification. If the newly promoted employee was on initial probation at the time of promotion, the new probationary period will be considered to be the initial probationary period. An employee on subsequent probation who is promoted to a position in a different agency where they have not attained status will be placed on initial probation in that agency. Names of employees on initial probation will not appear on promotional lists.
- (7) **Work Test Period.** The Commissioner may substitute a working test period in lieu of a written examination for any applicant with a disability, with input from the Division of Rehabilitation Services and the Department of Human Services. Such test period shall be the same as the individual's established probationary period.

Authority: T.C.A. § 8-30-302, T.C.A. § 8-30-208, T.C.A. § 8-30-312, and T.C.A. § 8-30-314.

1120-02-.14 PROMOTIONS.

- (1) **Methods of Making Promotions.** A vacancy may be filled by the promotion of a qualified employee with the approval of the Commissioner. Promotions between departments or agencies must be approved by the appointing authorities concerned. Promotions of employees to regular career service appointments will be made by a competitive process as determined by the Commissioner. Any employee who has been demoted or reduced in rank may, at the discretion of the appointing authority and with the approval of the Commissioner, be promoted to a career service position in a classification without additional examination or certification if the employee was a career employee in that classification.
- (2) **Promotion by Competitive Examination.** The Commissioner and the appointing authority may fill a vacancy by a promotional examination. The promotional list resulting from such examination will be established in accordance with the applicable provisions of this Rule.

Authority: T.C.A. § 8-30-302, T.C.A. § 8-30-309, and T.C.A. § 8-30-311.

1120-02-.15 EMPLOYEE TRANSFER, LATERAL RECLASSIFICATION, DEMOTION AND REDUCTION IN RANK.

- (1) **Transfer.** A transfer is authorized in accordance with the following:

- (a) An appointing authority may transfer an employee from one position to another position in the same classification in the same agency with the approval of the Commissioner.
 - (b) An employee may be transferred from a position in one agency to a position in the same classification in another agency with the approval of both appointing authorities and the Commissioner.
 - (c) The Commissioner will not approve a transfer from the executive service to the career service unless the employee is eligible for reemployment in the career service in the classification or is appointed from a referred list.
- (2) Lateral Reclassification. A lateral reclassification is authorized in accordance with the following:
- (a) An appointing authority may laterally reclassify any qualified employee from one position to another position in another classification in the same agency with the approval of the Commissioner.
 - (b) A qualified employee may be laterally reclassified from a position in one agency to a position in another classification in another agency with the approval of both appointing authorities and the Commissioner.
 - (c) The Commissioner will not approve a lateral reclassification from the executive service to the career service unless the employee is eligible for reemployment in the career service in the classification or is appointed from a referred list.
- (3) Demotion. With the approval of the Commissioner, an agency may demote an employee who has failed to render satisfactory service in a position held but is considered worthy of employment. The agency must meet any applicable minimum due process requirements and give the employee written notice prior to the effective date.
- (4) Involuntary Reduction in Rank. An involuntary reduction in rank occurs when the position occupied by an employee is affected by a reduction in force or in compliance with T.C.A. § 8-30-212. An involuntary reduction in rank is not a demotion.

Employees receiving an involuntary reduction in rank do not serve an additional probationary period. Under an involuntary reduction in rank, an employee's salary may be reduced only to the top step of the salary range of the new job classification unless otherwise specified by statute. Subject to budgetary limitations, employees receiving involuntary reductions in rank may retain a salary rate above the salary range for the new job classification with the approval of the appointing authority and the Commissioner.

- (5) Voluntary Reduction in Rank. A voluntary reduction in rank occurs when an employee requests assignment to a position at a lower salary grade and the appointing authority concurs. A voluntary reduction in rank may require a salary reduction and a requirement for the completion of an initial or subsequent probationary period. A voluntary reduction in rank is not considered a demotion.

Generally, employees who receive a voluntary reduction in rank will have their salary reduced equivalent to one-half (1/2) the difference between the salary grades of the new and the current classification. Employees who receive a voluntary reduction in rank must be paid within the salary range for the new classification even if this results in a salary reduction greater than one-half (1/2) the difference between the salary grades of the new and the current classification.

Authority: T.C.A. § 8-30-214, T.C.A. § 8-30-318, and T.C.A. § 8-30-320.

1120-02-.16 TENURE, EMPLOYEE RECLASSIFICATION, SUSPENSION AND SEPARATION.

- (1) Tenure of Office. The service of career employees is contingent on both satisfactory performance and satisfactory conduct. Satisfactory performance is evidenced by the employee's current performance evaluation. This provision, however, does not prevent the layoff of an employee in accordance with a reduction in force plan approved by the Commissioner.

- (2) **Suspension.** An appointing authority must provide any applicable minimum due process requirements and give written notice before suspending a career employee without pay for disciplinary purposes. Cumulative suspensions without pay shall not exceed thirty (30) workdays in a twelve (12) month period. With approval of the Commissioner, an appointing authority may suspend an employee without pay for a period greater than thirty (30) workdays, pending an investigation or trial of any charges. The agency shall place a copy of the written notice of the suspension in the employee's human resources file.
- (3) **Layoff/Reduction in Force.** After written notice to the Commissioner, an appointing authority may implement a layoff/reduction in force, in accordance with the provisions of T.C.A. § 8-30-101, T.C.A. § 8-30-320, and T.C.A. § 8-30-322. Performance evaluation ratings of employees affected by reductions in force may be considered in determining the order of layoff only when the seniority calculations produce an order of layoff difference of less than one year.
- (4) **Resignations.** An employee who resigns may state the reasons in writing to the appointing authority. A copy of the resignation must be placed in the employee's human resources file.
- (5) **Job Abandonment.** Any employee who is absent from duty for more than three (3) consecutive work days without giving notice to the appointing authority or appropriate manager concerning the reason for such absence and without securing permission to be on leave, or who fails to report for duty to the immediate supervisor or the appointing authority within two (2) work days after the expiration of any authorized leave of absence, is considered as having resigned not in good standing, absent exigent circumstances causing the employee's absence or preventing the employee's return. A career employee who is designated resigned in accordance with these circumstances shall have the right to appeal such action through the grievance procedure and to be reviewed by the Commission.
- (6) **Dismissal.** An appointing authority may dismiss a career employee for either unsatisfactory performance or unsatisfactory conduct after ensuring minimum due process requirements are met. Executive service employees serve at the pleasure of the appointing authority.
- (7) **Reemployment Recommendation.** When an employee leaves State government, the appointing authority may make a recommendation concerning reemployment. All separating employees not recommended for reemployment must be informed in writing by the appointing authority of the recommendation and its effect on future employment in state service.

Authority: T.C.A. § 8-30-320, T.C.A. § 8-30-322, T.C.A. § 8-30-325, and T.C.A. § 8-30-326.

1120-02-.17 CERTIFICATION OF PAYROLLS.

- (1) **Certification of Payrolls.** All payments for personal service to any person holding a position in the state service must be submitted by the appointing authority to the Commissioner in a manner prescribed by the Commissioner and the Commissioner of Finance and Administration. The Commissioner must certify the payroll before it may be honored by the Department of Finance and Administration. The Commissioner shall determine that the persons named on the payroll have been appointed or employed in accordance with the Act and applicable rules, and that the salary rate is in accordance with the compensation plan before certification of that payroll for payment.
- (2) **Refusal to Certify.** If the Commissioner determines that a person on the payroll has not been appointed or paid in conformity with the provisions of the Act and these Rules, the Commissioner will refuse to certify payment for that employee. The removal of a name or item from the payroll shall serve as official notification to the Department of Finance and Administration that the drawing, signing, or issuing of any warrant by any disbursing officer of the State for the payment of salary or compensation to such person is unlawful.
- (3) **Illegal Payments.** Any appointing authority who appoints or employs any person in violation of the Act and these Rules may be required to pay the agreed upon salary. Any such amount so paid will not be reimbursed by the State.

Authority: T.C.A. § 8-30-216 and T.C.A. § 8-30-217.

1120-02-.18 RECORDS AND REPORTS.

- (1) **Employee Records.** The Commissioner will maintain employee records as necessary to carry out the intent and purpose of the Act and these Rules and cause to be maintained in each agency a human resources file on each active employee. These files shall be maintained in accordance with policy established by the Commissioner.
- (2) **Reports from Appointing Authorities.** The appointing authorities will report to the Commissioner in a manner prescribed by the Commissioner all permanent changes in the status of employees under their jurisdiction. Upon request, the appointing authorities may also be required to make other reports regarding their employees to the Commissioner.
- (3) **Investigations.** The Commissioner has the right of the records, books, papers and other documents of any organizational unit pertinent to any investigation which may be necessary or which the Governor or the Commission may direct to be conducted.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203 and T.C.A. §10-7-504.

**RULES
OF THE
TENNESSEE DEPARTMENT OF HUMAN RESOURCES**

**Chapter 1120-03
CLASSIFICATION**

TABLE OF CONTENTS

1120-03-.01	Creating a Classification Plan	1120-03-.04	Use of Classification Titles
1120-03-.02	Classification Plan	1120-03-.05	Position Classification Actions
1120-03-.03	Classification Specifications		

1120-03-.01 CREATING A CLASSIFICATION PLAN. The Department will create a classification plan, which groups positions sufficiently alike in duties, authority, and responsibilities such that the same general qualifications may reasonably be required and the same schedule of pay equitably applied to all positions in the group.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, and T.C.A. § 8-30-209.

1120-03-.02 CLASSIFICATION PLAN. The classification plan established and maintained by the Commissioner, in consultation with the appointing authorities, is a compilation of the officially authorized classes of positions for the state service. The plan contains the classification specification for each classification in the career service which may be subdivided, grouped, or ranked as deemed proper by the Commissioner. The classification plan, as recommended by the Commissioner, shall take effect when approved by the Governor, or on the thirtieth (30th) day after it is recommended to the Governor, if prior to that time it has not been disapproved by him.

Authority: T.C.A. § 8-30-209.

1120-03-.03 CLASSIFICATION SPECIFICATIONS. Classification specifications for the career service include the following:

- (1) classification title;
- (2) summary;
- (3) distinguishing features;
- (4) examples of duties and responsibilities;
- (5) minimum qualifications;
- (6) necessary special qualifications; and
- (7) examination method.

Authority: T.C.A. § 8-30-209.

1120-03-.04 USE OF CLASSIFICATION TITLES. The classification titles in the classification plan are used to designate all positions in the state service in all official records, vouchers, and communications concerning those positions. No person shall be appointed to, or employed in, a position in state service under a class title which has not been approved by the Commissioner. This requirement does not preclude the use of working titles by employees in those positions where the use of working titles is helpful in the employee's performance of duties, authority, and responsibilities as long as such working titles are authorized by the employee's appointing authority.

Authority: T.C.A. § 8-30-213.

1120-03-.05 POSITION CLASSIFICATION ACTIONS.

- (1) If an appointing authority makes a significant or permanent change to the duties, authority, and/or responsibilities assigned to a position, the appointing authority should notify the Commissioner so that the Commissioner can determine if a position reclassification is necessary. If no appropriate classification exists, the Commissioner may establish a new classification.

- (2) If a change in assigned duties, authority, and responsibilities results in reclassification of the position, the employee in the position must be certified as eligible on a civil service eligible list and meet all requirements for an original appointment, reappointment, promotion, mismatch, reclassification, or reduction in rank. If ineligible to continue in the position, the employee must be transferred, reclassified or separated by appropriate action in accordance with the provisions of these Rules and the Act.
- (3) The Commissioner may make changes to the classification plan as necessary to reflect changes to the duties, authority, or responsibilities of a job classification. If a career service classification is changed due to a modification in the structure of the classification plan, positions are reallocated. Employees who have attained career status in the reallocated positions may continue in those positions without further examination or certification. Those employees who do not have career status must meet the minimum qualifications of the new classification and must appear on a referred list.
- (4) If a position is abolished which results in a career employee being laid off and a new position is then reestablished with the same or essentially similar duties within two (2) years of the date of the layoff, the career employee shall be offered the newly established position without further competition.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-210, T.C.A. § 8-30-211, T.C.A. § 8-30-212, and T.C.A. § 8-30-320.

**RULES
OF THE
TENNESSEE DEPARTMENT OF HUMAN RESOURCES**

**Chapter 1120-04
CASH COMPENSATION**

TABLE OF CONTENTS

1120-04-.01	The Compensation Plan	1120-04-.10	Salary Grade Adjustments
1120-04-.02	Changes to the Compensation Plan	1120-04-.11	Salary Increases for Obtaining Professional Certification
1120-04-.03	Appointments	1120-04-.12	Longevity
1120-04-.04	Promotions	1120-04-.13	Merit Pay or Salary Step Adjustments
1120-04-.05	Demotions	1120-04-.14	Salary Differentials
1120-04-.06	Involuntary Reduction in Rank	1120-04-.15	Assigning Duties of a Higher Level Classification
1120-04-.07	Voluntary Reduction in Rank	1120-04-.16	Fair Labor Standards Act
1120-04-.08	Employee Transfer and Lateral Reclassification		
1120-04-.09	Rates Above Specified Salary Range		

1120-04-.01 THE COMPENSATION PLAN. The Commissioner will prepare a comprehensive compensation plan for all classes of positions in the state service. The plan will be developed after consultation with appointing authorities and will take into consideration the State's financial condition and fiscal policies, experience in recruiting and retaining employees for positions in the state service, the prevailing rates of pay for services performed and for comparable services in public and private employment within the State and outside the State, living costs, maintenance, and other benefits received by employees.

Authority: T.C.A. § 8-30-202 and T.C.A. § 8-30-214.

1120-04-.02 CHANGES TO THE COMPENSATION PLAN. The Commissioner will, as needed, review the ability of the State to recruit and retain employees for the classes of positions in the state service and may also survey prevailing rates of pay, both within and outside the State. The Commissioner may also make such changes to the compensation plan as the reviews and surveys indicate are prudent, subject to budgetary limitations and as approved by the Commissioner of Finance and Administration.

Authority: T.C.A. § 8-30-202 and T.C.A. § 8-30-214.

1120-04-.03 APPOINTMENTS. The minimum rate of pay in the applicable salary range represents the typical entry rate payable to a person on first appointment to a position in a classification. However, the Commissioner may authorize appointments above the range minimum when experience in recruiting and retaining employees for the classification or prevailing salary market data indicate persons are not available at lower rates or when appointing persons exceptionally qualified for the position including reappointments.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, and T.C.A. § 8-30-214.

1120-04-.04 PROMOTIONS. An employee who is promoted may receive a promotional salary increase equivalent to one-half (1/2) the difference between the salary grades of the current and the new classification, provided however, that no employee may be paid at a rate less than the range minimum in the salary range for the new classification and that no career employee shall receive a promotional salary increase which exceeds the range maximum in the salary range for the new classification. Employees may receive promotional increases of greater or lesser amounts upon recommendation of the appointing authority, subject to the approval of the Commissioner and budgetary limitations. The Commissioner shall establish a policy regarding promotions for persons in flexibly-staffed positions.

Authority: T.C.A. §8-30-202, T.C.A. §8-30-203, T.C.A. §8-30-204, and T.C.A. §8-30-214.

1120-04-.05 DEMOTIONS. An employee who is demoted may receive a salary reduction equivalent to one-half (1/2) the difference between the salary grades of the current and the new classification. Employees who are demoted must be paid within the salary range for the new classification even if this results in a salary reduction greater than one half (1/2) the difference between the salary grades of the current and the new classification. Demoted employees may receive a salary reduction of a greater or lesser amount upon recommendation of the appointing authority, subject to the approval of the Commissioner and budgetary limitations.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-214, and T.C.A. § 8-30-318.

1120-04-.06 INVOLUNTARY REDUCTION IN RANK. Unless otherwise specified by law, the Commissioner may approve an appointing authority's recommendation that an employee who receives an involuntary reduction in rank be paid at a rate above the range maximum for the new classification or the employee's salary be reduced to the maximum of the salary range for the new classification. Unless otherwise specified by law, the salary of an employee who receives an involuntary reduction in rank may not be reduced if it falls within the salary range of the lower classification.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-214, T.C.A. § 8-30-318, and T.C.A. § 8-30-320.

1120-04-.07 VOLUNTARY REDUCTION IN RANK. An employee voluntarily reduced in rank typically experiences a reduction in salary in accordance with established policy.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-214, and T.C.A. § 8-30-318.

1120-04-.08 EMPLOYEE TRANSFER AND LATERAL RECLASSIFICATION. An employee who is transferred or laterally reclassified does not receive a salary change as a result of such action.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-214, and T.C.A. § 8-30-318.

1120-04-.09 RATES ABOVE SPECIFIED SALARY RANGE. Employees who receive salary adjustments required by law or who receive salary differentials authorized by these Rules may be paid at a salary rate higher than the maximum of the salary range of their classification. Employees who receive a reduction in rank may have a salary rate above the maximum if recommended by the appointing authority and approved by the Commissioner. Such employees are eligible for longevity pay and other increases as specified by law or rule.

Authority: T.C.A. § 8-30-214.

1120-04-.10 SALARY GRADE ADJUSTMENTS. The Commissioner may adjust the salary grades of classifications to recognize changes in the duties, responsibilities, and authority. The Commissioner may also establish new salary ranges as a result of a competitive market analysis or a study focusing on recruiting and retaining employees in specific job classifications. The salary grade changes are subject to budgetary limitations and approval by the Commissioner of Finance and Administration. Any employee whose salary is below the minimum of the new salary range will be adjusted at least to the new minimum. Any employee whose salary is above the maximum of the new salary range will not receive an increase. Based on the appointing authority's written justification, the Commissioner may waive the reduction in salary of an employee whose salary is above the maximum of the new salary range.

Employees in classifications receiving a salary grade increase shall receive a salary increase in accordance with the promotional policy as defined in these Rules. Employees in classes receiving a salary grade decrease shall receive the same salary considerations as employees who receive an involuntary reduction in rank.

Authority: T.C.A. § 8-30-212 and T.C.A. § 8-30-214.

1120-04-.11 SALARY INCREASES FOR OBTAINING PROFESSIONAL CERTIFICATION. Any employee who obtains a nationally recognized professional certification within their occupational field may be eligible for a salary increase as approved by both the Commissioner and the Commissioner of Finance and Administration. Any clerical-secretarial or clerical-management employee in the state service who passes all parts of either the Certified Professional Secretary Examination or the Certified Administrative Professional Examination, sponsored SS-7038 (October 2009)

by the International Association of Administrative Professionals will be granted the salary increase prescribed by law.

Authority: T.C.A. § 8-50-102.

1120-04-.12 LONGEVITY. Longevity is a lump sum payment intended to reward employees for service to the State and to encourage those employees to remain employed by the State. The Commissioner shall establish a policy concerning the calculation and payment of longevity.

Authority: T.C.A. § 8-23-206.

1120-04-.13 MERIT PAY OR SALARY STEP ADJUSTMENTS. Career employees may be eligible for a program of periodic salary step adjustments subject to the availability of funds as provided in the general appropriations act for each fiscal year. Nothing in this subsection shall be construed to preclude salary increases for employees in the executive service.

If such merit pay or salary step adjustments are funded, the Department will establish guidelines pursuant to T.C.A. § 8-30-214 and make such guidelines available for public inspection.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, and T.C.A. § 8-30-214.

1120-04-.14 SALARY DIFFERENTIALS. The Commissioner, in consultation with appointing authorities and the Commissioner of Finance and Administration, may approve salary differentials. In approving such plans, the Commissioner shall specify the terms and conditions under which such differentials may be paid.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, and T.C.A. § 8-30-204.

1120-04-.15 ASSIGNING DUTIES OF A HIGHER LEVEL CLASSIFICATION. No career employee shall be assigned to perform the majority of the duties and responsibilities of a position in a higher level classification without the approval of the appointing authority. When an employee is so assigned, the duration cannot exceed ninety (90) days without the approval of the Commissioner. The total length of the assignment will be limited to a period of twelve (12) months.

An affected employee must be compensated for all time spent performing these higher level duties after the initial ninety (90) days. Compensation for performing these duties shall be in accordance with the standard promotional pay policy and is effective on the ninety-first (91st) day of the assignment.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, and T.C.A. § 8-30-224.

1120-04-.16 FAIR LABOR STANDARDS ACT. The Commissioner, in compliance with the Fair Labor Standards Act, shall designate the classifications which receive cash overtime, classifications which receive compensatory overtime, and classifications which receive no overtime.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, and T.C.A. § 8-30-204.

**RULES
OF THE
TENNESSEE DEPARTMENT OF HUMAN RESOURCES**

**Chapter 1120-05
JOB PERFORMANCE PLANNING AND EVALUATION**

TABLE OF CONTENTS

1120-05-.01	Evaluations	1120-05-.05	Records
1120-05-.02	Employees to be Evaluated	1120-05-.06	Training
1120-05-.03	Evaluation Process	1120-05-.07	Appeal
1120-05-.04	Use in Making Human Resources Decisions		

1120-05-.01 EVALUATIONS. Each agency shall provide formal written evaluations of the performance of major job duties and responsibilities for all employees, except as noted below, on dates and in such manner as prescribed by the Commissioner.

Authority: T.C.A. § 8-30-319.

1120-05-.02 EMPLOYEES TO BE EVALUATED. The performance of all employees in the state service will be evaluated in a manner subject to this Rule, except for:

- (1) Seasonal employees;
- (2) Part-time employees;
- (3) Limited term employees;
- (4) Temporary employees;
- (5) Employees of the Governor's office;
- (6) Deputy Commissioners, Assistant Commissioners and employees in equivalent positions;
- (7) Emergency employees;
- (8) Temporary provisional employees;
- (9) Interim employees; and
- (10) Executive service employees.

Authority: T.C.A. § 8-30-319.

1120-05-.03 EVALUATION PROCESS. An agency shall conduct, at a minimum, the following evaluation process:

- (1) An initial discussion between the supervisor and the employee for the purpose of explaining and clarifying the performance evaluation process, major job duties and responsibilities for which performance will be assessed, and the performance necessary to maintain or achieve a high rating.
- (2) Periodic reviews of job performance to provide constructive performance feedback, discuss means of enhancing performance and, if appropriate, to discuss the consequences of mediocre or unsatisfactory performance.
- (3) A formal written assessment of the employee's performance which provides the employee with the opportunity to agree or disagree and comment upon the assessment.
- (4) A managerial review of the evaluation of each employee, confirming that the evaluation process has been properly completed and appropriately and logically described.
- (5) A review of the formal written evaluation of each employee by the appointing authority or designee, which when signed, becomes the official record of the performance of the major job duties and responsibilities of the employee.

Authority: T.C.A. § 8-30-319.

1120-05-.04 USE IN MAKING HUMAN RESOURCES DECISIONS. When employee performance of major job duties, authority and responsibilities is deemed to be a relevant factor in determining eligibility to compete in promotional examinations, satisfactory or unsatisfactory completion of a probationary period, eligibility to receive merit pay or lump sum performance bonuses, or as a factor in reduction in force, demotions, suspensions, or dismissals, the performance evaluation described in this Rule will be the evaluation serving as the basis for such decisions. Nothing in this Rule should be construed to imply that performance of major job duties and responsibilities as evaluated in the job performance planning and evaluation system is the only relevant factor that may be used in making the decisions described in this Rule.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-214, T.C.A. § 8-30-304, T.C.A. § 8-30-314, T.C.A. § 8-30-319, T.C.A. § 8-30-320, T.C.A. § 8-30-325, and T.C.A. § 8-30-326.

1120-05-.05 RECORDS. Each agency shall record the formal evaluation of each employee in that employee's human resources file in a manner prescribed by the Commissioner.

Authority: T.C.A. § 8-30-319.

1120-05-.06 TRAINING. The appointing authority shall ensure that persons responsible for conducting and/or reviewing the performance evaluation of any employee have completed a training program specified by the Commissioner.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, and T.C.A. § 8-30-204.

1120-05-.07 APPEAL. An employee who receives a job evaluation pursuant to this Rule may file a grievance within fifteen (15) workdays after the receipt of any final performance evaluation on procedural grounds under the provisions of T.C.A. § 8-30-328 (k)(1). Such grievances are limited to the provisions of the informal procedure with the final step being the appointing authority. Employees who are dissatisfied with the appointing authority's decision may submit such decision, with all documentation, to the Commissioner for review. Notwithstanding any law or regulation to the contrary, the decision of the Commissioner shall be final and not subject to further review.

Authority: T.C.A. § 8-30-328.

**RULES
OF THE
TENNESSEE DEPARTMENT OF HUMAN RESOURCES**

**Chapter 1120-06
ATTENDANCE AND LEAVE**

TABLE OF CONTENTS

1120-06-.01	Responsibility	1120-06-.13	Special Leave
1120-06-.02	Regular Work Schedule	1120-06-.14	Holidays
1120-06-.03	Workweek	1120-06-.15	Civil Leave
1120-06-.04	Cash Overtime and/or Accrual of Compensatory Time	1120-06-.16	Educational Leave
1120-06-.05	Compensatory Time	1120-06-.17	Military Leave
1120-06-.06	Lunch Period	1120-06-.18	Administrative Leave for Disaster
1120-06-.07	Rest Breaks	1120-06-.19	Parental Leave
1120-06-.08	Absence Due to Specific Circumstances	1120-06-.20	Family and Medical Leave
1120-06-.09	Eligibility to Accrue Leave	1120-06-.21	Division of Claims Administration Leave
1120-06-.10	Annual Leave	1120-06-.22	Terminal Leave
1120-06-.11	Sick Leave	1120-06-.23	Accrued Leave Paid at Death
1120-06-.12	Bereavement Leave	1120-06-.24	Paid Leave for Excused Absences
		1120-06-.25	Responsibility for Records and Reports

1120-06-.01 RESPONSIBILITY. It is the employee's responsibility to request appropriate leave and the immediate supervisor shall be responsible for approving such leave.

Authority: T.C.A. § 8-30-215.

1120-06-.02 REGULAR WORK SCHEDULE. The regular schedule for most employees is 8:00 a.m. to 4:30 p.m., Monday through Friday. Local conditions may cause these hours to vary, but an employee scheduled to work seven and a half (7.5) hours per day, Monday through Friday, is considered to be on a regular work schedule. Any agency may use irregular work schedules and vary its work hours and workdays at the discretion of the appointing authority. Any work schedule can be modified as necessary to provide a reasonable accommodation for an employee with a disability, as determined by the appointing authority. Any full-time schedules other than thirty-seven and a half (37.5) hours per week must be approved in advance by the Commissioner and the Commissioner of Finance and Administration.

Authority: T.C.A. § 4-4-105 and T.C.A. § 8-30-215.

1120-06-.03 WORKWEEK. The standard workweek for accounting purposes begins at 12:01 a.m. Sunday and runs one hundred sixty eight (168) continuous hours with seven (7) consecutive twenty-four (24) hour periods to 12:01 a.m. the following Sunday. Variation to this standard workweek must be submitted to and approved by the Commissioner.

Authority: T.C.A. § 4-4-105 and T.C.A. § 8-30-215.

1120-06-.04 CASH OVERTIME AND/OR ACCRUAL OF COMPENSATORY TIME. The Fair Labor Standards Act (FLSA) mandates that non-exempt employees receive additional compensation in certain circumstances. In addition, T.C.A. § 8-23-201 provides that additional compensation may be paid to certain state employees who work in excess of regularly scheduled hours at the direction of an appropriate manager. The Commissioner will establish policy and procedures for administering overtime payments to include the following:

- (1) **Exempt Non-Compensatory Time Employees.** Employees defined as "exempt non-compensatory time" by the Commissioner will not be eligible to receive any compensation for hours worked beyond their regular schedule. However, if an exempt non-compensatory time employee is scheduled to work on a legal holiday, the appointing authority may grant discretionary leave with pay equal to the hours worked on a legal holiday.

- (2) Exempt Employees. Employees defined as "exempt" by the FLSA may receive regular compensatory time for hours worked beyond their regular schedule provided that it was at the direction of the appointing authority or other appropriate supervisor or manager. The Commissioner shall determine the exempt classes that are eligible for this regular compensatory time. Exempt employees may accumulate a maximum of four hundred and eighty (480) hours of regular compensatory time. Regular compensatory time is earned on an hour-for-hour basis and is distinct from premium compensatory time authorized by the FLSA.
- (3) Non-Exempt Employees. Employees defined as "non-exempt" by the FLSA must receive compensation for all hours spent performing the principle duties assigned to them provided that it was at the direction of the appointing authority or other appropriate supervisor or manager. Non-public safety employees who are non-exempt may accumulate no more than two hundred and forty (240) hours of premium compensatory time. Their total compensatory time (regular and premium compensatory time) may not exceed four hundred and eighty (480) hours. Public safety employees who are non-exempt may accumulate a maximum of four hundred and eighty (480) hours of premium compensatory time.
- (4) Exceptions. Individual exceptions to this rule must be recommended by the appointing authority and approved in advance by the Commissioner and the Commissioner of Finance and Administration. Such recommended exceptions must be consistent with state and federal law and in consultation with the Comptroller of the Treasury and the Attorney General's Office.

Authority: T.C.A. § 8-23-201.

1120-06-.05 COMPENSATORY TIME. Compensatory time is leave credit earned by an exempt or non-exempt employee when hours are worked beyond their regular schedule and not compensated in cash. Compensatory time is generally accrued on a weekly basis. The Commissioner will establish policy and procedures to include the following:

- (1) Use of Compensatory Time. The use of compensatory time is subject to the approval of the appointing authority or a designated manager in the same manner as annual leave. An employee who has accrued compensatory time and requests use of that time shall be permitted to use such time off within a reasonable period after making the request. When a request for compensatory time off is received, it shall be honored unless to do so would be unduly disruptive to the agency's operations. Mere inconvenience is an insufficient basis for denial. An agency should reasonably and in good faith anticipate that the employee's request would impose an unreasonable burden on the agency's ability to provide services of acceptable quality and quantity for the public during the time requested without the use of the employee's services.

Reasonable period will be determined by considering the customary work practices within the agency based on the facts and circumstances in each case. Such practices include, but are not limited to (a) the normal schedule of work, (b) anticipated peak workloads based on past experience, (c) emergency requirements for staff and services, and (d) the availability of qualified substitute staff.

The use of compensatory time in lieu of cash payment for overtime by non-exempt employees must be pursuant to some form of agreement or understanding between the employer and the employee (or the representative of the employee) reached prior to the performance of the work.

- (2) Compensatory Time Transferable. An employee's compensatory time shall be transferred between state service agencies. If an employee in a state service agency transfers to another state agency outside the state service which will not accept the employee's compensatory time balance, the state service agency must compensate the transferring employee for the value of the employee's compensatory time balance. The value of the compensatory time accrued by an exempt employee is calculated based on the employee's regular hourly rate in the state service agency at the time of transfer.
- (3) Use of Compensatory Time Before Annual Leave. Accumulated compensatory time must be used before annual leave unless an employee's accumulated annual leave balance is within two (2) days of the maximum accrual allowed for the employee as provided in these Rules.
- (4) Payment of Compensatory Time at Separation. Generally, an agency must make a lump sum payment for accrued compensatory time when an employee separates from state service. If, however, a retiring employee requests terminal leave, that employee must use accrued compensatory time prior to terminal

leave. Terminal leave is the annual leave balance of a retiring employee. Any annual leave balance remaining after the employee's last working day is considered terminal leave.

- (5) **Amount Earned and Maximum Accumulation.** Non-public safety employees who are non-exempt may accumulate a maximum of two hundred and forty (240) hours of premium compensatory overtime. Public safety employees who are non-exempt may accumulate a maximum of four hundred and eighty (480) hours of premium compensatory overtime. Totals for regular and premium compensatory overtime will be added together and no employee will be allowed to exceed a total accumulation of both regular and/or premium compensatory overtime over four hundred and eighty (480) hours. Any variation to this maximum accrual limit must be approved in advance by the Commissioner and the Commissioner of Finance and Administration.

Any exempt or non-exempt employee who earns authorized overtime credit in excess of the maximum accrual must be paid cash for those hours on an hour-for-hour basis unless the Fair Labor Standards Act requires payment at a premium rate.

Non-exempt employees are permitted to receive premium (time and one-half) compensatory overtime in lieu of premium cash overtime if the agency lacks the necessary funds or if the employee requests compensatory time instead of cash and the appointing authority approves the request. Premium compensatory overtime occurs when a non-exempt employee, who is authorized to receive compensatory overtime in lieu of cash, physically works more than forty hours (40) during a work week, the employee shall be compensated at one and half times the hours actually worked above forty (40).

Authority: T.C.A. § 8-23-201, T.C.A. § 8-30-214 and T.C.A. § 8-50-801.

1120-6-.06 LUNCH PERIOD. All employees, except those specifically excluded in T.C.A. § 4-4-105, are allowed a one (1) hour unpaid lunch (meal) period. If a supervisor requires an employee to work during any part of their one (1) hour meal period, the employee is considered to be at work and must be compensated accordingly.

The authorized meal period must be taken during the work shift and may not be used to alter arrival or departure time by not using the meal period or any part thereof.

Certain employees cannot be relieved of duties to have a meal period during their work shift. The employee situation usually results from "fixed post" assignments in which employees may not leave their work station. These employees are considered to be at work even if they are able to eat a meal during their work shift and must be compensated accordingly.

Authority: T.C.A. § 4-4-105, T.C.A. § 8-30-202, and T.C.A. § 8-30-215.

1120-06-.07 REST BREAKS. Appointing authorities, at their discretion, may allow their employees two (2) rest breaks, of fifteen (15) minutes duration each, during a workday. These rest breaks are a privilege and not a right and should be taken at times that do not interfere with service to the public. A rest break may not be used to alter arrival or departure time, used in conjunction with the lunch hour, used with any type of leave, or be accumulated for usage at a later time.

Authority: T.C.A. § 8-30-215.

1120-06-.08 ABSENCE DUE TO SPECIFIC CIRCUMSTANCES. The Commissioner will establish policy concerning absences for:

- (1) Inclement weather;
- (2) Public health emergency;
- (3) State emergency; and
- (4) Uninhabitable building.

Authority: T.C.A. § 8-30-215.

1120-06-.09 ELIGIBILITY TO ACCRUE LEAVE. An eligible employee accrues annual and sick leave based upon hours worked, excluding overtime, pursuant to T.C.A. § 8-50-801 and T.C.A. § 8-50-802.

Leave is accrued on a regular workday basis. One day of leave is equivalent to seven and one-half (7.5) hours for employees on a thirty-seven and one-half (37.5) hour per workweek schedule. One day of leave is equal to eight (8) hours for employees on a forty (40) hour per workweek schedule. Employees on other workweek schedules as approved by the Commissioner accrue based on those schedules.

Employees changing from one schedule to another will have their hourly balances adjusted accordingly.

Employees who work sixteen hundred (1,600) hours in a year and work the major portion of the month are eligible to accrue leave, except for those listed in T.C.A. § 8-50-801(e).

Authority: T.C.A. § 8-23-101, T.C.A. § 8-50-801, and T.C.A. § 8-50-802.

1120-06-.10 ANNUAL LEAVE. The Commissioner will establish policy and procedures for administering annual leave in accordance with T.C.A. § 8-50-801.

- (1) Amount Earned and Maximum Accumulation. Annual leave is earned with maximum accumulation as follows:
 - (a) Employees with less than five (5) years of full-time service accrue annual leave at the rate of one (1) day for each month or major fraction of a month of active service and may accumulate a maximum of thirty (30) workdays.
 - (b) Employees with five (5) years and less than ten (10) years of full-time service accrue annual leave at the rate of one and one-half (1 ½) days for each month or major fraction of a month of active service and may accumulate a maximum of thirty-six (36) workdays.
 - (c) Employees with ten (10) years and less than twenty (20) years of full-time service accrue annual leave at the rate of one and three-fourths (1 ¾) days for each month or major fraction of a month of active service and may accumulate a maximum of thirty-nine (39) workdays.
 - (d) Employees with twenty (20) years or more of full-time service accrue annual leave at the rate of two (2) days for each month or major fraction of a month of active service and may accumulate a maximum of forty-two (42) workdays.
- (2) Creditable Service. Any month, which was a part of a sixteen hundred (1,600) hour or greater annual schedule, in which an employee is scheduled to work a full month, and actually works one-tenth of one hour more than half the scheduled hours, shall be creditable for maximum accumulation purposes.
- (3) Transfer of Annual Leave to Sick Leave. Leave earned in excess of the maximum allowable accumulation based on years of service as defined in T.C.A. § 8-50-801 will be transferred to the employee's sick leave account annually in the month of the employee's last hire date.
- (4) Annual Leave Paid as a Lump Sum. When separating from state employment, an employee shall be paid for any annual leave accumulation in a lump sum unless that employee is dismissed or terminated from state service for gross misconduct, or resigns from state service to avoid dismissal for gross misconduct, or was guilty of gross misconduct prior to leaving state service. In cases involving gross misconduct, the employee forfeits his annual leave.
- (5) Annual Leave as Terminal Leave Prior to Retirement. An employee may use annual leave as terminal leave when retiring from state employment or may receive a lump sum payment for annual leave balances.
- (6) Annual Leave May Not Be Advanced. Annual leave may not be taken until earned.
- (7) Employee Meetings. Annual leave may be used to attend meetings of employee associations which are qualified for payroll dues deduction. Except as enumerated in T.C.A. § 8-50-110, leave allowed for this purpose cannot exceed two (2) days per year.

- (8) Annual Leave Transferable. Unless there is a break in service, annual leave must be transferred to and will be accepted from, state agencies and higher education institutions, legislative and judicial branches.

Authority: T.C.A. § 8-50-110, T.C.A. § 8-50-801, T.C.A. § 8-50-803, and T.C.A. § 8-50-807.

1120-06-.11 SICK LEAVE. Sick leave is accrued by an employee at the rate of one (1) day for each month or major fraction of a month of active service. The Commissioner will establish policy and procedures governing the use of sick leave.

- (1) Use of Sick Leave. An appointing authority may grant an eligible employee sick leave for any of the following reasons:
- (a) personal illness;
 - (b) disability due to accident;
 - (c) exposure to a contagious disease;
 - (d) medical and dental appointments;
 - (e) illness or death in the immediate family, or others who, at the discretion of the appointing authority, have a relationship which merits similar consideration;
 - (f) birth and care of an infant child (up to thirty (30) workdays); and
 - (g) adoption (up to 30 working days if the child is one year old or less).
- (2) Reinstatement of Accumulated Sick Leave. Employees who work on a full-time continuous basis for one full year or more, leave in good standing, and return to work shall be credited with and may use paid sick leave accumulated prior to separation immediately upon certification of the previous balance from the appropriate agency. Persons hired from state higher education institutions and persons who were teachers with local school boards in Tennessee are also included under this provision.
- (3) Sick Leave Transferable. Unless there is a break in service, sick leave must be transferred to and will be accepted from state agencies and higher education institutions, legislative and judicial branches.
- (4) Required Documentation. Any employee may be required to present evidence to an appointing authority, the Commissioner, or any other appropriate authority, to support the reason for any absence for which sick leave was taken.
- (5) Doctor's Certification of Absence. Sick leave may not be denied to any employee who furnishes a statement of a licensed physician or accredited Christian Science practitioner in support of the reason for such absence. Additional documentation may be required if there is substantial evidence of sick leave abuse by the employee.
- (6) Sick Leave Restrictions.
- (a) Sick Leave During Terminal Leave. Sick leave may not be used as terminal leave. An employee presenting evidence of an illness during terminal leave may utilize sick leave up to the original separation date.
 - (b) Sick Leave may not be Advanced. Sick leave may not be taken until earned.

Authority: T.C.A. § 4-21-408, T.C.A. § 8-50-802, T.C.A. § 8-50-803, T.C.A. § 8-50-804, T.C.A. § 8-50-806, and T.C.A. § 8-50-807.

1120-06-.12 BEREAVEMENT LEAVE.

- (1) The officers and employees of the various agencies, boards, and departments of state government shall be granted three (3) days paid leave in the event of death of such officers' or employees' spouse, child, step-child, parents, siblings, grandparents, grandchildren, stepparents, foster parents, or parents-in-law without charge to the affected officers' or employees' accumulated leave accounts. One (1) day of leave is equivalent to seven and a half (7.5) hours for employees on a thirty-seven and a half (37.5) hour per workweek schedule. One (1) day of leave is equivalent to eight (8) hours for employees on a forty (40) hour per workweek schedule. One (1) day of leave is equivalent to twelve (12) hours for the Department of Military firefighters.

- (2) This section shall not be construed to increase the total number of leave days provided in rules of the Department of Human Resources for the death of a family member as defined in this section.

Authority. T.C.A. § 8-50-113.

1120-06-.13 SPECIAL LEAVE. Special leave is leave without pay. At the discretion and upon recommendation of the appointing authority, the Commissioner may approve requests for special leave in accordance with policy and procedure.

Authority: T.C.A. § 8-30-215.

1120-06-.14 HOLIDAYS. The General Assembly, by law, establishes legal holidays which are observed by the closing of State offices. The Governor, upon request by the Commissioner, may also establish additional time off for observance of holidays. The following days have been designated by the General Assembly as legal holidays:

New Year's Day	January 1
Martin Luther King, Jr. Day	Third Monday in January
President's Day	Third Monday in February
Good Friday	Friday before Easter
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Christmas Day	December 25

The Governor may, at his discretion, substitute the Friday after the fourth (4th) Thursday in November for Columbus Day. Employees who are ineligible to accrue leave are not eligible for holiday pay.

Authority: T.C.A. § 15-1-101.

1120-06-.15 CIVIL LEAVE. The Commissioner will establish policy and procedures for state employees to be excused from their job duties when involved in civil or criminal proceedings as a juror.

Authority: T.C.A. § 22-4-106.

1120-06-.16 EDUCATIONAL LEAVE. The Commissioner will establish policy and procedures for state employees to be placed on educational leave for participation in full-time continuing education as defined in Rules of the Department of Human Resources 1120-8.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, and T.C.A. § 8-30-204.

1120-06-.17 MILITARY LEAVE.

- (1) **Military Leave with Pay.** A leave of absence with pay, not to exceed twenty (20) working days in any one year, will be granted to employees who are members of the reserve components of the Armed Forces of the United States, including members of the Tennessee National Guard, for periods they are engaged in the performance of duty or training activities in the service of the State or the Federal Government while under orders. Holidays and scheduled off duty days do not count toward the twenty (20) days allowed. During the period of approved paid military leave, the employee incurs no loss of service time and continues to earn regular annual leave and sick leave. There shall be no loss of rights or benefits to which the employee is otherwise entitled. Military leave with pay will not be granted for regularly scheduled monthly training for reservists or national guardsmen.
- (2) **Military Leave without Pay.** Leave without pay will be granted for periods of active duty or training activity with the Armed Forces of the United States, its reserve components, or the Tennessee National Guard for authorized periods beyond the twenty (20) days of paid leave in a calendar year. In addition, leave without

pay will be granted to employees entering the regular components of the Armed Forces of the United States as a result of military conscription or for a period of voluntary enlistment. During the period of leave without pay for military service, the employee retains all accumulated annual and sick leave, retirement status, and continues to earn time toward seniority, retirement and longevity pay. Continuation in the State's insurance programs, if elected, shall be granted subject to appropriate state insurance program provisions.

- (3) Air Force Auxiliary Civil Air Patrol Leave. A leave of absence with pay, not to exceed fifteen (15) working days in any one calendar year, will be granted to employees who are members of the United States Air Force Auxiliary Civil Air Patrol and who participate in a training program for the civil air patrol, or in emergency and disaster services, as defined in T.C.A. § 58-2-101, if the leave of absence is at the request of the employee's wing commander or the wing commander's designated representative.

Authority: T.C.A. § 8-33-105, T.C.A. § 8-33-109, and T.C.A. § 42-7-102.

1120-06-.18 ADMINISTRATIVE LEAVE FOR DISASTER. A state employee who is a certified disaster service volunteer of the American Red Cross may be granted leave from work with pay for a period not to exceed fifteen (15) workdays in each year to participate in special disaster relief services for the American Red Cross. The employee shall be released from work for this function upon written request of the American Red Cross for the services of that employee, and upon written approval of that employee's appointing authority.

Authority: T.C.A. § 8-50-810.

1120-06-.19 PARENTAL LEAVE.

- (1) An employee who has been employed for at least twelve (12) consecutive months as a full-time employee, may be absent from such employment for a period not to exceed four (4) months for adoption, pregnancy, childbirth and nursing an infant, where applicable. With regard to adoption, the four (4) month period shall begin at the time an employee receives custody of the child.
- (2) An employee may use up to thirty (30) sick leave workdays for parental leave. In the event both parents are state employees, the aggregate sick leave used is limited to thirty (30) days.
- (3) In incidents of adoption, an appointing authority has the discretion to grant additional special leave not to exceed one (1) year.
- (4) The Commissioner will establish procedures pertaining to parental leave.

Authority: T.C.A. § 4-21-408, T.C.A. § 8-30-215, T.C.A. § 8-50-802, and T.C.A. § 8-50-806.

1120-06-.20 FAMILY AND MEDICAL LEAVE. The Commissioner shall establish procedures for implementing the provisions and requirements of the Family and Medical Leave Act (FMLA).

Authority: T.C.A. § 8-30-215.

1120-06-.21 DIVISION OF CLAIMS ADMINISTRATION LEAVE. The Division of Claims Administration is responsible for determining whether an employee is eligible for workers' compensation due to a job related injury or illness.

- (1) Workers' Compensation Pay. An employee may not receive workers' compensation pay for any period that the employee used sick, annual, or compensatory leave.
- (2) Effect on Anniversary Dates. Time served on Division of Claims Administration leave will not affect the employee's longevity, salary or service anniversary date.
- (3) Assault Pay. Employees who are injured in the line of duty, as the result of an assault which disables them from performing their jobs, will be allowed to remain on the regular payroll for a period not to exceed twenty-eight (28) calendar days subject to approval by the Commissioner. Such disability must have occurred no later than twenty-eight (28) calendar days from the date of injury. If the same injury results in an employee being unable to perform his job for more than twenty-eight (28) calendar days and provided that a proper claim has been filed with the Division of Claims Administration within ten (10) calendar days of the date of

injury, the employee may receive the difference between his regular salary and the weekly compensation rate awarded by the Division of Claims Administration for an additional sixty-two (62) calendar days. Thus, an employee who is disabled as a result of an assault may receive full pay through a combination of regular payroll and Division of Claims Administration compensation for a total of ninety (90) calendar days before being reduced to the usual lost time rate of the Division of Claims Administration or using accumulated sick, annual or compensatory leave.

- (4) **Injured in the Line of Duty.** A commissioned member of the Tennessee Department of Safety, a driver's license examiner, correctional officer or youth service officer who is injured in the line of duty, and whose injury disables him from performing his regular duties, whether such disability is temporary or permanent, shall be retained upon the regular payroll until the employee's claim for compensation for such disability is determined by the Division of Claims Administration. The Governor and the Attorney General must approve the request of the appointing authority.

Authority: T.C.A. § 8-50-111 and T.C.A. § 68-102-402.

1120-06-.22 TERMINAL LEAVE. A retiring employee may elect terminal leave unless the employee is retiring from state service to avoid dismissal for gross misconduct.

- (1) **Employees Subject to State Retirement.** Employees who are members of the Tennessee Consolidated Retirement System and are entitled to terminal leave must be compensated for their terminal leave prior to the effective date of their retirement.
- (2) **Termination of Benefits.** On the date terminal leave begins, an employee will:
 - (a) Cease to be in a leave earning status.
 - (b) Cease to be eligible for salary increases or salary adjustments. The salary rate in effect on the day before the employee begins terminal leave will be used to determine terminal leave payments.
- (3) **Accounting for Terminal Leave:**
 - (a) **Saturdays, Sundays and Legal Holidays.** Saturdays, Sundays and official holidays shall not be used in computing terminal leave unless such days are considered as workdays for the employee in the employee's job assignment. To be paid for a holiday while on terminal leave an employee must be on terminal leave past the holiday.
 - (b) **Beginning and Ending of Terminal Leave Period.** Terminal leave must begin the next workday following the last day in active pay status. Active pay status is a term applied to an employee who is actually working or who is using paid leave other than paid terminal leave or sick leave bank leave. The day after the last day of terminal leave will be the employee's official date of separation.

Authority: T.C.A. § 8-50-801, T.C.A. § 8-50-807, and T.C.A. § 8-50-808.

1120-06-.23 ACCRUED LEAVE BALANCES PAID AT DEATH. Leave balances of deceased employees shall be paid as lump sum payments. Any outstanding leave balance (sick, annual, or compensatory) will be paid to a beneficiary designated by the employee or, if none, the beneficiary designated for receipt of retirement benefits with the Tennessee Consolidated Retirement System, or, when appropriate, the deceased employee's estate.

Authority: T.C.A. § 8-50-807 and T.C.A. § 8-50-808.

1120-06-.24 PAID LEAVE FOR EXCUSED ABSENCES. A full-time employee may be granted leave with pay for the following excused absences:

- (1) **State Examination or State Job Interview.** An agency may require written verification that the employee was at a state administered examination or at a state job interview.
- (2) **Elections.** Any person entitled to vote in an election held in this state must be granted paid leave on the day of the election not to exceed three (3) hours in accordance with established procedures. If the work schedule of an employee begins three (3) or more hours after the opening of the polls or ends three (3) or

more hours before closing of the polls of the county where the employee is registered to vote, paid leave will not be granted. The Commissioner may specify the hours during which the employee may be absent. Application for such absence shall be made to the employee's appointing authority before twelve o'clock (12:00) noon of the day before the election.

- (3) Discretionary. An appointing authority may grant discretionary leave with pay to an employee for a period of time not to exceed ten (10) working days when it is considered necessary for the welfare of the employee or the proper operation of the agency. The Commissioner must approve any period of discretionary leave that exceeds ten (10) working days. The appointing authority must submit such requests in writing directly to the Commissioner.

Authority: T.C.A. § 2-1-106 and T.C.A. § 8-30-215.

1120-06-.25 RESPONSIBILITY FOR RECORDS AND REPORTS. The Commissioner will designate a manner for documenting official attendance and leave information for employees in state service.

Authority: T.C.A. § 8-30-101, T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204 and T.C.A. § 10-7-504.

**RULES
OF THE
TENNESSEE DEPARTMENT OF HUMAN RESOURCES**

**Chapter 1120-07
EQUAL EMPLOYMENT OPPORTUNITIES**

TABLE OF CONTENTS

- 1120-07-.01 Statement of Policy
- 1120-07-.02 Agency Responsibilities
- 1120-07-.03 Department of Human Resources Responsibilities

1120-07-.01 STATEMENT OF POLICY.

The State of Tennessee is firmly committed to the principle of fair and equal employment opportunities for its citizens and strives to protect the rights and opportunities of all people to seek, obtain, and hold employment without being subjected to illegal discrimination or illegal harassment in the workplace. It is the state's policy to provide an environment free of discrimination or harassment of an individual because of that person's race, color, national origin, age (40 and over), sex, pregnancy, religion, creed, disability, veteran's status, or any other category protected by state and/or federal civil rights laws.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-221, T.C.A. § 8-50-103 and T.C.A. § 8-50-104.

1120-07-.02 AGENCY RESPONSIBILITIES.

In demonstrating the agency's commitment to the equal employment opportunities policy, each appointing authority in state service shall:

- (1) Be held responsible for compliance with the state law, policy, and executive orders pertaining to equal employment opportunities (EEO), Americans with Disabilities (ADA) and Affirmative Action (AA);
- (2) Develop an equal employment opportunity compliance policy statement and inform employees of the agency's commitment to that policy;
- (3) Designate an employee to coordinate EEO, ADA, and AA programs within that agency;
- (4) Inform supervisory personnel of their role in carrying out the agency's equal employment opportunities policies;
- (5) Maintain processes for internal investigations of workplace discrimination or harassment complaints; and
- (6) Submit to the Commissioner a completed affirmative action plan annually in a manner prescribed by the Commissioner.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-221, and T.C.A. § 8-50-104.

1120-07-.03 DEPARTMENT OF HUMAN RESOURCES RESPONSIBILITIES.

- (1) The Commissioner shall represent the Governor in matters relating to equal employment opportunities in state service;
- (2) The Department shall periodically review employment practices to insure that these practices are not discriminatory;
- (3) The Commissioner will establish appropriate guidelines and procedures governing the preparation, submission and review of the affirmative action plan by each agency;
- (4) The Department will provide training and technical assistance in the development, implementation and monitoring of agencies' affirmative action plans and equal employment programs;

- (5) The Department will provide training and technical assistance to employees and agencies regarding compliance with the ADA;
- (6) The Department will inform any person claiming unlawful discrimination or harassment of the appropriate procedures for pursuing a complaint.
- (7) The Department will report to the Governor the equal employment opportunity activities of each department, agency and commission in the state service; and
- (8) The Department will inform the Governor when instances occur of non-compliance or failure to demonstrate good faith efforts under this rule.

Authority: T.C.A. § 8-30-202 and T.C.A. § 8-30-203.

**RULES
OF THE
DEPARTMENT OF HUMAN RESOURCES**

**CHAPTER 1120-08
LEARNING AND DEVELOPMENT**

TABLE OF CONTENTS

- 1120-08-.01 Learning and Development Provided by the Department
- 1120-08-.02 Requests for Continuing Education and Learning
- 1120-08-.03 Continuing Education and Learning
- 1120-08-.04 Exclusions

1120-08-.01 LEARNING AND DEVELOPMENT PROVIDED BY THE DEPARTMENT. Structured learning and development is a process which provides agencies with programs and activities linked to their goal achievement and performance improvement.

- (1) The Department provides learning and development in the areas of leadership development, talent management, performance management, and professional skills. Learning and development activities in each agency will be coordinated through an agency designee.
- (2) The Department may grant Continuing Education Units (CEUs) for learning and development which meets national standards. One (1) CEU unit shall be granted for each ten (10) hours of instruction.
- (3) The Commissioner must approve agency requests for learning and development not offered by the Department and related to agency job requirements.
- (4) The Commissioner must approve requests for CEUs for the learning and development not offered by the Department and related to agency job requirements.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, and T.C.A. § 8-30-205.

1120-08-.02 REQUESTS FOR CONTINUING EDUCATION AND LEARNING. Upon the identification of a specialized technical need by the agency, an employee may be eligible for continuing education from higher education, vocational, and professional institutions. Employees, in consultation with the agency, may select one of the following continuing education options:

- (1) Full-time Education. Full-time education lasts for more than eighty (80) workdays and may require residency at an institution or facility. During the program, the employee is relieved of regular job responsibilities;
- (2) Part-time Education. Part-time education lasts for less than eighty (80) workdays and is held during the employee's regular work hours. The employee maintains regular job responsibilities during this program;
- (3) Short-term Learning. Short-term learning consists of seminars, short courses, and educational workshops that last for less than eighty (80) workdays. The employee maintains regular job responsibilities during this program; and
- (4) After Work Hours Education or Learning. After work hours education or learning consists of seminars, short courses, and educational workshops and is held outside the employee's scheduled shift. The employee maintains regular job responsibilities during this program.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, and T.C.A. § 8-30-205.

1120-08-.03 CONTINUING EDUCATION AND LEARNING. All state employees are eligible to participate in continuing education and learning related to their current job assignment, subject to the recommendation of the appointing authority and the approval of the Commissioner and the Commissioner of Finance and Administration.

- (1) Criteria. The Commissioner may approve continuing education and learning based on any of the following criteria:
 - (a) Lack of availability of programs offered by the Department;
 - (b) Job relatedness;

- (c) Cost-effectiveness; or
 - (d) Availability of programs in public Tennessee higher education institutions;
- (2) Appointing Authority Responsibilities. The appointing authority must:
- (a) Submit to the Commissioner, in advance, an approval request for each employee to attend continuing education and learning;
 - (b) Monitor employee attendance and performance; and
 - (c) Document completion and maintain a public record.
- (3) Salary and Related Expenses. In the event the appointing authority grants reimbursement to the employee for salary and related expenses, the appointing authority must approve, in advance, reimbursement for the following and submit the authorization to the Commissioner:
- (a) Travel. Reimbursement shall be for travel in accordance with the State's comprehensive travel regulations;
 - (b) Tuition. The appointing authority shall approve tuition reimbursement subject to the approval of Finance and Administration; and
 - (c) Salary. Salary payment is based on the following types of continuing education and learning:
 - (i) Full-time. Employees in full-time education shall receive seventy-five percent (75%) of their regular salary. When the State requires an employee to obtain additional education, employee compensation is possible at full salary with the prior approval of the Commissioner and the Commissioner of Finance and Administration. If an employee receives salary assistance through scholarships, fellowships, grants or other outside sources, the total amount received from the State and outside sources during the continuing education period shall not exceed the employee's regular salary. The employee must submit a notarized statement of salary funding and sources to the appointing authority.
 - (ii) Part-time. Employees in part-time education shall receive their regular salary.
 - (iii) Short-term. Employees in short-term learning shall receive their regular salary.
 - (iv) After work hours. An employee in after work hours education or learning is not eligible for additional salary payment.
 - (d) Distribution of salary. The appointing authority is responsible for payment of the employee's reimbursement for salary. Distribution is contingent upon completion of the learning and development program and must be documented by the attended institution.
- (4) Employment status during full-time continuing education and learning.
- (a) Leave Status. An employee engaged in authorized full-time continuing education and learning is on educational leave during the period approved by the appointing authority. The appointing authority must approve any extension of this leave. An employee will not accrue sick and annual leave during this period.
 - (b) Salary Increases and Adjustments. If eligible, an employee in full-time continuing education and learning will continue to receive any salary increases or adjustments.
 - (c) Continuous Service. Full-time continuing education and learning will not interrupt continuous service for purposes of longevity.
 - (d) Payroll Deductions. All prior authorized deductions will continue during full-time continuing education and learning provided the adjusted salary covers the deductions.

- (e) State Contributions. Contributions from the State to the employee's insurance premiums and retirement account will continue.
- (5) Employee's responsibilities.
- (a) An employee in full-time continuing education and learning must contractually agree to work for the agency for twelve (12) months or twice the total educational leave, whichever is greater. If the employee fails to fulfill the contract, the employee must reimburse the State for expenses incurred during the full-time continuing education and learning, including salaries and wages paid by the State. Neither sick nor terminal leave can be used to reduce the reimbursement period.
 - (b) An employee in continuing education and learning will be held to the same attendance and performance standards as other work assignments. An employee must reimburse the State for all costs, including salary, resulting from unexcused absences and incompleteness of a learning and development program. Collection of reimbursement is the responsibility of the agency.
 - (c) If an activity in continuing education and learning is terminated prior to completion, either at the convenience of the State or because of death, prolonged illness, disability, or similar conditions beyond the control of the employee, neither the employee nor the employee's estate may be responsible for reimbursement of expenses.
 - (d) If an employee is discharged for any cause from the State or the educational institution, relief of financial obligation is not automatic.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, and T.C.A. § 8-30-205.

1120-08-.04 EXCLUSIONS. Annual conferences, symposiums, conventions, official meetings, summits, and expositions do not require approval by the Commissioner.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, and T.C.A. § 8-30-205.

**RULES
OF THE
TENNESSEE DEPARTMENT OF HUMAN RESOURCES**

**Chapter 1120-09
PROGRAMS ADMINISTERED BY THE DEPARTMENT OF HUMAN RESOURCES**

TABLE OF CONTENTS

1120-09-.01	Tennessee Employees' Charitable Campaign
1120-09-.02	Sick Leave Bank
1120-09-.03	Employee Service Awards
1120-09- 04	Employee Suggestion Award Program

1120-09-.01 TENNESSEE EMPLOYEES CHARITABLE CAMPAIGN. The Tennessee Employees Charitable Campaign will be coordinated annually by the Department. The Governor and the Commissioner will be designated as chair and co-chair respectively.

Employees may contribute through payroll deduction to social services and health agencies authorized by the Commissioner. Procedures and methods for deductions of monies are at the discretion of the Governor, the Commissioner and the Commissioner of Finance and Administration.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, and T.C.A. § 8-30-204.

1120-09-.02 SICK LEAVE BANK. The Department will administer a bank which grants paid sick leave to qualifying members who are medically certified as unable to perform the duties of their jobs as a result of a personal illness, injury, accident, disability, medical condition, or quarantine and who have exhausted all their personal sick, compensatory, and annual leave balances.

Authority: T.C.A. §§ 8-50-901 through 8-50-910.

1120-09-.03 EMPLOYEE SERVICE AWARDS.

- (1) The Department will provide a consistent and uniform system through which employees will receive appropriate recognition for their service to state government. Each participating agency will verify eligible employees' length of service and submit a request for awards to the appropriate venter.
- (2) Service award credit will be given for the same periods of employment in state government as are recognized by the Tennessee Consolidated Retirement System for retirement credit, excluding any service credit recognized by the Tennessee Consolidated Retirement System for service in local governments or the public school systems other than State owned and operated schools.
- (3) Service awards will be presented following five (5) years of creditable service and at each increment of five (5) years thereafter.
- (4) Awards provided by the Department will be at the discretion of the Commissioner.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, and T.C.A. § 8-30-204.

1120-09-.04 EMPLOYEE SUGGESTION AWARD PROGRAM. The Department will administer the Employee Suggestion Award Program in accordance with guidelines set forth in T.C.A. § 4-27-101, *et seq.* Under this program, cash or honorary awards may be made to state employees and retired state employees whose adopted suggestions result in substantial savings or improvement in state operations.

Authority: T.C.A. §§ 4-27-101 through 4-27-105, T.C.A. § 8-30-202, T.C.A. § 8-30-203, and T.C.A. § 8-30-204.

**RULES
OF THE
TENNESSEE DEPARTMENT OF HUMAN RESOURCES**

**Chapter 1120-10
DISCIPLINARY ACTION**

TABLE OF CONTENTS

1120-10-.01	Policy	1120-10-.05	Examples of Disciplinary Offenses
1120-10-.02	Minimum Due Process	1120-10-.06	Progressive Disciplinary Action
1120-10-.03	Exception to Minimum Due Process	1120-10-.07	Review of Written Warning
1120-10-.04	Causes for Disciplinary Action	1120-10-.08	Executive Service Employee

1120-10-.01 POLICY. The intent of this chapter is to establish fair and uniform standards for the application of disciplinary procedures among agencies and institutions subject to the provisions of these Rules. A career employee may be warned, suspended, demoted, or dismissed by the appointing authority whenever just or legal cause exists. The degree and kind of action is at the discretion of the appointing authority, but must be in compliance with the intent of the provisions of this Rule and the Act.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-318, T.C.A. § 8-30-325, T.C.A. § 8-30-326, and T.C.A. § 8-30-330.

1120-10-.02 MINIMUM DUE PROCESS.

- (1) Career employees obtain a property right to a position in the classification in which they currently hold career status. Therefore, no suspension, demotion, dismissal or any other action which deprives a career employee of this property right will become effective until minimum due process is provided as outlined in this Rule.
- (2) Minimum due process consists of the following:
 - (a) The employee shall be notified of the charges. Such notification shall detail times, places, and other pertinent facts concerning the charges and shall be in writing.
 - (b) The notification must provide an opportunity for the employee to have a pre-decision discussion with an appropriate manager and must state the mechanism through which such a discussion may be arranged. The employee should be given a reasonable period of time to prepare to answer charges and present information relevant to the charges presented.
 - (c) The manager conducting such discussions must be an appointing authority or manager who has direct access to an appointing authority for this purpose.
 - (d) The discussion process outlined herein shall be for the purpose of allowing the employee to present information to the manager regarding the disciplinary action under consideration.
 - (e) The discussion shall be informal. The employee shall have the right to present written statements of witnesses or any other information with regard to the charges. Attendance and participation by persons other than the manager and the employee shall be at the sole discretion of the manager.
 - (f) If the employee declines the opportunity to have the discussion or present information, the provisions of this section are deemed to have been met.
 - (g) The due process discussion is not considered to be a contested case hearing as defined under the Uniform Administrative Procedures Act.
 - (h) The Commission shall determine, as a preliminary matter to the merits of a grievance, a grievant's allegation that the employee was denied minimum due process.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, and T.C.A. § 8-30-331.

1120-10-.03 EXCEPTION TO MINIMUM DUE PROCESS. When an employee is acting in a dangerous or otherwise threatening manner and must be removed from the workplace immediately, it is not necessary for the agency to provide minimum due process prior to removing the employee from the workplace. In such case, the appointing authority shall place the employee on administrative leave with pay, in accordance with policies established by the Commissioner, pending due process. Minimum due process is required as quickly as practicable after removing the employee from the workplace.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, and T.C.A. § 8-30-204.

1120-10-.04 CAUSES FOR DISCIPLINARY ACTION. Causes for disciplinary action fall into two 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. § 8-30-202, T.C.A. § 8-30-203, and T.C.A. § 8-30-204.

1120-10-.05 EXAMPLES OF DISCIPLINARY OFFENSES. The following are examples of acts that may warrant disciplinary action. This list is not all-inclusive and shall not 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;
- (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 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) Garnishment of wages for more than one indebtedness;
- (26) 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
- (27) For the good of the service as outlined in T.C.A. § 8-30-326.

Authority: T.C.A. § 8-30-203, T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-326, and T.C.A. §§ 2-19-201 through 2-19-208.

1120-10-.06 PROGRESSIVE DISCIPLINARY ACTION.

The supervisor is responsible for maintaining the proper performance level, conduct and discipline of the employees under his supervision. When corrective action is necessary, the supervisor should administer disciplinary action at the lowest appropriate step for each area of performance issues and/or misconduct. Corrective actions include:

- (1) Oral Warning.
 - (a) The supervisor will meet privately with the employee to:
 - (1) Review with the employee exact job expectations and the reasons for those expectations.
 - (2) Explain to the employee how a job requirement has not been met and detail how the present performance or conduct is unacceptable.
 - (3) Allow the employee to give reasons for such inappropriate actions or failures.
 - (4) Make suggestions for correction.
 - (5) Provide the employee with documentation of the date of the discussion and other necessary information for future reference.
 - (b) Written follow-up to the discussion may be forwarded to the employee but is not required. Written follow-up to an oral warning should not be construed as a written warning as described below and shall not be maintained as part of the employee's official human resources file.
- (2) Written Warning.
 - (a) The supervisor will meet with the employee and:
 - (1) Review the points covered in the oral warning, if an oral warning was administered.

- (2) Review with the employee exact job expectations and the reasons for those expectations.
 - (3) Explain to the employee how job requirements have not been met and detail how the present performance or conduct is unacceptable.
 - (4) Allow the employee to give reasons for such inappropriate actions or failures.
 - (5) Make suggestions for correction.
 - (6) Indicate that failure to improve will lead to further disciplinary action.
 - (7) Tell the employee the discussion will be documented in a letter which shall cover the significant points of the discussion.
- (b) A copy of the written warning may be placed in the employee's human resources file in the agency human resources office at the discretion of the appointing authority. Written warnings do not become a part of an employee's human resources file until the review process established in 1120-10-.07 is complete or thirty (30) calendar days have passed.
- (3) Suspension Without Pay.
- (a) After the agency has met minimum due process requirements, an appointing authority may suspend a career employee without pay for disciplinary purposes, for such length of time as the authority considers appropriate, not to exceed thirty (30) workdays in a rolling twelve (12) month period. With approval of the Commissioner, a career employee may be suspended for a longer period pending the investigation or trial of any charges against the employee.
 - (b) Any employee who is suspended will receive a written notice from the appointing authority that will contain the following:
 - (1) an account of the circumstances which led to the decision to issue the suspension;
 - (2) the beginning and ending dates of the suspension; and
 - (3) information to the employee concerning appeal rights as outlined in Chapter 1120-11 of these Rules. A copy of the notice will be placed in the employee's human resources file and a copy shall be forwarded to the Department.
- (4) Dismissal.
- (a) After the agency has met minimum due process requirements, an appointing authority may dismiss a career employee for unacceptable performance or conduct.
 - (b) Before a career employee is dismissed, the appointing authority must provide to the employee a written notification detailing the circumstances leading to the decision to dismiss. The notice will indicate the effective date of the dismissal and inform the employee of his rights to appeal as outlined in Chapter 1120-11 of these Rules. A copy of the notice will be placed in the employee's human resources file and a copy will be sent to the Department.
 - (c) Before a career employee can be dismissed, the agency must provide ten (10) calendar days paid notice. During the notice period an employee will not be required to report for duty. The employee's accumulated annual leave balance may be used during this notice period only if dismissal was for gross misconduct.
- (5) Transfer or Demotion. If the appointing authority determines that a career 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 notorious conduct to the extent that the employee is rendered ineffective in his position, the appointing authority may choose to demote or transfer the career employee to another position. The appointing authority may not demote or transfer a career employee more than fifty (50) miles until after the agency has met minimum due process requirements as outlined herein.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-318, T.C.A. § 8-30-325, T.C.A. § 8-30-326, and T.C.A. § 8-30-330.

1120-10-.07 REVIEW OF WRITTEN WARNING.

- (1) A career employee who wishes to contest a written warning may request a review of that warning by the agency appointing authority or designee for this purpose. The employee must submit a written request for review to the appointing authority no later than thirty (30) calendar days from receipt of a written warning. The request for review should include documentation of any mitigating circumstances causing the employee to believe that the warning is undeserved.
- (2) The appointing authority or designee will review the warning and all documentation submitted by the employee and make a decision which may be one of the following:
 - (a) There is sufficient cause for written warning and it stands as issued. The request for review and the response become a part of the employee's human resources file.
 - (b) There is sufficient cause for an oral warning and the appointing authority reduces the written warning to an oral warning.
 - (c) There is insufficient cause for disciplinary action of any kind resulting in retraction of the written warning.
- (3) The appointing authority or designee will communicate the written decision to the employee within fifteen (15) workdays of receipt of request for review.
- (4) The appointing authority's written decision is final.
- (5) Any written warning issued to an employee and a request for review and findings shall be automatically expunged from the employee's human resources file after a period of two (2) years, provided that the employee has had no further disciplinary actions with respect to the same area of performance, conduct, and discipline.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, and T.C.A. § 8-30-330.

1120-10-.08 EXECUTIVE SERVICE EMPLOYEE. An executive service employee serves at the will and pleasure of the appointing authority.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203 and T.C.A. § 8-30-208.

**RULES
OF THE
TENNESSEE DEPARTMENT OF HUMAN RESOURCES**

**Chapter 1120-11
GRIEVANCE**

TABLE OF CONTENTS

1120-11-.01	Policy	1120-11-.06	Grievable Matters
1120-11-.02	Responsibility	1120-11-.07	Exceptions and Non-Grievable Matters
1120-11-.03	Basic Standards	1120-11-.08	Technical Advice and Assistance
1120-11-.04	Procedures		
1120-11-.05	Scope of Procedure		

1120-11-.01 POLICY.

- (1) Career employees will be given every opportunity to resolve bona fide grievances through established procedures. Every reasonable effort will be made to resolve grievances at the lowest possible step in the procedure.
- (2) Employees using this procedure are entitled to process grievances without fear, interference, discrimination, or reprisal.

Authority: T.C.A. § 8-30-328.

1120-11-.02 RESPONSIBILITY.

- (1) The Commissioner is responsible for providing and maintaining the basic standards and guidelines for implementing this chapter.
- (2) Appointing authorities are responsible for the proper implementation of this chapter throughout their respective agencies. Modification of these procedures may be made in order to satisfy unusual circumstances within an agency if such modification is approved by the Commissioner.
- (3) Appointing authorities are responsible for ensuring that all employees and supervisory staff are aware of the provisions of this chapter.

Authority: T.C.A. § 8-30-328.

1120-11-.03 BASIC STANDARDS.

- (1) A grievance must be filed at the appropriate step in the grievance procedure within fifteen (15) standard workdays (Monday - Friday, 8:00 a.m. - 4:30 p.m.) of the action which is the basis for the grievance; otherwise it will be considered untimely and invalid.
- (2) Although no standard grievance forms are provided, agencies may develop and make available such forms to employees. An agency may not deny an employee's grievance because a standard form was not used. Grievances must be expressed in reasonable terms. Each grievance submitted should contain:
 - (a) the basis for the grievance;
 - (b) the settlement or corrective action desired by grievant; and
 - (c) sufficient facts or other information to begin an investigation.
- (3) A grievant may represent himself or be represented by a state employee representative of the employee's choice at any step of the grievance procedure prior to a Level 4 hearing. The grievant and the agency may have counsel present at the informal discussion or hearing of facts prior to Level 5, but counsel may not

participate in the discussion or hearing. The presence of any other observer is at the discretion of the manager or supervisor in charge of the discussion or hearing.

- (4) At the informal hearing before the appointing authority (i.e., the Level 4 hearing), an attorney or a representative of an employee may speak on behalf of the employee. The presence of any other observer at this discussion is at the discretion of the appointing authority or designee in charge of that discussion.
- (5) The grievant and the agency may be represented by counsel in actions before the Civil Service Commission, which is the final step of this procedure. The presence of additional observers at this step is at the discretion of the presiding Administrative Law Judge.
- (6) Grievants may present grievances during the standard workday or other mutually agreeable hours as work situations may require. Grievance discussions held during the scheduled off-duty hours for a grievant, witness, or representative will be considered the same as hours worked, including overtime if applicable. Grievants or employees who are required to appear as witnesses or representatives will not be required to use leave for such periods and shall be reimbursed for travel and other expenses in accordance with the comprehensive travel regulations.
- (7) Grievances concerning suspension without pay, demotion, dismissal, or any other loss of a property right must be filed directly with the appointing authority, warden, or superintendent.
- (8) An employee who believes that a disciplinary action or layoff is the result of discrimination prohibited by T.C.A. § 8-50-103 or T.C.A. § 4-21-401 may file a grievance directly with the appointing authority, warden, or superintendent. A grievant may also proceed directly to the Tennessee Human Rights Commission as provided in T.C.A. §§ 4-21-401 and 8-50-103.
- (9) The agency must communicate grievance decisions in writing directly to the grievant in a timely manner as outlined in Chapter 1120-11-.04. Agencies must use certified or registered mail if mailing the written decision. If hand delivered, a grievance decision must include a written heading indicating "Hand Delivered" with a place for the employee's signature. No other form of communication is acceptable.

Authority: T.C.A. § 8-30-326 and T.C.A. § 8-30-328.

1120-11-.04 PROCEDURES. Procedures shall not be more than five (5) steps to finality, as follows:

- (1) Step I - Grievant's Immediate Supervisor
 - (a) The employee presents a written grievance to the supervisor within fifteen (15) workdays of the action which is the basis for the grievance.
 - (b) The supervisor investigates and issues a written decision to the grievant within fifteen (15) workdays of the discussion.
- (2) Step II - Next Appropriate Higher Level of Management
 - (a) The employee submits a written grievance to the appropriate manager within fifteen (15) workdays of receipt of the Step I written decision.
 - (b) The manager conducts an informal discussion or hearing of facts and allegations, investigates and issues a written decision to the grievant within thirty (30) workdays of the receipt of the grievance.
- (3) Step III - Next Appropriate Higher Level of Management
 - (a) The employee submits a written grievance to the appropriate manager within fifteen (15) workdays of receipt of the Step II written decision.
 - (b) The manager conducts an informal discussion or hearing of facts and allegations, investigates and issues a written decision to the grievant within thirty (30) workdays of the receipt of the grievance.

(4) Step IV – Appointing Authority Level

- (a) The employee submits a written grievance to the appointing authority or designee within fifteen (15) workdays of receipt of the Step III written decision.
- (b) The appointing authority or designee conducts an informal discussion or hearing of facts, allegations, and testimony. Whenever possible, a manager who had no input or involvement in the original decision to discipline shall conduct the fourth step hearing. The informal discussion or hearing is not a contested case hearing pursuant to the Uniform Administrative Procedures Act.
- (c) The appointing authority or designee investigates and issues a written decision to the grievant. The appointing authority shall have sixty (60) workdays, from the receipt of the grievance, to complete the hearing and issue a written decision.
- (d) The appointing authority shall have full authority to overturn, reduce, or alter any disciplinary action based on information gathered at the Step IV hearing, including reinstatement of leave and awards of back pay, if appropriate, which may be offset by income earned from alternative employment or unemployment insurance payments received.

(5) Step V (Formal - Career Employee only)

- (a) The employee submits a written grievance, all relevant documentation, and a copy of the Step IV written decision within thirty (30) calendar days of receipt of the Step IV decision to:

Secretary, Civil Service Commission
Tennessee Department of Human Resources
First Floor, James K. Polk Building
505 Deaderick Street
Nashville, TN 37243

- (b) Hearings will be held pursuant to T.C.A. § 8-30-328 and the Uniform Administrative Procedures Act.
 - (c) An agency or employee may appeal the decision of the Administrative Law Judge to the Civil Service Commission. Administrative reviews before the Civil Service Commission shall be limited to the technical records from the administrative procedures division, which may include transcripts from the fifth level hearing. Parties may submit additional proposed findings of fact and conclusions of law to the Commission no later than ten (10) workdays prior to the scheduled review.
- (6) By written agreement, the manager involved and employee may extend the time limits set herein not in excess of six (6) months.
 - (7) Failure of management to proceed within any established time limits entitles the grievant to proceed to the next step in this procedure.
 - (8) Hearings conducted at Step V will conform to the model rules of the Secretary of State for contested cases and the Department hereby adopts Secretary of State Rule 1360-4-1 in statutory compliance.

Authority: T.C.A § 8-30-328 and T.C.A. § 4-5-219.

1120-11-.05 SCOPE OF PROCEDURE.

- (1) The Commission will serve as the final step for all grievances by career employees.
- (2) The agency appointing authority will serve as the final step for all grievances by executive service employees.

Authority: T.C.A. § 8-30-328.

1120-11-.06 GRIEVABLE MATTERS.

- (1) Disciplinary suspension or demotion;
- (2) Disciplinary dismissal;
- (3) Any disciplinary action or layoff that the employee believes is the result of discrimination prohibited by T.C.A. § 8-50-103 or T.C.A. § 4-21-401. The employee may file such grievance directly with the appointing authority, warden, or superintendent;
- (4) Involuntary geographical transfer of an employee or official duty station more than fifty (50) miles. Distance will be determined by drawing a circle, with a fifty (50) mile radius, centered on the previous official duty station;
- (5) Non-compliance with an approved reduction in force plan by an appointing authority;
- (6) Prohibited political activity as outlined in T.C.A. Title 2, Chapter 19 (the "Little Hatch Act");
- (7) Coercion of an employee to waive his right to consideration on an eligibles list;
- (8) Final performance evaluations based on procedural grounds to the fourth step; and
- (9) Other matters determined at the sole discretion of the appointing authority to be grievable, but not included in section 1120-11-.07 below.

Authority: T.C.A. § 8-30-328.

1120-11-.07 EXCEPTIONS AND NON-GRIEVABLE MATTERS.

- (1) Actions that affect employees who are not career employees;
- (2) Actions that affect employees who are not covered under T.C.A. § 41-22-407 (d)(3);
- (3) Actions that affect an employee serving an initial probationary period;
- (4) Normal supervisory counseling and management;
- (5) Non-selection for promotion when the appointment was in compliance with these Rules and the Act;
- (6) Oral and written reprimands;
- (7) Performance evaluation ratings;
- (8) Actions resulting from suggestions adopted by the State Employee Suggestion Award Board;
- (9) Actions resulting from reductions in force when the actions by the appointing authority were in compliance with statutes and rules;
- (10) Shift, post, and overtime assignments;
- (11) Reasonable work assignments outside those normally associated with the employee's assigned job classification;
- (12) Salary range assigned to classifications;
- (13) Administration of salary increases established and funded by the legislature;
- (14) Classification of position;

- (15) Denial of leave requests except as provided for in T.C.A. § 8-50-110 and T.C.A. § 8-50-802;
- (16) Matters relating to internal agency or program management based on discretionary decision making;
- (17) Demotions during subsequent probation when the demotion is to the job classification the employee held prior to the promotion and at a salary rate no lower than the salary rate had the promotion not occurred;
- (18) Agency rules or policies which do not conflict with statutes, rules, or policies of the Department of Human Resources; and
- (19) Any other matter over which an appointing authority or the Commission has no control or jurisdiction or is without the authority to grant requested relief.

Authority: T.C.A. § 8-30-328.

1120-11-.08 TECHNICAL ADVICE AND ASSISTANCE.

- (1) Technical questions regarding this rule may be resolved by referring questions to the agency human resources office.
- (2) Unresolved technical questions to an agency human resources office may be resolved by referring such to the Department's Employee Relations Division.
- (3) Disputes over grievability may be resolved by an agency's appointing authority or by the Civil Service Commission. The Commission may review such determinations and, at its discretion, take whatever action it deems appropriate.
- (4) The intent of this policy is to legally, efficiently, and fairly resolve bona fide grievances. The initiation of a grievance should not be considered as a negative reflection against an employee, supervisor, or agency management, but should be considered as an effort to communicate and seek resolution of work related problems.
- (5) Management should consider grievances objectively, fairly, and expeditiously while maintaining a helpful, cordial, and professional attitude throughout the process of redress.

Authority: T.C.A. § 8-30-328

**RULES
OF THE
TENNESSEE DEPARTMENT OF HUMAN RESOURCES**

**Chapter 1120-12
AWARDS OF ATTORNEY'S FEES AND COST**

TABLE OF CONTENTS

1120-12-.01 Policy

1120-12-.01 POLICY. The Civil Service Commission may, at its discretion, award reasonable fees and costs to a successfully appealing employee's attorney in accordance with the following terms and conditions.

- (1) The maximum hourly rate for attorneys representing successfully appealing employees before the Commission shall be as follows:
 - (a) Appeals of disciplinary suspension of less than ten (10) days and all other grievable matters:
 - (i) Thirty-five percent (35%) of the maximum hourly rate established by the Commission for time spent in hearings before the Commission;
 - (ii) Twenty-five percent (25%) of the maximum hourly rate established by the Commission for reasonable time spent in preparation for such a hearing; and
 - (iii) In no case shall attorney's fees exceed two hundred dollars (\$200) per day, nor shall such fees exceed two thousand dollars (\$2,000) per appeal.
 - (b) Appeal of disciplinary dismissal, demotion, or suspension of ten (10) days or more:

Attorney's fees awarded by the Commission shall be awarded at the same rates established by Guidelines for the Defense of Individual Employees issued by the State of Tennessee Office of the Attorney General and Reporter.
- (2) All awards of costs shall be limited to reasonable costs actually incurred. Awards of costs for travel shall be subject to the provisions of the comprehensive travel regulations in effect at the time the claim is made.
- (3) The request for attorney's fees and costs shall be supported by affidavit from the prevailing attorney. All claims for attorney's fees and costs shall be submitted to the following address after the Commission has rendered its decision.

Secretary, Civil Service Commission
Tennessee Department of Human Resources
First Floor, James K. Polk Building
505 Deaderick Street
Nashville, TN 37243

Such claim shall specify the hours of preparation, in hours and tenths of hours, the nature of services performed during such preparation, the hours of hearing time, and a complete itemized statement of costs claimed.

- (4) In no event shall a claim be paid which is not received by the Secretary of the Commission within sixty (60) days of the effective date of the Commission's order.
- (5) The Secretary of the Commission shall review all such claims for compliance with these Rules, the law, and the Commission's decision. The Secretary is authorized to approve payment of such claims for any amount up to and including the amount claimed.

Authority: T.C.A. § 8-30-328.

**RULES
OF THE
TENNESSEE DEPARTMENT OF HUMAN RESOURCES**

**Chapter 1120-13
RULES AND REGULATIONS FOR ACCESS TO PUBLIC RECORDS**

TABLE OF CONTENTS

1120-13-.01	Production Costs	1120-13-.03	Waiver of Production Costs
1120-13-.02	Payment of Production Costs	1120-13-.04	Reduction of Fees

1120-13-.01 PRODUCTION COSTS.

Upon request for records under Tennessee's Public Records Act, T.C.A. § 10-7-501, *et seq.*, the Department shall charge the requesting party a reasonable charge for production costs, including labor, duplication and delivery, based on the most current Schedule of Reasonable Charges issued by the Office of Open Records Counsel, available at <http://tennessee.gov/comptroller/openrecords>.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, and T.C.A. § 10-7-501, *et seq.*

1120-13-.02 PAYMENT OF PRODUCTION COSTS. The Department shall provide the requesting party an estimate of the production costs, including labor, duplication and delivery, before the initial production of the requested documents. The Department shall require the requesting party to provide full payment of the production costs before copies of the requested records are delivered or otherwise made available.

1120-13-.03 WAIVER OF PRODUCTION COSTS.

- (1) The Department shall waive production cost if the total production cost, including labor, duplication and delivery, is less than ten dollars (\$10).
- (2) When the requesting party is a federal, state or local government agency, the Department shall provide the requested copies of public records without charge. A request made by a federal, state, or local government agency on behalf of a citizen under the Tennessee Public Records Act shall be treated as a request by a citizen and charged accordingly.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, and T.C.A. § 10-7-501, *et seq.*

1120-13-.04 REDUCTION OF FEES. The Commissioner may reduce any part of the fees calculated under these rules upon a determination that such reduction is in the best interest of the public.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, and T.C.A. § 10-7-501, *et seq.*

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
No board vote was required for these rules.					

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Department of Human Resources on November 1, 2010 and is in compliance with the provisions of TCA 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: November 30, 2010

Signature: Danielle Whitworth Barnes

Name of Officer: Danielle Whitworth Barnes

Title of Officer: Assistant General Counsel



Subscribed and sworn to before me on: November 30, 2010

Notary Public Signature: [Signature]

My commission expires on: March 9, 2013

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

[Signature]

Robert E. Cooper, Jr.
Attorney General and Reporter

12-7-10

Date

Department of State Use Only

Filed with the Department of State on: 12/14/10

Effective on: 5/31/11

[Signature]

Tre Hargett
Secretary of State

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PUBLICATIONS

Regulatory Flexibility Addendum

Pursuant to Tennessee Code Annotated §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

The Department of Human Resources has conducted a review of the Rules pursuant to Tennessee Code Annotated §§ 4-5-401 through 4-5-404 to determine if any rules will have an impact on small businesses. The Rules of the Department of Human Resources only apply to current state employees and applicants and will not have any effect on small businesses.

Impact on Local Government Addendum

Pursuant to Tennessee Code Annotated § 4-5-220 and 4-5-228, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

The Department of Human Resources has conducted a review of the Rules pursuant to Tennessee Code Annotated §4-5-220 and 4-5-228 to determine if any rules will have an impact on local governments. The Rules of the Department of Human Resources only apply to current state employees and applicants and will not have any effect on local governments.

Rulemaking Addendum

Proposed rules are submitted pursuant to T.C.A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Human Resources to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Department and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The Department will forward such petition to the Secretary of State if such a petition is received.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The rules make revisions to all Rules of the Department of Human Resources. The current Rules needed to be updated to reflect current practices. During this review, the Department also sought to make the Rules more user-friendly and update as the most current revision took place in 1999.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Tennessee Code Annotated §8-30-203 confers power upon the Commissioner of the Department of Human Resources to adopt rules to carry out the functions of the Department as identified in T.C.A. § 4-7-1703 and enumerated in T.C.A., Title 8. The rules offered are amendatory in nature. One new chapter has been created, Chapter 1120-13, pertaining to opens records requests. This Rule is promulgated pursuant to T.C.A. §10-7-501 et seq.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Current state employees and applicants are affected by the Rule revisions.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

The Department is unaware of any outstanding legal issues surrounding these Rules.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The revisions to the Rules are amendatory; therefore, the Department does not anticipate any fiscal impact as a result of these Rules.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Danielle Whitworth Barnes, Assistant General Counsel

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Danielle Whitworth Barnes, Assistant General Counsel

- (H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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- (I)** Any additional information relevant to the rule proposed for continuation that the committee requests.

**RULES
OF THE
TENNESSEE DEPARTMENT OF PERSONNEL HUMAN RESOURCES**

**Chapter 1120-1
DEFINITIONS**

1120-1-.01 DEFINITIONS. The following definitions shall apply to terms as they appear in these Rules, unless the context clearly requires otherwise.

- (1) ~~Act. Tennessee Code Annotated, Title 8, Chapter 30.~~ Tennessee Civil Service Act as codified in Tennessee Code Annotated.
- (2) Active Pay Status. Term applied to an employee who is actually working or who is using paid leave other than paid terminal leave or sick leave bank leave.
- ~~(2) Affirmative Action. The demonstrated commitment to recognize, develop, and utilize the abilities of groups of protected persons.~~
- (3) ~~Affirmative Action Plan. A statistical document which describes an agency's efforts to bring about affirmative action.~~ A statistical document which identifies and analyzes patterns in the participation and utilization of women and minorities in the workforce.
- (4) Agency. ~~Any board, commission, department, or agency which~~ An entity that employs and exercises authority over any employee in the state service of the executive branch of the State service.
- (5) Appointing Authority. An officer having power to make appointments to and separations from positions in the state service.
- (6) Appointment. The official designation of a person to fill a position in state service as an employee.
- ~~(7) Armed Forces. The Army, Navy, Air Force, Marine Corps, Coast Guard, their reserve units and the National Guard.~~
- ~~(8) Authorized Training. A structured activity with specific learning objectives requiring expenditure of State resources and the approval of the Commissioner and the Commissioner of Finance and Administration.~~
- ~~(9)~~(7) Bona Fide Offer. An offer of employment to an career employee affected by a reduction in force to a position at a comparable level and in a location previously declared acceptable by the employee.
- ~~(10)~~(8) Career Employee. An employee who holds a ~~career service~~ position in an agency in state service in which the employee has obtained career status.
- ~~(11)~~(9) Career Service. All positions in the state service subject to the civil service provisions of the Act.
- ~~(12) Career Service Employee. An employee who holds a position in the career service.~~
- ~~(13)~~(10) Career Status. The status granted a ~~career service~~ an employee by an agency upon completion of any probationary period ~~requirement~~ required for the job classification in that agency.
- ~~(14) Certificate of Eligibles. The document or record containing the names of the highest ranking available eligibles for a class of positions for consideration by an appointing authority in filling a vacancy.~~

- ~~(15)~~(11) Classification/Class of Positions. A group of positions in ~~the State career service~~ sufficiently alike in duties, authority and responsibilities such that the same general qualifications may reasonably be required and the same schedule of pay equitably applied to all positions in the group.
- ~~(16)~~(12) Class Classification Specification. A description of a class of positions including classification title, summary, distinguishing features, examples of duties and responsibilities, minimum qualifications, necessary special qualification, and examination method. ~~title, duties, authority, responsibilities, minimum qualifications and the relative weights of examination parts.~~
- ~~(17)~~(13) Commission. The Tennessee Civil Service Commission.
- ~~(18)~~(14) Commissioner. The Commissioner of the Department of ~~Personnel~~ Human Resources.
- ~~(19)~~(15) Compensation Plan. A series of salary ranges to which classes of positions are assigned so that classifications evaluated as approximately substantially equal ~~can be~~ are assigned to the same salary range.
- ~~(20)~~ Complaint. A matter which an employee alleges adversely affects his employment, may have the potential of becoming a grievance, and is within the jurisdiction of the appointing authority.
- ~~(21)~~ Continuing Education Unit (CEU's). A measure of continuing education completed under responsible sponsorship, capable direction and qualified instruction.
- ~~(22)~~(16) Demotion. ~~The reclassification of an employee to a position of lower salary rank as a result of poor performance or unsatisfactory conduct.~~ The change of an employee to a position in a classification to a lower salary grade for causes related to performance of duties or conduct which affects an employee's ability to successfully fulfill the requirements of the job.
- ~~(23)~~ (17) Department. The Department of ~~Personnel~~ Human Resources.
- (18) Dismissal. The termination from state service of an employee for causes related to performance of duties or conduct which may affect an employee's ability to successfully fulfill the requirements of the job.
- ~~(24)~~ Disabled Person. Any person who has a physical or mental impairment which substantially limits one or more major life activities; has a record of such an impairment; or is generally regarded as having such an impairment.
- ~~(25)~~ Disabled Veteran. An honorably discharged armed forces veteran who served on active duty during a war era, and is currently recognized by the United States Government as having a service-connected disability of at least 10 percent resulting in the receipt of compensation or disability retirement benefits.
- ~~(26)~~ Discrimination. Any administrative decision based in whole or in part on a person's race, sex, age, religion, national origin or physical or mental disability, except where such decision is supported by bona fide occupational qualification.
- ~~(27)~~ Division. A state agency or any of its divisions or branches in which all positions are under the same appointing authority.
- ~~(28)~~(19) Eligible. A person who has qualified for appointment to a position in ~~State~~ the career service.
- (20) Eligible List. A list of names of all qualified applicants for positions in the career service.

- ~~(29)~~(21) Emergency Appointment. The appointment of a person ~~to a career service~~ position in the career service, for a period not to exceed one hundred twenty (120) days, when an emergency makes it impractical or impossible to fill the position through standard appointment procedures.
- ~~(30)~~ Employment Certificate. ~~A list of eligibles in rank order by examination score compiled from the employment register for a class of positions in accord with all employment requirements specified by the requesting agency.~~
- ~~(31)~~ Employment Register. ~~A list of all persons eligible for appointment to a class of positions.~~
- ~~(32)~~ Entrance Rate. ~~The lowest rate of pay in the salary range for a class of positions.~~
- ~~(33)~~(22) Examination. A test or series of tests designed to assess the relative fitness of individuals to perform the duties associated with a particular class of positions.
- ~~(34)~~(23) Executive Service. All positions in the State service not subject to the civil service provisions of the Act.
- ~~(35)~~(24) Executive Service Employee. An employee who holds a position in the executive service.
- ~~(36)~~ Fair Labor Standards Act (FLSA). ~~Federal Government regulations, part of which sets minimum wage and overtime pay requirements.~~
- ~~(37)~~ Family and Medical Leave Act (FMLA). ~~Federal Government regulations setting requirements for granting leave for specified family and medical reasons, for providing insurance coverage during the leave period, and for reinstating employees to the same or an equivalent position once the leave period has ended.~~
- ~~(38)~~ Flexibly Staffed Position. ~~A position in a working level classification which may be filled either with an employee qualified to perform the job at the working level or an employee qualified to perform the job at the trainee level.~~
- (25) Flex-Class Position. A position in a job classification series which may be filled with an employee qualified to perform the job at the trainee, entry, intermediate or working level.
- ~~(39)~~(26) Full-Time. A position or an employee budgeted for or scheduled to work a full-time schedule as defined by the Commissioner and the Commissioner of Finance and Administration, usually one thousand nine hundred and fifty (1,950) hours or more per year.
- ~~(40)~~ Governor's Advisory Committee on Equal Employment Opportunity. ~~The nine member committee appointed by the Governor to review and advise the Governor and the Commissioner of ways to strengthen and improve equal employment opportunity and affirmative action policies in State service.~~
- ~~(41)~~(27) Grievance. An unresolved ~~written~~ complaint concerning a condition, act or omission that adversely affects an employee's condition of employment that is within the discretion, jurisdiction, or control of the appointing authority or the Commission.
- ~~(42)~~(28) Gross Misconduct. Any job related conduct which may subject an employee to criminal prosecution.
- ~~(43)~~ Him/His. ~~The use of the masculine pronoun throughout these rule chapters is for convenience only and should be construed to apply to employees of both genders.~~
- ~~(44)~~ Honorable Discharge. ~~The separation of a veteran from active duty in the armed forces of the United States under honorable or satisfactory conditions, including transfer to inactive status, transfer to retired status, or return to civilian status through resignation or discharge.~~

- ~~(45)~~(29) Initial Probation/Initial Probationary Period. The first probationary period an employee serves in a continuous period of employment in an agency ~~pursuant to~~ prior to becoming a career employee in that agency.
- ~~(46)~~(30) Interim Appointment. The appointment of a person to a ~~career service~~ position in the career service for a period ~~not to exceed~~ of one (1) year.
- ~~(47)~~ In-Service Training. An authorized training activity, excluding normal work assignments, which meets CEU standards as outlined by the National Council on the Continuing Education Unit, addresses specific job skills related to the employee's current assignment and the instructor quality and course content have been approved by the Department.
- ~~(48)~~(31) Involuntary Reduction in Rank. The reclassification of an employee to a position of lower salary rank as a result of a change in the organizational structure of the governmental entity, the abolishment of a position, a reduction in force, reasons caused by organizational necessity or compliance with T.C.A. 8-30-212. The change of an employee to a position in a classification at a lower salary grade as a result of a reduction in force or in compliance with T.C.A. § 8-30-212.
- ~~(49)~~(32) Lateral Reclassification. A change from a position in one classification to a position in another classification having similar duties, authority and responsibilities, qualification requirements and the same salary grade. A change from a position in one classification to a position in a classification with the same salary grade and similar duties, authority, responsibilities, and qualification requirements.
- ~~(50)~~(33) Layoff. A separation from State service because of lack of funds, curtailment of work, changes in organizational structure, or abolishment or reclassification of positions. A separation of an employee from state service as the result of a reduction in force.
- ~~(51)~~(34) Legal Residence Resident County. The county in which a person's an individual's home is located and to which he the individual definitely intends to return even though if temporarily absent.
- ~~(52)~~(35) Limited Term Appointment. The appointment of a person to an executive service position as a commissioner, board member, agency member or commission member for a limited term pursuant to statute. The governor, the governor's cabinet, and members of board, commissions, agencies and authorities receive limited executive service appointments. Limited term appointments do not require the use of eligible lists.
- ~~(53)~~(36) List. A compilation of eligibles who may be appointed to positions in accordance with these Rules, such as employment certificate, promotional certificate, layoff list, work test list, reemployment list, and transfer list appointment list, promotional list, layoff list, reemployment list, and transfer list.
- ~~(54)~~(37) Major Fraction Portion of a Month. One-tenth (0.1) of one (1) hour over fifty percent (50%) of the regularly scheduled working hours.
- ~~(55)~~(38) Manager. An employee who supervises, plans and coordinates the work of other supervisors or an employee who serves in a staff policy making or recommending capacity in an agency. Managers may conduct and/or review performance evaluations.
- ~~(56)~~(39) Merit Factor. An employee's job performance, conduct, or any knowledge, skill, ability, or competency on which administrative actions can be based.
- (40) Non-Career Employee. Employees who fall outside of T.C.A. § 8-30-208 and serve in one of the following appointment types: interim, emergency, part-time, seasonal, temporary, temporary provisional or temporary employment of retired state employees. Employees in this category do not gain career status and are not considered career employees.

- ~~(57)~~(41) Non-Merit Factor. Any factor not defined in item ~~(56)~~ thirty-nine (39) above on which an administrative action can be based.
- ~~(58)~~(42) Official Duty Station. The town or city where the majority of duties are performed.
- ~~(59)~~(43) Organizational or Business Unit. Any agency, board, commission, department, or subdivision recognized as a unit for purposes of administration.
- ~~(60)~~ Out-Service Training. An authorized training activity which is open to the public and is sponsored by a vendor, an institution of higher education, a professional association or other organization not a part of State government.
- ~~(61)~~(44) Part-Time. A position or an employee budgeted or scheduled to work a part-time schedule as defined by the Commissioner and the Commissioner of Finance and Administration, usually less than sixteen hundred (1,600) hours per year.
- ~~(62)~~ Permanent Employee. An employee who holds a regular appointment in a permanent position in the executive service.
- ~~(63)~~ Permanent Position. A position which is funded on an annual basis and is expected to continue to receive funding.
- ~~(64)~~(45) Position. A job consisting of assigned duties, authority, and responsibilities typically performed by one person.
- (46) Position Reclassification. A change in a job classification, typically resulting from a significant reassignment in job duties and responsibilities.
- ~~(65)~~(47) Probationary Period. A working test period of at least six (6) months duration. A period of at least six (6) months duration used to provide an employee with the opportunity to demonstrate ability to adequately perform the duties of the job.
- ~~(66)~~(48) Promotion. A change in status of an employee from a position in one classification to a position in another classification having different duties, authority, responsibilities and a higher salary rank. The change of an employee to a position in a classification at a higher salary grade.
- ~~(67)~~ Promotional Register. A list of career employees eligible for appointment to a class of positions.
- ~~(68)~~(49) Reallocation/Reallocated. A change from one classification to another a new or existing classification based on a change in the nature or structure of the classification plan.
- ~~(69)~~ Reasonable Accommodation. A modification or adjustment to a job, the work environment, or the way things are customarily done that enables a qualified individual with a disability to perform the essential functions of a position.
- ~~(70)~~ Reclassification. A change from one classification to another classification based on a change in duties, authority, and responsibilities.
- ~~(71)~~ Red Circle Pay Rate. A pay rate for an employee higher than the maximum rate established for the employee's class of positions authorized by Tennessee Code Annotated 8-30-214.
- ~~(72)~~(50) Reduction in Force. Any job action affecting an employee due to lack of funds, curtailment of work, changes in organizational structure, abolishment or reclassification of positions. Any job action due to a shortage of work or funds, or the abolition of a position or other material change in duties or organization that may result in the layoff of a career employee.

- ~~(73)~~(51) Reemployment/Reappointment List. A list of persons who may be appointed to a class of positions without further certification or examination due to their prior career status in the classification or related classification.
- ~~(74)~~ Register. A list of names of persons attaining an examination score of seventy (70) or greater for a class of positions.
- (52) Referred List. The document or record containing the names of the highest ranking available eligibles for a class of positions for consideration by an appointing authority in filling a vacancy.
- ~~(75)~~(53) Regular Appointment. The appointment of a person to a permanent regular position in either the career or executive service for an indeterminate period of time.
- (54) Regular Position. A position which is funded on an annual basis and is expected to continue to receive funding.
- ~~(76)~~ Resignation. A separation from State government at the request of the employee.
- ~~(77)~~(55) Salary Grade. A numeric value which defines the level of the job classification and designates the salary range for a class of positions.
- ~~(78)~~(56) Salary Range. ~~The rates of pay from the minimum to the maximum.~~ The minimum to the maximum rates of pay established for a class of positions.
- ~~(79)~~ Salary Step. A rate of pay established within a salary range.
- ~~(80)~~(57) Seasonal Appointment. ~~The appointment of a person to an executive service position.~~ An executive service appointment of a person for an indeterminate period of time to be scheduled to work for a certain period usually recurring each year and generally not exceeding sixteen hundred (1,600) hours per year.
- ~~(81)~~(58) Seasonal Position. An executive service position which is funded for a specific period of time, typically less than one (1) year, and is expected to continue to receive funding.
- ~~(82)~~ Selective Certification. ~~The process of identifying eligibles who possess the special qualifications necessary for appointment to a position or a group of positions designated as a sub-classification.~~
- ~~(83)~~ Service Group Code. ~~A number identifying an employee's rate for monthly annual leave accrual and maximum annual leave accumulations allowed, based on the employee's total years of active service in a leave accruing status.~~
- ~~(84)~~(59) Sick Leave Bank. ~~A pool of sick leave hours donated by member employees for use by members who have suffered disability due to an unplanned personal illness or injury.~~ A pool of sick leave hours donated by member employees for use by qualifying members who are medically certified as unable to perform the duties of their jobs as a result of a personal illness, injury, accident, disability, medical condition, or quarantine.
- ~~(85)~~(60) State. The State of Tennessee.
- ~~(86)~~(61) State Employee. A person employed in a position in state government. For the purposes of these Rules only, "state employee" excludes employees of state universities and local education agencies.
- ~~(87)~~(62) State Service. All offices and positions of trust or employment in the executive branch and all boards, commissions and agencies in of state government except those specifically excluded by the Act.

- ~~(63)~~(63) Subsequent Probation. Any probationary period served by a career ~~an~~ employee in an agency after the successful completion of an initial probationary period in that agency or after the employee ~~becomes a career employee~~ obtains career status in that agency.
- ~~(64)~~(64) Supervisor. An employee who directly plans and evaluates the work of one or more employees, including the performance evaluation process.
- ~~(65)~~(65) Suspension. An enforced leave of absence without pay for disciplinary purposes or pending an investigation or adjudication of charges made against an employee.
- ~~(66)~~(66) Temporary Appointment. The appointment of a person to an executive service position for a temporary period, usually less than six (6) months.
- ~~(67)~~(67) Temporary Provisional Appointment. The appointment of a person to a ~~career service~~ position in the career service, for a period not to exceed four (4) months, when there is an insufficient referred list or no established eligible list, certificate of eligibles or no established register.
- ~~(68)~~(68) Terminal Leave. The annual leave balance of a retiring employee. Any leave balance remaining after the employee's last actual workday is considered terminal leave.
- ~~(69)~~(69) Termination. Any action taken that officially separates an employee from state service. This includes employees who elect to resign, retire or who are dismissed from state service.
- ~~(70)~~(70) Time Period. Time period for most employees is defined as the work week beginning on Sunday and ending Saturday.
- ~~(93)~~(93) Test of Fitness. Any job related methods or measures used to determine the merit and competencies of persons for appointment or promotion to positions in the career service.
- ~~(94)~~(94) Trainee. An employee receiving special study and/or training for a particular position to which he will be appointed upon satisfactory completion of the training period.
- ~~(95)~~(95) Training Plan. A document which describes the intended use of resources for both in-service and out-service training activities for a fiscal year.
- ~~(71)~~(71) Transfer. A change from one position in a classification to another position in the same classification.
- ~~(97)~~(97) Veteran. A person eligible for military preference in appointment as prescribed in T.C.A. 8-30-306.
- ~~(72)~~(72) Voluntary Reduction in Rank. The reclassification change of an employee to a position in a classification at ~~of~~ lower salary rank grade based on an employee's request and the concurrence of the appointing authority.
- ~~(99)~~(99) War Era (Armed Conflict). War era eligibility dates include World War II, December 7, 1941 to December 31, 1946; Korean Campaign, June 27, 1950 to January 31, 1955; Vietnam Conflict, August 5, 1964 to May 7, 1975; The Lebanon Expedition, the Grenada Expedition, and the Panama Expedition - only veterans who received the "Armed Forces Expeditionary Medal"; and Operation Desert Shield/Storm, August 2, 1990 to end date unestablished.
- ~~(73)~~(73) Workday. A scheduled day of work exclusive of ~~sick leave~~, holidays or other authorized leave days.
- ~~(74)~~(74) Work Test Period. The probationary period served by an employee with a disability when substituted for a written and/or performance examination required for appointment or promotion to a class of positions.

Authority: T.C.A. § 8-30-201.

**RULES
OF THE
TENNESSEE DEPARTMENT OF PERSONNEL HUMAN RESOURCES**

**Chapter 1120-2
EMPLOYMENT PRACTICES**

TABLE OF CONTENTS

1120-2-.01	Purpose	1120-2-.11	Probationary Period
1120-2-.02	Responsibility	1120-2-.12	Promotions
1120-2-.03	Divisions of State Service	1120-2-.13	Transfers, Demotion and Reductions in Rank
1120-2-.04	Application for Employment	1120-2-.14	Tenure, Suspension and Separation
1120-2-.05	Examinations	1120-2-.15	Certification of Payrolls
1120-2-.06	Registers	1120-2-.16	Records and Reports
1120-2-.07	Veterans Information	1120-2-.17	Adoption and Amendment of Policies and Procedures
1120-2-.08	Certification of Eligibles		
1120-2-.09	Filling Positions		
1120-2-.10	Appointments		
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1120-2-.01	Responsibility	1120-2-.11	Filling Positions
1120-2-.02	Divisions of State Service	1120-2-.12	Appointments
1120-2-.03	Application for Employment	1120-2-.13	Probationary Period
1120-2-.04	Examinations	1120-2-.14	Promotions
1120-2-.05	Eligible List	1120-2-.15	Employee Transfer, Lateral Reclassification, Demotion and Reduction in Rank
1120-2-.06	Certification of Eligibles		
1120-2-.07	Veterans Preference Points		
1120-2-.08	Certification and Use of Referred Lists	1120-2-.16	Tenure, Employee Reclassification, Suspension and Separation
1120-2-.09	Other Lists	1120-2-.17	Certification of Payrolls
1120-2-.10	Other Matters Related to Lists	1120-2-.18	Records and Reports

1120-2-.01 PURPOSE. ~~To give effect to the provisions of the Act and to establish methods for handling personnel activities and transactions based on accepted principles of public personnel administration.~~

Authority: ~~T.C.A. 8-30-201, T.C.A. 8-30-202 and T.C.A. 8-30-203.~~

1120-2-.02 .01 RESPONSIBILITY. The Commissioner is responsible for administering the Act, these Rules, and establishing policies and procedures.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203 and T.C.A. § 8-30-204.

1120-2-.03.02 DIVISIONS OF STATE SERVICE. The state service is divided into the career service and the executive service.

Authority: T.C.A. § 8-30-208.

1120-2-04.03 APPLICATION FOR EMPLOYMENT.

- (1) Applying for Positions in the Career Service. All applications for employment in career service positions must be made ~~on forms~~ in a manner prescribed by the Commissioner.
- (2) Disqualification of Applicants. The Commissioner may refuse to examine or, after examination, may disqualify an applicant or remove an applicant's name from ~~a register~~ an eligible or referred list for a period of ~~two (2) years~~ of time as prescribed by the Commissioner, if the applicant:
 - (a) is found to lack any of the minimum or special qualification requirements established for the class of positions;
 - (b) has willfully or intentionally submitted false information or documents in support of any application or has intentionally omitted information in any application which materially affects score, position on a list, or eligibility for employment consideration;
 - ~~(b) is unable to perform an essential function of the position, with or without reasonable accommodation, because of a mental or physical impairment which substantially limits a major life activity or which results in a direct threat to the health or safety of the person or others;~~
 - ~~(c) is addicted to the use of narcotics or the habitual use of intoxicating liquors to excess;~~
 - ~~(d) has been convicted of a crime or has been guilty of any notoriously disgraceful conduct;~~
 - ~~(e) has made a false application statement;~~
 - ~~(f)(c)~~ (c) has previously been dismissed from any public service for delinquency, gross misconduct, or other similar cause;
 - ~~(g)(d)~~ (d) has used or attempted to use political pressure or bribery to secure an advantage in examination or appointment;
 - ~~(h)(e)~~ (e) has directly or indirectly obtained information regarding an examination to which the applicant was not entitled;
 - ~~(i)(f)~~ (f) has failed to submit an application correctly or within the prescribed time limit; or
 - ~~(j)(g)~~ (g) has taken part in the compilation, administration, or correction of the examination;
 - ~~(k)~~ (h) has failed to appear for an examination;
 - ~~(l)(h)~~ (h) has otherwise violated provisions of this Rule or related policies established and distributed by the Commissioner.
- (3) Appeal of Removal from Registers. An eligible whose name has been removed from ~~a register~~ an eligible list for any of the reasons specified in T.C.A. § 8-30-305, by Rule, or by policy, may appeal to the Commissioner for reconsideration. Such appeal must be filed in writing with the Commissioner within ~~ten (10)~~ fifteen (15) calendar days after the ~~postmark~~ date of the notification. The Commissioner, after ~~investigation~~ consideration, shall make a decision and notify the applicant accordingly.
- (4) ~~Discrimination. No question on any form, application, or examination shall be phrased to elicit information concerning the political or religious opinions or affiliations of the applicant. No inquiry concerning such opinions or affiliations shall be made, and all disclosures will be disregarded. No question on any form, application, or examination should make preemployment inquiries of an applicant as to whether the applicant is a person with a disability, or as to the nature or severity of a disability,~~

~~except for purposes of affirmative action under Section 503 of the Rehabilitation Act of 1973. Any such inquiry must comply with the requirements of the Americans with Disabilities Act. Preemployment medical examinations of applicants cannot be conducted, but offers of employment can be conditioned on the results of medical examinations conducted subsequent to an offer of employment to an applicant and prior to the applicant's actual employment. If a medical examination is required, all entering employees must be subjected to such examination. The handling of the results of all medical examinations must be in accordance with 28 CFR 42.513. No discrimination shall be exercised, threatened, or promised by any State employee against or in favor of any person in recruitment, examination, appointment, training, promotion, retention or other personnel actions, because of political affiliation, religious opinion, race, national origin, or any other non-merit factor. Discrimination on the basis of age, sex, or disability is prohibited except where specific age, sex, or physical requirements constitute a bona fide occupational qualification necessary for proper and efficient administration.~~

(4) Equal Employment Opportunities. The provisions of this section shall be administered consistent with the state's equal employment opportunities policies and obligations. All actions taken pursuant to this section shall be in strict compliance with all applicable state and federal civil rights laws.

Authority: T.C.A. § 8-30-222, ~~T.C.A. § 8-30-302~~, T.C.A. § 8-30-304 and T.C.A. § 8-30-305.

1120-2-.05 .04 EXAMINATIONS.

(1) Notice of Examinations. The Commissioner will give public notice of all examinations, at least two (2) weeks in advance of the closing date for receipt of applications, by posting notices throughout the State. Public notice of examinations will specify the title and salary range of the class of positions, examples of the duties to be performed, the minimum or desirable qualifications required, the final date on which applications will be received, and other conditions of competition, including the relative weights assigned to the various parts in the examination.

(2) Promotional Examinations. Promotional examinations may be limited to employees of ~~an~~ a defined organizational unit or may be open to employees of ~~all organizational units~~ in the career service. The Commissioner shall determine and specify in the notice of examinations the classifications in an organizational unit or units eligible to compete. Any career ~~service~~ employee in such classification(s) in the organizational unit(s) shall be eligible to compete in the promotional examination, provided the employee possesses the minimum qualifications required for the class of positions for which the examination is held. The Commissioner will grant additional performance bonus points to the examination scores of career employees who attain good, superior, or exceptional ratings on their probationary or annual performance evaluation as follows:

- (a) Good overall performance.....1 performance bonus point
- (b) Superior overall performance.....2 performance bonus points
- (c) Exceptional overall performance.....3 performance bonus points

Performance bonus points are granted to employees only on a promotional certificates list of eligibles.

(3) Admission to Examinations. Examinations will be open to all persons who meet the requirements specified in the respective public notices for such examinations. Each applicant admitted to an examination will be notified of the time, date and place of the examination. ~~Any person~~ Applicants not meeting the requirements for a class of positions may appeal the decision by requesting that the Commissioner reevaluate their qualifications based on documents submitted during the application process which were received during the open examination period. The Commissioner may also request other documents from the applicant. Applicants ~~Persons~~ reevaluated as meeting the requirements may then be admitted to the examination at the discretion of the Commissioner.

- (4) ~~Incumbents in Positions Added to the Career Service. Persons in positions added to the career service may be given noncompetitive examinations within one (1) year after the establishment of the positions in the career service. The Commissioner will certify whether each employee so tested is qualified to become a career employee.~~ Employees in Positions Added to the Career Service. An employee in a position which is added to the career service may, within one (1) year after the establishment of such positions in the career service, be given a noncompetitive test prescribed by the Commissioner to determine if the employee is fit to satisfactorily perform the duties of the position. The Commissioner shall certify whether each employee tested has met a reasonable standard of fitness qualifying such employee to retain such position, and each person so certified shall be deemed to be a career employee.
- (5) ~~Conduct of Examinations. All examinations will be approved by the Commissioner with every precaution taken to prevent unauthorized persons from gaining knowledge of the nature or content of the tests that is not available to every applicant. Examinations will be conducted in locations throughout the State as necessary for the convenience of applicants and as practical for proper administration. Any applicant found to be using unauthorized materials during testing, or any applicant who in the opinion of the test monitor demonstrates inappropriate behavior shall be expelled from the examination.~~ Examinations will be conducted in locations that are practical for proper administration. All applicants admitted to sit for civil service examinations must adhere to the Department's established testing rules and procedures. The Commissioner may take any appropriate action, up to and including criminal prosecution, against applicants who do not adhere to these established Rules and procedures.
- (6) ~~Scoring Examinations. The Commissioner will determine a final examination score for each applicant in accordance with the weights established on the announcement of the examination. Failure in one part of any examination may disqualify the applicant for the entire examination.~~
- (7) ~~Reapplying for Examination. Applicants rejected on the basis of minimum qualifications may reapply as soon as they can furnish evidence that they meet the required education, experience or special standards. Applicants failing a written or performance test or wanting to improve their current score, may retake the examination after a waiting period of thirty (30) days. Applicants may retake an examination a third time no earlier than six (6) months from the first examination date. An applicant's score is always based on the latest examination results. Applicants who want to improve their scores based on a rating of education and experience may reapply after six (6) months. Applicants may reapply for examination when changes in job minimum qualifications or examination method results in the abolishment of a register and the establishment of a new register.~~ Applicants rejected for not meeting minimum qualifications may reapply during an open examination period provided they can furnish evidence that they meet the required education, experience, or special qualifications. Applicants failing a written or performance test or wanting to improve their current score may retake the examination in accordance with established policy. An applicant's score is based on the latest examination results. Applicants may reapply for examination when changes in job minimum qualifications or examination method results in the abolishment of an eligible list and the establishment of a new eligible list.
- (8) ~~Promotional Rating Update. The Commissioner will establish a procedure and develop forms~~ the manner by which state employees may update scores based on a rating of education and experience after gaining additional education or experience.
- (9) ~~Rating Training and Experience. When education, training and/or experience form a part or all of an examination, the Commissioner will establish a procedure for the evaluation of the education, training and experience qualifications, including licenses, certifications, approved Continuing Education Units (CEU's), and other merit factors as deemed appropriate by the Commissioner.~~

- (10) ~~Work-Test Period. The Commissioner may substitute a work test period for any applicant with a disability who has been certified by the Division of Rehabilitation Services in the Department of Human Services as unable to take a written or performance examination. The probationary employment period shall constitute the work test period. With input from the Division of Rehabilitation Services, Department of Human Services, the Commissioner may substitute a working test period in lieu of a written examination for an applicant with a disability. Such test period shall be the same as the individual's established probationary period.~~
- (11) Investigations. The Commissioner or any appointing authority may investigate an applicant's education, training and experience to verify the statements contained in the application form or to verify statements regarding the applicant's character and fitness. If this investigation shows any falsification, including a false statement of a material fact, or a practice or attempt to practice any fraud or deception in the application or test, the applicant may be removed from consideration for employment or, if employed, may be dismissed and disqualified from future examinations. Lesser discrepancies in applicant information may result in a reevaluation of examination scores as necessary.
- (12) Oral Examinations. When an oral examination is part of the examination for a class of positions, the Commissioner will appoint or approve one or more oral examination boards as needed.
- (13) Notice of Examination Results. The Commissioner will notify ~~applicants by mail~~ an applicant in writing of their examination results as soon as scoring has been completed. Scores based on the rating of an employment application including education, experience and other merit factors as deemed appropriate, shall be reported to the applicant within ninety (90) calendar days or a reasonable time period thereafter when the number of applicants applying for a particular job class prevents the scoring process from being completed within the ninety (90) calendar day period. ~~of the date of receipt of the application. Applicants will be permitted to inspect their papers and other records of the examination in person at the Department's Nashville office during business hours. An error in the scoring of any phase of an examination will be corrected, if called to the attention of the Commissioner; but however,~~ such correction will not invalidate any appointment previously made to a class of positions.
- (14) Examination Records. The Commissioner will maintain all records pertinent to an examination program. ~~Applications and other necessary examination records will be kept for two (2) years. The~~ retention of applications and other necessary examination records shall be maintained as prescribed by law.
- (15) Rescheduling Examinations. When an applicant is unable to appear for an examination, the applicant may, upon satisfactorily showing the cause of his failure to appear, be granted permission by the Commissioner to take the examination at a later date.

Authority: T.C.A. § 8-30-222, T.C.A. § 8-30-301, T.C.A. § 8-30-302, T.C.A. § 8-30-303, T.C.A. § 8-30-305, T.C.A. § 8-30-306, and T.C.A. § 8-30-307.

1120-2-.06 REGISTERS, 1120-2-.05 ELIGIBLE LIST.

- (1) Establishment of ~~Register~~ Eligible List. ~~The Commissioner will establish an employment register, roster of applicant names, for each career service job classification within 120 days of the notice of examination for the class of positions. The Commissioner may establish a promotional register, roster of employee names, in addition to or in lieu of an employment register. Only the names of persons obtaining an examination score of seventy (70) or greater may be added to a register. The Commissioner will establish an eligible list for competitive career service job classifications no later than four (4) months after the date on which the test was held, unless such time is extended by the Commissioner for reasons which the Commissioner shall record in the official records of the Department. The Commissioner may establish a promotional eligible list or roster of employee names in addition to or in lieu of an employment eligible list. A promotion list or employment list~~

which has been in force for six (6) months or more shall be deemed cancelled upon the establishment of a new promotion list or employment list, as the case may be, for the same class of positions.

- (2) ~~Supplementing Registers~~ Eligible Lists. The Commissioner will routinely review existing employment ~~registers~~ eligible lists to determine whether there is an adequate number of eligibles available to meet the needs of the service. When the Commissioner determines that a particular ~~register~~ eligible list is inadequate or is likely to become inadequate, the Commissioner may order a supplemental examination for the class of positions. The public announcement for supplemental examinations will give notice of the ~~date that new names will be added to the current register,~~ dates when applications will be accepted and, where applicable, when written examinations will be administered.

Registers Eligible lists for job classifications examined on a continuous basis are supplemented daily as applicants are scored.

- (3) Duration of ~~Registers~~ Eligible Lists. All scores based on a rating of an applicant's education, training and experience will be in effect for two (2) years unless the score is otherwise ruled ineligible or unless the ~~register~~ eligible list is abolished. All scores derived as a result of a written examination will remain in effect until such time ~~as the written examination is revised or replaced as prescribed by the Commissioner.~~ Subject to the limitations of the Act and these Rules, the Commissioner may consolidate or cancel ~~a register~~ an eligible list at any time after it has been established for six (6) months. ~~If the Commissioner abolishes a register, each eligible on the register will be notified by mail of this fact.~~

- (4) ~~Removal of Names from a Register.~~ Removal and Notification of Names from an Eligible List. Any applicant whose name is removed from an eligible list for any reason shall receive written notice of such action within ten (10) days of the date of removal.

(a) The name of an eligible ~~will~~ may be removed or made inactive on ~~a register~~ an eligible for a class of positions ~~under the following conditions for any of the following:~~

- (1) ~~the~~ an eligible receives a regular appointment to a vacancy in that class of positions;
- (2) ~~a statement is filed with the Commissioner stating that the eligible is unwilling to accept appointment; the agency advises the Commissioner that the eligible is unwilling to accept appointment;~~
- (3) an eligible declines an appointment offered under conditions the eligible had previously indicated would be acceptable;
- (4) ~~the~~ an eligible fails to respond within seven (7) days of the date of an invitation to interview;
- (5) ~~a new register is established;~~
- (6) (5) an eligible cannot be located ~~by mail;~~
- (7) (6) an eligible falsifies his legal residence;
- (7) an eligible has been convicted of a crime related to the position or class of positions for which he or she has applied; or
- (8) any cause occurs as specified in the Act or Rules regarding the rejection or disqualification of applicants.

- ~~(b)~~ (5) Removal of Names from a Referred List. The Commissioner may remove ~~or make inactive~~ on a ~~register~~ referred list the name of an eligible who has been considered and rejected for three (3) different positions in the same classification in an agency.

~~(5)~~(6) Reinstatement to a Register an Eligible List. An eligible's name may be reinstated to a register an eligible list upon showing of satisfactory cause to the Commissioner.

~~(6)~~ Notification. Any eligible whose name is removed from a career service register for any reason will be notified in writing in accordance with procedures established by the Commissioner. Applicants will be notified upon initial receipt of their score that their name will be removed after two (2) years for classifications requiring a rating of training and experience. No further notification will be given.

Authority: T.C.A. § 8-30-222, T.C.A. § 8-30-307, T.C.A. § 8-30-308 and T.C.A. § 8-30-309.

1120-2-.06 CERTIFICATION OF ELIGIBLES.

- (1) Eligible List. The Commissioner shall certify an eligible list containing qualified applicants for the position to be filled by the requesting agency.
- (2) Request for a Referred List. When a vacancy occurs, the agency shall request a referred list.
- (3) Referred List. If requested by the agency, a list of eligibles may be narrowed by the geographic area, organizational unit, or promotional criteria. The Commissioner shall issue a policy that agencies may use to establish a referred list.

Authority: T.C.A. § 8-30-307, T.C.A. § 8-30-308, and T.C.A. § 8-30-309.

1120-2-.07 VETERANS INFORMATION.

- ~~(1) Veterans Preference Points.~~ The Commissioner will grant additional points to veterans attaining an examination score of seventy or greater in compliance with T.C.A. 8-30-306 and any other applicable statutes, rules or policies. Five points will be awarded to (1) an honorably discharged veteran who served during a period of war; (2) the spouse or unremarried surviving spouse of a permanently and totally disabled veteran whose disability was service-connected and who served in a period other than war; and (3) the unremarried surviving spouse of a veteran who died in the line of duty during a period other than war. Ten points will be awarded to (1) a veteran with a ten percent (10%) service-connected disability who served during a period of war; (2) the spouse or unremarried surviving spouse of a veteran with a one hundred percent (100%) service-connected disability and who served during a period of war; and (3) the unremarried surviving spouse of a veteran who died in the line of duty during a period of war. Veteran preference points are granted only to eligibles on original employment certificates.
- ~~(2) Passing over a Veteran.~~ An appointing authority who passes over an eligible veteran and selects a non-veteran with the same or lower rating must file with the Commissioner the reasons for such an action. Documentation of this action will become a part of the certification record.
- ~~(3) Placement of Names on Certificates of Eligibles.~~ The name of a veteran or the spouse or unremarried surviving spouse of a disabled veteran will be entered on a certificate of eligibles ahead of the name of a non-veteran when their ratings are the same.

Authority: T.C.A. 8-30-306 and T.C.A. 8-30-310.

1120-2-.07 VETERANS PREFERENCE POINTS.

The Commissioner will grant additional points to eligible veterans attaining a passing examination score in compliance with T.C.A. § 8-30-306 and any other applicable statutes, rules, or policies.

Authority: T.C.A. § 8-30-306 and T.C.A. § 8-30-310.

1120-2-.08 CERTIFICATION OF ELIGIBLES AND USE OF REFERRED LISTS.

- (1) Request for Certification. When a vacancy occurs in one or more established positions in a classification in the career service, the appointing authority may request a ~~certificate of eligibles and/or a work test, layoff, transfer or reemployment list~~ to fill the position(s) in a manner prescribed by the Commissioner.
- (2) Methods of Certification. The Commissioner will certify to the appointing authority the names of eligibles from the appropriate ~~register or~~ referred list for the classification. When requesting a ~~certificate of eligibles~~ referred list for a flexibly staffed position, the appointing authority may request a ~~certificate~~ referred list for the working level or one the trainee level classifications. ~~for either the working level classification or for the trainee level classification.~~
- ~~(3) Employment Certificate. An employment certificate contains the names of available eligibles listed in rank order of examination scores. Appointments from employment certificates must be made from the five (5) highest ranking eligibles plus any other eligible with a score equal to the score of the fifth ranked eligible. An appointing authority is not required to consider an employment certificate that contains the names of less than three (3) eligibles.~~
- (3) Appointment from a Referred List. An appointment made from a referred list must be made from the five (5) highest ranking eligibles plus any other eligible with a score equal to the score of the fifth ranked eligible. An appointing authority is not required to consider a referred list that contains the names of less than three (3) eligibles.
- ~~(4) Promotional Certificate. A promotional certificate contains the names of available eligibles who are career employees, and who have a current performance rating of marginal or higher, listed in rank order of examination scores. Appointments from promotional certificates must be made from the three (3) highest ranking eligibles plus any other eligible with a score equal to the score of the third ranked eligible. An appointing authority is not required to consider a promotional certificate that contains the names of less than (3) three eligibles.~~
- (4) Promotion from a Referred List. A promotion made from a referred list must be made from the three (3) highest ranking eligibles plus any other eligible with a score equal to the score of the third ranked eligible. An appointing authority is not required to consider a promotional list that contains the names of less than (3) three eligibles.
- ~~(5) Layoff List. All career employees affected by a reduction in force shall be placed on a layoff list. Employees so listed shall have a priority right to transfer, promotion, or reappointment to the location or job classification held prior to any reduction in force.~~
- ~~(6) Work Test List. A list of qualified applicants with disabilities certified by the Division of Rehabilitation Services in the Department of Human Services as unable to take a written and/or performance examination required for employment to a particular classification.~~
- ~~(7) Reemployment/Reappointment List. A list of persons who may be appointed to a class of positions without further certification or examination due to their prior career status in the classification or related classification.~~
- ~~(8) Transfer List. A list of career or probationary employees in career service positions who wish to transfer to other agencies or locations in their current job classification.~~

- ~~(9) Selective Certification. A special circumstance in which an individual position or group of positions in a classification may be placed into a sub-classification because they require unique or special qualifications. Any request for selective certification by an agency must have the prior written approval of the Commissioner. Appointments from a selective certificate of eligibles must be made from the top five (5) eligibles, employment certificate, or top three (3) eligibles, promotional certificate, possessing the special qualifications.~~
- ~~(10) Geographic and Organizational Construction of Certificates. An appointing authority with the approval of the Commissioner may request any logical geographic breakdown for employment or promotional certificates and may request any definable work unit within an organization for promotional certificates.~~
- ~~(11)(5) Contacting Eligibles on a Certificate. The appointing authority must invite in writing all All eligibles in the original top five (5) on employment certificates a referred list for appointment and the original top three (3) on promotional certificates a referred list for promotion to interview for the position prior to the final selection of a candidate for appointment or promotion. ~~will be contacted in writing by the appointing authority and invited to interview for the position prior to the final selection of a candidate for appointment or promotion.~~ All eligibles who are interviewed but not selected will be notified in writing that they were not selected.~~
- ~~(12) Reinstatement on Registers. Any employee who is terminated or resigns may have his name reinstated to the Career Service register from which appointed or promoted, provided the register has not been abolished and the applicant's score is not more than two (2) years old.~~
- ~~(13) Removal of Name from Certification. Any applicant who has been considered for three different positions in the same classification in an agency will be ineligible for certification for other positions in that classification to that agency. This ineligibility will last until the expiration of the score in effect at the time of the third consideration or until the register is abolished, unless the appointing authority requests that the eligible's name be recertified.~~
- ~~(14) Noncompetitive Classifications. Unskilled or semi-skilled classifications may be designated by the Commissioner as non-competitive. Appointments to noncompetitive classifications do not require a certificate of eligibles, but applicants for noncompetitive classifications must meet the minimum qualifications for the class of positions.~~

Authority: ~~T.C.A. § 8-30-209, T.C.A. § 8-30-307, T.C.A. § 8-30-308, and T.C.A. § 8-30-309, T.C.A. § 8-30-311, T.C.A. § 8-30-313, T.C.A. § 8-30-317, T.C.A. § 8-30-322 and T.C.A. § 8-30-323.~~

1120-2-.09 OTHER LISTS.

- (1) Transfer List. An agency may request a list of career employees in career service positions who wish to transfer to other agencies or locations in their current job classification.
- (2) Layoff List. All career employees affected by a reduction in force shall be placed on a layoff list. Employees so listed shall have a priority right to transfer, promotion, or reappointment to the location or job classification held prior to any reduction in force.
- (3) Reemployment/Reappointment. A person may be appointed to a class of positions without further certification or examination because that employee previously held career status in the classification or a related classification.
- (4) Selective Certification. An individual position or group of positions in a classification may, under special circumstance, be placed into a sub-classification because the group requires unique or special

qualifications. Requests for selective certification must be made in writing and approved by the Commissioner. Appointments must be made from the top five (5) or, if promotional, top three (3) eligibles possessing the special qualifications.

Authority: T.C.A. § 8-30-318, T.C.A. § 8-30-322, and T.C.A. § 8-30-323.

1120-2-.10 OTHER MATTERS RELATED TO LISTS.

- (1) Reinstatement on an Eligible List. Any career employee who leaves state service in good standing may have his name reinstated to the eligible list for the job classification from which appointed or promoted, provided:
 - (a) the eligible list has not been abolished or expired; and
 - (b) the applicant's score is not older than the time for which the score would have been otherwise eligible.
- (2) Three Considerations. Any applicant who has been considered for three (3) different positions in the same classification in an agency will be ineligible to be referred for other positions in that classification to that agency. This ineligibility will last until one of the following occurs:
 - (a) the expiration of the score in effect at the time of the third consideration;
 - (b) the eligible list from which the eligible was certified is abolished;
 - (c) the appointing authority requests that the three (3) considerations be removed from the eligible's record; or
 - (d) the applicant re-applies for that classification.
- (3) Non-competitive Classifications. The Commissioner may designate unskilled or semi-skilled classifications as non-competitive. Generally, appointments to non-competitive classifications do not require a referred list; however, the Commissioner may require the use of a referred list for certain non-competitive classifications. Applicants for all non-competitive classifications must meet the minimum qualifications for the class of positions.

Authority: T.C.A. § 8-30-209, T.C.A. § 8-30-308, T.C.A. § 8-30-309, T.C.A. § 8-30-311, T.C.A. § 8-30-313, and T.C.A. § 8-30-317.

1120-2-.00,11 FILLING POSITIONS. ~~Positions may be filled by the promotion, transfer, demotion, or reduction in rank of current employees, reemployment of former employees or appointment of new employees.~~

- (1) Career Service Positions. All career service positions are permanent regular full-time positions. These positions may be filled on a permanent regular full-time basis (regular appointment) by persons who have been successful in a competitive process by being among the top available eligibles on a certificate of eligibles referred list or who have achieved career status in a classification and have the right to be reemployed or reappointed to that classification or to a related classification to which they could be reclassified without further examination or certification as determined by the Commissioner.

Certain unskilled and semi-skilled classifications are designated "non-competitive" by the Commissioner. Qualified persons may be employed in these classifications on a permanent regular full-time basis (regular appointment) without competition.

Career service positions may be filled on a full-time temporary basis outside the competitive process by qualified persons as determined by the Commissioner by temporary provisional appointment, emergency appointment, or interim appointment. Career service positions may also be filled on a part-time temporary basis outside the competitive process by a regular part-time appointment or on a temporary basis with a seasonal appointment.

~~(2) Executive Service Positions. Executive service positions may be permanent full-time, permanent part-time or seasonal part-time. These positions may be filled at the discretion of the appointing authority.~~

~~(a) Permanent full-time positions may be filled on a permanent basis either full-time or part-time by regular appointment, and may be filled on a temporary basis either full-time or part-time by temporary appointment and limited term appointment.~~

~~(b) Permanent part-time positions may be filled on a permanent part-time basis by regular appointment and may be filled on a temporary part-time basis by temporary appointment and limited term appointment.~~

~~(c) Seasonal part-time positions may be filled on a seasonal basis by seasonal appointment.~~

(2) Executive Service Positions. Referred lists are not required to fill executive service positions. Executive service positions may be filled in the following manner:

(a) Regular full-time positions may be filled by one (1) of the following appointment types:

- (1) regular full-time;
- (2) regular part-time;
- (3) temporary full-time;
- (4) temporary part-time;
- (5) seasonal full-time;
- (6) seasonal part-time; or
- (7) limited term appointment.

(b) Regular part-time positions may be filled by one (1) of the following appointment types:

- (1) regular part-time;
- (2) temporary part-time;
- (3) seasonal part-time; or
- (4) limited term part-time appointment.

(c) Seasonal part-time positions may be filled on that basis alone.

(3) Overlap. An appointing authority may place more than one incumbent employee in a single position in an overlap status subject to budgetary limitations and the approval of the Commissioner.

(4) Job Sharing. An appointing authority may place more than one (1) part-time employee in a single full-time position in a job sharing status subject to budgetary limitations and the approval of the Commissioner. Agencies are responsible for ensuring that the number of hours worked by all employees assigned to the position number do not exceed the maximum number of full-time hours assigned to that position in a fiscal year. Positions used for job sharing are considered to be in the executive service.

(5) Mismatch. An appointing authority ~~with the approval of the Commissioner~~ may request approval from the Commissioner to appoint an employee incumbent to a classification different from the

classification of the position, provided the ~~incumbent's~~ employee's classification is not higher than the classification of the position.

For career service appointments the mismatch should be in the same or related classification series. The ~~incumbent~~ employee appointed should be able to meet the qualifications for the classification of the position upon attainment of additional education, experience or credentials. ~~which the appointing authority believes the incumbent is likely to achieve.~~ Career service mismatches should not exceed one (1) year except for employees in lower level flex classes with probationary periods longer than one (1) year.

Authority: T.C.A. § 8-30-201, T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-208, T.C.A. § 8-30-309, T.C.A. § 8-30-311, T.C.A. § 8-30-315, T.C.A. § 8-30-316, T.C.A. § 8-30-317, T.C.A. § 8-30-318, T.C.A. § 8-30-322, and T.C.A. § 8-30-323.

1120-2-~~10~~12 APPOINTMENTS.

- (1) Regular Appointment. A regular appointment is an appointment to either a career or executive service position for an indeterminate period of time ~~in the career service~~. A regular appointment is expected to continue contingent upon satisfactory performance and behavior by the employee and upon continued funding, classification and utilization of the position by the State. In the executive service a regular appointment is expected to continue at the pleasure of the appointing authority.
- (2) Temporary Provisional Appointment. A temporary provisional appointment is an appointment to a full-time career ~~service~~ position for a period of service not to exceed four (4) months and may be made when there is an insufficient ~~certificate of eligibles-referred list~~ or no established ~~register-eligible list~~. Temporary provisional appointees must meet the minimum qualifications for the class of positions to which appointed. A temporary provisional appointment may not be renewed and no person can receive more than one (1) temporary provisional appointment in a twelve (12) month period. Temporary provisional appointments do not require the use of ~~certificates or lists-eligible lists~~.
- (3) Emergency Appointment. An emergency appointment is an appointment to a full-time career service position for a period of service not to exceed one hundred twenty (120) days and may be made when conditions exist that necessitate an immediate short term appointment. Emergency appointees must meet the minimum qualifications for the class of positions to which appointed. An emergency appointment may not be renewed and no person may receive more than one (1) emergency appointment in a twelve (12) month period. Emergency appointments do not require the use of ~~certificates or lists-eligible lists~~. Time served in an emergency appointment does not constitute creditable service for sick and annual leave accrual or service credit except for the purpose of longevity payments. Emergency appointments are not eligible for participation in the state insurance plan, but may be eligible for participation in the Tennessee Consolidated Retirement System (TCRS) as outlined in TCRS rules and policies.
- (4) Interim Appointment. ~~An interim appointment is an appointment to a full-time career service position for a period of service not to exceed one (1) year. The names of interim appointees must appear on the register for the class of positions to which appointed. The appointing authority may grant the employee a regular appointment in the position using the certificate of eligibles from which the interim appointment was made, provided:~~ Based on written justification submitted by an appointing authority, the Commissioner may approve an interim appointment to a full-time career service position for a period not to exceed one (1) year. Based on written justification submitted by an appointing authority, the Commissioner may approve, up to a one (1) year extension, after determining that such an extension is in the best interest of the State.

To be eligible for an interim appointment, the employee must meet the minimum qualifications for the job classification to which the employee is appointed. If the interim appointment is made using a referred list, the appointing authority may grant the employee a regular appointment in the position using the referred list from which the interim appointment was made, provided:

- (a) ~~the employee was within the original top five (5) eligibles on an employment certificate or the original top three (3) eligibles on a promotional certificate~~ a referred list,
- (b) ~~the rules for contacting eligibles were followed and eligible applicants on the register~~ eligible list at the time of the interim appointment were notified that the interim appointment could change to a regular appointment at a later time.
- (5) Seasonal Appointment. Seasonal appointments may be made to seasonal positions in the executive service. Seasonal appointments do not require the use of ~~certificates or eligible~~ lists.
- (6) Temporary Appointment. A temporary appointment is an appointment to an executive service position for a limited period, usually less than six (6) months, and does not. ~~Temporary appointments do not require the use of certificates or eligible~~ lists.
- (7) Limited-Term Appointment. The governor, the governor's cabinet, and members of boards, commissions, agencies and authorities receive limited-term appointments pursuant to statute. Limited-term appointments do not require the use of ~~certificates or eligible~~ lists.

(8) Temporary Employment of Retired State Employees. Retired State employees may temporarily return under certain conditions as outlined in the temporary employment form obtained from the Retirement Division of the Treasury Department. The retired employee may accept employment with a covered employer for up to 120 days (900 hours for employees on a seven and a half (7.5) hour work day or 960 hours for employees on an eight (8) hour work day) during a twelve (12) month period.

~~(8)~~(9) Reemployment of Former State Career Employees. A former career service employee who separates from State government is eligible for reemployment without further examination or certification to any classification in which the employee formerly held career status or to any related classification to which the employee could have been demoted, reduced in rank or transferred without further examination or certification, provided the employee returns to the career service within three (3) years of the date of separation from State employment. The three (3) year reemployment eligibility period commences with the employee's separation from State government and expires three (3) years later, regardless of subsequent State employment. A former State government employee who obtains career status in a classification and holds the same career service classification in State government for five (5) or more years has permanent reemployment eligibility to that classification and to any related classification to which the employee could have been demoted, reduced in rank or transferred without further examination or certification. Permanent reemployment eligibility is based on an employee's cumulative periods of employment in classification and not on a continuous employment period.

Unless otherwise stated in statute, an appointing authority may reappoint a former career employee without further examination or certification under the following provisions:

- (a) Reappointment to any classification in which the employee formerly held career status or to any related classification to which the employee could have been demoted, reduced in rank, or transferred without further examination or certification, provided the employee returns to the career service within three (3) years of the date of separation from State employment. The three (3) year reemployment eligibility period commences with the employee's separation from State government and expires three (3) years later, regardless of subsequent State employment; or

- (b) A former career employee who obtained career status in a classification and held that same career service classification in State government for five (5) or more years has permanent reemployment eligibility to that classification and to any related classification to which the employee could have been demoted, reduced in rank, or transferred without further examination or certification. Permanent reemployment eligibility is based on an employee's cumulative periods of employment in classification and not on a continuous employment period.

Note that this Rule does not provide a right to reappointment for any employee. Any decision to reappoint a former career employee in accordance with this Rule is solely at the discretion of the appointing authority.

- ~~(9)~~(10) Reappointment of Current State Employees. Any State employee who is a current or former career service employee is eligible for appointment to any classification in which the employee formerly held career status or to any related classification to which the employee could have been demoted, reduced in rank or transferred without further examination or certification, provided the employee has not had a break in State government employment.

- ~~(10)~~(11) Appointments to Flexibly Staffed Positions. When a vacancy in a flexibly staffed position in the career service is to be filled, the Commissioner shall furnish the appropriate certificate of eligibles as requested by the appointing authority. Any eligible appointed to a flexibly staffed position from the certificate of eligibles for either the trainee or working level classification shall serve a period of probationary employment as prescribed by the Commissioner for the classification. During the last month of the probationary period the appointing authority shall certify to the Commissioner whether the employee has successfully completed the period of probationary employment and should therefore be made a career employee in the position in the working level classification without further examination or certification. The employee should be removed from the position if the probationary period has not been successfully completed. Such notification should be made in the same manner as prescribed for any other period of probationary employment. Appointments to Flex Class Positions. To fill the vacancy of a flex class position, the appointing authority must request from the Commissioner a referred list of applicants for either one of the trainee level classifications or the working level class. Any eligible appointed to a flex class position from the referred list for either the trainee or working level class shall serve a period of probationary employment as prescribed by the Commissioner for the classification. During the last month of the probationary period, the appointing authority shall certify to the Commissioner whether the employee has successfully completed the period of probationary employment and should, therefore, be made a career employee in the position in the working level classification without further examination or certification. The employee must be removed from the position if the probationary period has not been successfully completed. Such notification should be made in the same manner as prescribed for any other period of probationary employment.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-208, T.C.A. § 8-30-309, T.C.A. § 8-30-311, ~~T.C.A. § 8-30-312~~, ~~T.C.A. § 8-30-314~~, T.C.A. § 8-30-315, T.C.A. § 8-30-316, ~~and T.C.A. § 8-30-323~~, T.C.A. § 8-50-801, and T.C.A. § 8-50-802.

1120-2-~~11~~.13 PROBATIONARY PERIOD.

- (1) Purpose of the Probationary Period. The probationary period is an essential part of the employment process, and is used for the adjustment of an employee to a new position and to provide an employee with the opportunity to demonstrate ability to perform the job.
- (2) Probationary Period for the Career Service. For career service positions a probationary period of at least six months is required for all employees who receive regular appointments from a ~~certificate of eligibles referred list~~, and may be required at the discretion of the appointing authority for employees who receive regular appointments through reemployment, reappointment, demotion, voluntary

~~reduction in rank or interdepartmental transfers. An appointing authority also has discretion to impose a probationary period for employees who receive regular appointments through reemployment, reappointment, demotion, voluntary reduction in rank, or interdepartmental transfers.~~ The probationary period for a regular appointment may be reduced by the amount of time served in a temporary provisional, emergency or interim appointment provided the appointment is for the same appointing authority in the same class of positions and there is no break in service. Employees serving temporary provisional, emergency or interim appointments do not serve a probationary period. ~~Successful completion of a probationary period in a trainee classification in a flexibly staffed position satisfies the probationary period requirement necessary for career status in the working level classification.~~ Successful completion of a probationary period in a trainee, entry, or intermediate level classification satisfies the probationary period requirement necessary for career status when the position is deemed to be the working level classification.

- (3) Duration of the Probationary Period. A period of probation is completed at the close of business or shift on the day the employee end of the pay period during which the incumbent completes the number of months of probationary status required for the class of positions.
- (4) Initial Probationary Period. The initial probationary period is the first probationary period an employee serves served in a department or agency in a continuous period of employment pursuant prior to becoming a career employee in that agency.

An employee on initial probation may not be dismissed for cause relating to performance of duties before completion of one (1) month's service. Employees dismissed during their initial probationary period have neither right of appeal nor right of hearing. The appointing authority must submit a written reason for dismissal to the Commissioner. ~~The reason for dismissal must be submitted to the Commissioner in writing.~~ Initial probationary employees not terminated or otherwise removed from the classification by the end of the probationary period become career employees.

- (5) Subsequent Probationary Period. Any probationary periods served by an employee who holds career status in that agency are considered subsequent probations. ~~Probationary periods served under the same appointing authority after having career status in that agency are subsequent probations. Career employees serving subsequent probations have appeal rights but may be demoted to their former classification without right of appeal.~~ Career employees serving subsequent probations retain grievance rights except when demoted to their former classification. Employees serving a subsequent probationary period retain career status in the classification in which that status was most recently attained.
- (6) Promotion During Probation. The probationary period for the class of positions to which an employee on probation is promoted begins with the date of appointment to such higher classification. If the newly promoted employee was on initial probation at the time of promotion, the new probationary period will be considered to be the initial probationary period. ~~An employee on subsequent probation receiving a promotion to a class of positions under an appointing authority which constitutes the employee's first probationary period for that agency shall be placed on initial probation.~~ If the newly promoted employee was on initial probation at the time of promotion, the new probationary period will be considered to be the initial probationary period. An employee on subsequent probation who is promoted to a position in a different agency where they have not attained status will be placed on initial probation in that agency. Names of employees on initial probation will not appear on promotional lists.
- ~~(7) Probation for the Executive Service. Any applicant or employee receiving an appointment in the executive service shall not be required to serve a probationary period.~~
- (7) Work Test Period. The Commissioner may substitute a working test period in lieu of a written examination for any applicant with a disability, with input from the Division of Rehabilitation Services

and the Department of Human Services. Such test period shall be the same as the individual's established probationary period.

Authority: T.C.A. § 8-30-302, T.C.A. § 8-30-208, T.C.A. § 8-30-312, and T.C.A. § 8-30-314.

1120-2-~~12~~14 PROMOTIONS.

- (1) ~~Methods of Making Promotions. A vacancy in the career service may be filled by the promotion of a qualified employee with the approval of the Commissioner. Promotions between departments or agencies must be approved by the appointing authorities concerned. Promotions of employees to regular career service appointments will be made by a competitive process as determined by the Commissioner. Any employee who has been demoted or reduced in rank may, at the discretion of the appointing authority, and with the approval of the Commissioner, be promoted to a career service position in a classification without additional examination or certification if the employee was a career employee in that classification.~~
- (2) ~~Promotion by Competitive Examination. If it is determined by the Commissioner and the appointing authority to fill a vacancy by a promotional examination, such promotion will be made in accordance with the applicable provisions of 1120-2-08. The promotional certificate resulting from such examination will be established in accordance with the applicable provisions of 1120-2-06. The Commissioner and the appointing authority may fill a vacancy by a promotional examination. The promotional list resulting from such examination will be established in accordance with the applicable provisions of this Rule.~~
- (3) ~~Promotions in the Executive Service. An appointing authority may promote any qualified employee to a position in the executive service. Any applicant so promoted must meet all established minimum qualifications as determined by the appointing authority and approved by the Commissioner.~~

Authority: T.C.A. § 8-30-302, T.C.A. § 8-30-305, T.C.A. § 8-30-309, and T.C.A. § 8-30-311.

1120-2-~~13~~15 EMPLOYEE TRANSFER, LATERAL RECLASSIFICATION, DEMOTION AND REDUCTION IN RANK.

- (1) Transfer. A transfer is authorized in accordance with the following:
 - (a) ~~An appointing authority may transfer any employee from a position in one work unit to a position in the same classification in another work unit in the same agency with the approval of the Commissioner. An appointing authority may transfer an employee from one position to another position in the same classification in the same agency with the approval of the Commissioner.~~
 - (b) An employee may be transferred from a position in one agency to a position in the same classification in another agency with the approval of both appointing authorities and the Commissioner. ~~Such transfers may require the serving of an initial probationary period in the new agency at the discretion of the appointing authority.~~
 - (c) ~~No transfer can be approved from the executive service to the career service unless the employee is eligible for reemployment in the career service in the classification or is appointed from a certificate of eligibles. All transfers between agencies must be approved by the Commissioner. The Commissioner will not approve a transfer from the executive service to the career service unless the employee is eligible for reemployment in the career service in the classification or is appointed from a referred list.~~
- (2) Lateral Reclassification. A lateral reclassification is authorized in accordance with the following:

- (a) An appointing authority may laterally reclassify any qualified employee from ~~a one position in one work unit to a~~ to another position in another classification ~~in another work unit~~ in the same agency with the approval of the Commissioner.
- (b) ~~An A qualified~~ employee may be laterally reclassified from a position in one agency to a position in another classification in another agency with the approval of both appointing authorities and the Commissioner. ~~Such lateral reclassifications may require the serving of an initial probationary period in the new agency at the discretion of the appointing authority.~~
- (c) ~~No lateral reclassification can be approved from the executive service to the career service unless the employee is eligible for reemployment in the career service in the classification or is appointed from a certificate of eligibles. All lateral reclassifications between agencies must be approved by the Commissioner. The Commissioner will not approve a lateral reclassification from the executive service to the career service unless the employee is eligible for reemployment in the career service in the classification or is appointed from a referred list.~~
- (3) ~~Demotion. A career service employee may be demoted after written notice has been given the Commissioner and the employee at least ten (10) days prior to the effective date. A demotion may be made when the employee is unwilling or unable to render satisfactory service in the position held but is considered worthy of employment in a position of lower rank. A demoted employee may be required to serve a probationary period.~~

~~A demotion may require a salary reduction and the completion of an initial or subsequent probationary period. If the employee has previously held career status in the job classification demoted to in the same agency, the employee is not placed on probation. If the employee has not held career status in the job classification demoted to in the agency, the appointing authority may require a probationary period. If the employee changes agencies in the transaction, the new appointing authority may require an initial probationary period. Employees demoted to career service positions are not eligible to retain a salary rate above the top of the salary range for the new classification. With the approval of the Commissioner, an agency may demote an employee who has failed to render satisfactory service in the position held but is considered worthy of employment. The agency must meet any applicable minimum due process requirements and give the employee written notice prior to the effective date.~~

- (4) ~~Involuntary Reduction in Rank. An involuntary reduction in rank occurs when the position occupied by an employee has been or is about to be discontinued as a result of lack of funds, curtailment of work, abolishment, reclassification or agency reorganization. An involuntary reduction in rank is not considered a demotion.~~

~~Employees receiving an involuntary reduction in rank do not serve an additional probationary period. Under an involuntary reduction in rank an employee's salary may be reduced only to the top step of the salary range of the new job classification. Employees receiving involuntary reductions in rank may retain a salary rate above the salary range for the new job classification with the approval of the appointing authority and the Commissioner.~~

An involuntary reduction in rank occurs when the position occupied by an employee is affected by a reduction in force or in compliance with T.C.A. § 8-30-212. An involuntary reduction in rank is not a demotion.

Employees receiving an involuntary reduction in rank do not serve an additional probationary period. Under an involuntary reduction in rank, an employee's salary may be reduced only to the top step of the salary range of the new job classification unless otherwise specified by statute. Subject to budgetary limitations, employees receiving involuntary reductions in rank may retain a salary rate

above the salary range for the new job classification with the approval of the appointing authority and the Commissioner.

- (5) ~~Voluntary Reduction in Rank. A voluntary reduction in rank occurs when an employee requests assignment to a position of lower rank and the agency concurs. Such request may be based on dissatisfaction with the present position or a desire on the part of the employee for an occupational, geographic, or other change. A voluntary reduction in rank may require a salary reduction and a requirement for the completion of an initial or subsequent probationary period. A voluntary reduction in rank is not considered a demotion.~~ A voluntary reduction in rank occurs when an employee requests assignment to a position at a lower salary grade and the appointing authority concurs. A voluntary reduction in rank may require a salary reduction and a requirement for the completion of an initial or subsequent probationary period. A voluntary reduction in rank is not considered a demotion.

Generally, employees who receive a voluntary reduction in rank will have their salary reduced equivalent to one half (1/2) the difference between the salary grades of the new and the current classification. Employees who receive a voluntary reduction in rank must be paid within the salary range for the new classification even if this results in a salary reduction greater than one half (1/2) the difference between the salary grades of the new and the current classification.

Authority: T.C.A. § 8-30-214, T.C.A. § 8-30-318, and T.C.A. § 8-30-320.

1120-2-.14 16TENURE, EMPLOYEE RECLASSIFICATION, SUSPENSION AND SEPARATION.

- (1) ~~Tenure of Office. The service of career employees is contingent on both satisfactory conduct performance and satisfactory conduct performance. Satisfactory performance is evidenced by the employee's current performance evaluation. This provision, however, does not prevent the separation of layoff of an employee for lack of funds, lack of work, or abolishment of a position when made in accordance with a reduction in force plan approved by the Commissioner.~~
- (2) ~~Suspension. After giving written notice to the employee an appointing authority may suspend the employee without pay for disciplinary purposes for a period not to exceed thirty (30) calendar days in any twelve (12) month period. The appointing authority must file with the Commissioner a written statement of the cause for such action which will be made a part of the employee's personnel file. An appointing authority may suspend an employee with or without pay for a period greater than thirty (30) days pending the investigation or trial of any charges with prior approval of the Commissioner. An appointing authority must provide any applicable minimum due process requirements and give written notice before suspending a career employee without pay for disciplinary purposes. Cumulative suspensions without pay shall not exceed thirty (30) workdays in a twelve (12) month period. With approval of the Commissioner, an appointing authority may suspend an employee without pay for a period greater than thirty (30) workdays, pending an investigation or trial of any charges. The agency shall place a copy of the written notice of the suspension in the employee's human resources file.~~
- (3) ~~Layoff/Reduction-in-Force. After written notice to the Commissioner, An an appointing authority may implement a layoff/reduction in force, in accordance with the provisions of T.C.A. § 8-30-101, T.C.A. § 8-30-320 and T.C.A. § 8-30-322, as a result of lack of funds, curtailment of work, changes in organizational structure or abolishment or reclassification of positions. Performance evaluation ratings of employees affected by reductions in force and whose seniority calculations produce an order of layoff difference of less than one year will be considered as follows: employees whose most recent evaluation is good (3), superior (4), or exceptional (5) will be given preference over those whose most recent rating on record is an unacceptable (1) or marginal (2). Performance evaluation ratings of employees affected by reductions in force may be considered in determining the order of layoff only when the seniority calculations produce an order of layoff difference of less than one year.~~

- (4) Resignations. An employee who resigns may state the reasons in writing to the appointing authority. A copy of the resignation shall be forwarded by the appointing authority to the Commissioner. must be placed in the employee's human resources file.
- (5) Job Abandonment. ~~An employee who is absent from duty for more than three (3) consecutive business days without giving notice to the appointing authority or appropriate manager concerning the reason for such absence and without securing permission to be on leave, or who fails to report for duty or to the immediate supervisor or the appointing authority within two (2) business days after the expiration of any authorized leave of absence, absent unusual circumstances causing the employee's absence or preventing the employee's return, is considered as having resigned not in good standing.~~ Any employee who is absent from duty for more than three (3) consecutive work days without giving notice to the appointing authority or appropriate manager concerning the reason for such absence and without securing permission to be on leave, or who fails to report for duty to the immediate supervisor or the appointing authority within two (2) work days after the expiration of any authorized leave of absence, is considered as having resigned not in good standing, absent exigent circumstances causing the employee's absence or preventing the employee's return. A career employee who is designated resigned in accordance with these circumstances shall have the right to appeal such action through the grievance procedure and to be reviewed by the Commission.
- (6) Dismissal. ~~An appointing authority may dismiss a career employee for either unsatisfactory conduct or unsatisfactory performance.~~ An appointing authority may dismiss a career employee for either unsatisfactory performance or unsatisfactory conduct after ensuring minimum due process requirements are met. Executive service employees serve at the pleasure of the appointing authority.
- (7) Reemployment Recommendation. ~~Whenever an employee leaves State employment the appointing authority may make a recommendation concerning reemployment.~~ When an employee leaves state government, the appointing authority may make a recommendation concerning reemployment. All separating employees not recommended for reemployment must be informed in writing by the appointing authority of the recommendation and its effect on future employment in state service.

Authority: T.C.A. § 8-30-320, T.C.A. § 8-30-321, T.C.A. § 8-30-322, T.C.A. § 8-30-325, and T.C.A. § 8-30-326.

1120-2-~~15~~17 CERTIFICATION OF PAYROLLS.

- (1) Certification of Payrolls. ~~All payments for personal service to any person holding a position in the state service must be submitted by the appointing authority to the Commissioner, on the payroll form prescribed by the Commissioner and the Commissioner of Finance and Administration for approval and must bear the certification of the Commissioner before it may be honored by the Department of Finance and Administration. The Commissioner shall determine that the persons named on the payroll have been appointed or employed in accordance with the Act and applicable rules, and that the salary rate is in accordance with the compensation plan before certification of that payroll for payment.~~ All payments for personal service to any person holding a position in the state service must be submitted by the appointing authority to the Commissioner in a manner prescribed by the Commissioner and the Commissioner of Finance and Administration. The Commissioner must certify the payroll before it may be honored by the Department of Finance and Administration. The Commissioner shall determine that the persons named on the payroll have been appointed or employed in accordance with the Act and applicable rules, and that the salary rate is in accordance with the compensation plan before certification of that payroll for payment.
- (2) Refusal to Certify. If the Commissioner determines that a person on the payroll has not been appointed or paid in conformity with the provisions of the Act and these Rules, the Commissioner will refuse to certify payment for that employee the payroll on which the employee's name appears. If the Commissioner refuses to certify a name on the payroll, that name must be removed from the payroll

~~and the organizational unit notified of the action and the reason for the refusal. The payroll on which the name appears may then be certified if all additional persons have been appointed or paid in accordance with the provisions of these rules and the Act. The removal of a name or item from the payroll shall serve as official notification to the Department of Finance and Administration that the drawing, signing or issuing of any warrant by any disbursing officer of the state for the payment of salary or compensation to such person is unlawful.~~

- (3) Illegal Payments. Any appointing authority who appoints or employs any person in violation of the Act and these Rules may be required to pay the agreed upon salary. Any such amount so paid will not be reimbursed by the State.

Authority: ~~T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204,~~ T.C.A. § 8-30-216 and T.C.A. § 8-30-217.

1120-2-~~16~~,18 RECORDS AND REPORTS.

~~(1) Roster of State Employees. The Commissioner shall maintain a roster of all State service employees in such form deemed advisable, showing the name, title of position, organizational unit to which assigned, salary, changes in classification, pay or status, and such other data as may be desirable and pertinent.~~

~~(2) Other Records. The Commissioner will maintain other records necessary to carry out the intent and purpose of the Act and these rules, and cause to be maintained in each agency a personnel file on each active employee. These files are to be maintained in accordance with policy established by the Commissioner.~~

(1) Employee Records. The Commissioner will maintain employee records as necessary to carry out the intent and purpose of the Act and these Rules and cause to be maintained in each agency a human resources file on each active employee. These files shall be maintained in accordance with policy established by the Commissioner.

(2) Reports from Appointing Authorities. The appointing authorities will report to the Commissioner in a manner prescribed by the Commissioner all permanent changes in the status of employees under their jurisdiction. Upon request, the appointing authorities may also be required to make other reports regarding their employees to the Commissioner.

~~(3) Reports from Appointing Authorities. The appointing authorities will report to the Commissioner in a manner prescribed by the Commissioner all permanent changes in the status of employees under their jurisdiction. The appointing authorities may also be required to make other reports regarding the employees under their jurisdiction by the Commissioner.~~

~~(4)(3) Investigations. The Commissioner has the right of the records, books, papers and other documents of any organizational unit pertinent to any investigation which may be necessary or which the Governor or the Commission may direct to be conducted.~~

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203 and T.C.A. § 10-7-504 ~~8-30-204~~.

1120-2-17 ADOPTION AND AMENDMENT OF POLICIES AND PROCEDURES. The Commissioner shall establish such policy and procedure necessary to carry out the provisions of these rules.

Authority: T.C.A. § 8-30-201, T.C.A. § 8-30-202, T.C.A. § 8-30-203 and T.C.A. § 8-30-204.

**RULES
OF THE
TENNESSEE DEPARTMENT OF ~~PERSONNEL~~ HUMAN RESOURCES**

**Chapter 1120-3
POSITION CLASSIFICATION**

TABLE OF CONTENTS

1120-3-.01 Purpose	1120-3-.05 Classification and Evaluation
1120-3-.02 Position Classification	Method
1120-3-.03 Classification Plan	1120-3-.06 Use of Classification Titles
1120-3-.04 Classification Specifications	1120-3-.07 Position Classification Actions

<u>1120-3-.01</u> Creating a Classification Plan	<u>1120-3-.04</u> Use of Classification Titles
<u>1120-3-.02</u> Classification Plan	<u>1120-3-.05</u> Position Classification Actions
<u>1120-3-.03</u> Classification Specifications	

~~**1120-3-.01 PURPOSE.** To establish rules concerning position classification and the classification plan.~~

~~**Authority:** T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-209 and T.C.A. § 8-30-224.~~

~~**1120-3-.02 POSITION CLASSIFICATION.** Position classification is the grouping of individual positions for the purpose of administrative action. Positions are grouped on the basis of similarity of duties, authority and responsibilities assigned, such that the same rates of pay and tests of fitness may be applied to all positions placed in the classification.~~

~~**Authority:** T.C.A. § 8-30-202, T.C.A. § 8-30-203 and T.C.A. § 8-30-204.~~

1120-3-.01 CREATING A CLASSIFICATION PLAN. The Department will create a classification plan, which groups positions sufficiently alike in duties, authority, and responsibilities such that the same general qualifications may reasonably be required and the same schedule of pay equitably applied to all positions in the group.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, and T.C.A. § 8-30-209.

1120-3-.03.02 CLASSIFICATION PLAN. The classification plan established and maintained by the Commissioner, in consultation with the appointing authorities, is a compilation of the officially authorized classes of positions for the state service. The plan contains the classification specification for each classification in the career service which may be subdivided, grouped, or ranked as deemed proper by the Commissioner., and a statement of the factors and definitions of those factors used in position classification and job evaluation in the career service. The classification plan, as recommended by the Commissioner, shall take effect when approved by the Governor, or on the thirtieth (30th) day after it is recommended to the Governor, if prior to that time it has not been disapproved by him.

Authority: T.C.A. § 8-30-209.

~~1120-3-04 CLASSIFICATION SPECIFICATIONS.~~ Classification specifications for the career service include the following:

- ~~(1) Classification Title.~~ The classification title should be brief, descriptive, and consistent with other titles in the plan
- ~~(2) Summary or Definition.~~ A brief description of the classification.
- ~~(3) Distinguishing Features.~~ A brief description of the primary features that distinguish the classification from other classifications.
- ~~(4) Examples of Duties and Responsibilities.~~ A synopsis of the major duties, authority, and responsibilities typically assigned to positions of the classification. Such examples should not be construed as declaring the extent of the duties, authority, and responsibilities of any position, or be interpreted as limiting or restricting the power of the appointing authority to assign, direct, or control employees under his supervision
- ~~(5) Minimum Qualifications.~~ A statement of the minimum requirements of training, education and experience, and any special requirements necessary to qualify for examination or consideration for appointment. The minimum qualifications should include the amount and kind of training, education, and experience required and the type and grade of work within each occupation including the basis and limits of substitutions of additional experience for education and of education for experience where applicable. For appointments in the career service, minimum qualifications represent a standard which must be met when the position is filled. For appointments in the executive service, minimum qualifications are a guide the appointing authority may follow in filling positions.
- ~~(6) Examination Method.~~ A description of the examination method or methods used in filling positions which may include written tests, evaluations of education and/or experience, performance tests, interviews, and other methods deemed appropriate by the Commissioner.

Authority: T.C.A. § 8-30-209.

~~1120-3-05 CLASSIFICATION AND EVALUATION METHOD.~~ Positions in the career service will be classified according to their assigned duties, authority, and responsibilities using methods of position classification and job evaluation prescribed by the Commissioner.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203 and T.C.A. § 8-30-204.

1120-3-03 CLASSIFICATION SPECIFICATIONS. Classification specifications for the career service include the following:

- (1) classification title;
- (2) summary;
- (3) distinguishing features;
- (4) examples of duties and responsibilities;
- (5) minimum qualifications;
- (6) necessary special qualifications; and
- (7) examination method.

Authority: T.C.A. § 8-30-209.

1120-3-06.04 USE OF CLASSIFICATION TITLES. The classification titles in the classification plan are used to designate all positions in the state service in all official records, vouchers, and communications concerning those positions. No person shall be appointed to, or employed in, a position in state service under a class title which has not been approved by the Commissioner. This requirement does not preclude the use of working titles by employees in those positions where the use of working titles is helpful in the employee's performance of duties, authority, and responsibilities as authorized by the employee's appointing authority.

Authority: T.C.A. § 8-30-213.

1120-3-07.05 POSITION CLASSIFICATION ACTIONS.

- ~~(1) All positions in the State service must be placed in a classification in the classification plan. Any new position established in the State service must be placed into an approved classification, and if no classification exists in which the new position may be properly placed, a new classification will be established in the classification plan.~~
- ~~(2) If an appointing authority makes a permanent change in any significant duties, authority, or responsibilities assigned to a position, such appointing authority must notify the Commissioner of the change in a manner prescribed by the Commissioner to determine if reclassification of the position to a different classification in the classification plan is necessary.~~
- ~~(3) If a change in assigned duties, authority, and responsibilities results in the position being reclassified, the incumbent in the position shall not be deemed eligible to continue unless the incumbent is eligible for original appointment, reappointment, promotion, mismatch, reclassification or reduction in rank to a position in the new classification at the time the position is reclassified. If ineligible to continue in the position, the incumbent may be transferred, reclassified or separated by appropriate action in accordance with the provisions of these rules and the Act.~~
- ~~(4) The Commissioner may make additions, deletions, and changes to the classification plan as the kind and nature of work performed in the State service changes and such changes require new classifications, changes to existing classifications, or classifications become obsolete. If a career service classification is changed due to a modification in the structure of the classification plan, positions are reallocated. The incumbents in positions that are reallocated may continue in the revised classification without further examination or certification and with no change in employment status.~~
- ~~(5) If a position is abolished which results in a career service employee being laid off and a new position is then reestablished with the same or essentially similar duties within one hundred and twenty (120) days of the date of the layoff, the career service employee must be appointed to the newly created position.~~
- (1) If an appointing authority makes a significant or permanent change to the duties, authority, and/or responsibilities assigned to a position, the appointing authority should notify the Commissioner so that the Commissioner can determine if a position reclassification is necessary. If no appropriate classification exists, the Commissioner may establish a new classification.
- (2) If a change in assigned duties, authority, and responsibilities results in reclassification of the position, the employee in the position must be certified as eligible on a civil service eligible list and meet all requirements for an original appointment, reappointment, promotion, mismatch, reclassification, or reduction in rank. If ineligible to continue in the position, the employee must be transferred, reclassified or separated by appropriate action in accordance with the provisions of these Rules and the Act.
- (3) The Commissioner may make changes to the classification plan as necessary to reflect changes to the duties, authority, or responsibilities of a job classification. If a career service classification is changed due to a modification in the structure of the classification plan, positions are reallocated. Employees who have attained career status in the reallocated positions may continue in those positions without

further examination or certification. Those employees who do not have career status must meet the minimum qualifications of the new classification and must appear on a referred list.

- (4) If a position is abolished which results in a career employee being laid off and a new position is then reestablished with the same or essentially similar duties within two (2) years of the date of the layoff, the career employee shall be offered the newly established position without further competition.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-210, T.C.A. § 8-30-211, T.C.A. § 8-30-212, and T.C.A. § 8-30-320.

**RULES
OF THE
TENNESSEE DEPARTMENT OF ~~PERSONNEL~~ HUMAN RESOURCES**

**Chapter 1120-4
CASH COMPENSATION**

TABLE OF CONTENTS

1120-4-.01	Purpose	1120-4-.12	Salary Grade Adjustments
1120-4-.02	Preparation of the Compensation Plan	1120-4-.13	Certified Professional Secretary Examination
1120-4-.03	Changes to the Compensation Plan		
1120-4-.04	Appointments	1120-4-.14	Merit Pay
1120-4-.05	Promotions	1120-4-.15	Longevity
1120-4-.06	Demotions	1120-4-.16	Salary Step Adjustments
1120-4-.07	Involuntary Reduction in Rank	1120-4-.17	Salary Differentials
1120-4-.08	Voluntary Reduction in Rank	1120-4-.18	Assigning Duties of a Higher Level Classification
1120-4-.09	Transfer and Lateral Reclassification		
1120-4-.10	Reappointments and Reemployments	1120-4-.19	Executive Grade Compensation Plan
1120-4-.11	Red Circle Pay Rates		

1120-4-.01	The Compensation Plan	1120-4-.10	Salary Grade Adjustments
1120-4-.02	Changes to the Compensation Plan	1120-4-.11	Salary Increases for Obtaining Professional Certification
1120-4-.03	Appointments		
1120-4-.04	Promotions	1120-4-.12	Longevity
1120-4-.05	Demotions	1120-4-.13	Merit Pay or Salary Step Adjustments
1120-4-.06	Involuntary Reduction in Rank	1120-4-.14	Salary Differentials
1120-4-.07	Voluntary Reduction in Rank	1120-4-.15	Assigning Duties of a Higher Level Classification
1120-4-.08	Employee Transfer and Lateral Reclassification	1120-4-.16	Fair Labor Standards Act
1120-4-.09	Rates Above Specified Salary Range		

~~1120-4-.01 PURPOSE. To establish rules concerning salaries paid for classes of positions in the career service and to provide rules for the salary rates of career service employees.~~

~~Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204 and T.C.A. § 8-30-224.~~

~~1120-4-.02.01 PREPARATION OF THE COMPENSATION PLAN. The Commissioner will prepare a comprehensive compensation plan for all classes of positions in the state service. The plan will be developed after consultation with appointing authorities and will take into consideration the State's financial condition and fiscal policies, experience in recruiting and retaining employees for positions in the state service, the prevailing rates of pay for services performed and for comparable services in of similar kind and quality in public and private employment within the State and outside the State, living costs, maintenance, and other benefits received by employees.~~

~~Authority: T.C.A. § 8-30-202 and T.C.A. § 8-30-214.~~

~~1120-4-.03.02 CHANGES TO THE COMPENSATION PLAN. The Commissioner will, as needed, periodically review the ability of the state to recruit and retain employees for the classes of positions in the state service and may also will periodically survey prevailing rates of pay, both within and outside the state.~~

~~The Commissioner may also, and may~~ make such changes to the compensation plan as the reviews and surveys indicate are prudent. ~~These changes are subject to budgetary limitations and as approved by the approval of the Commissioner of Finance and Administration, and to budgetary limitations.~~

Authority: T.C.A. § 8-30-202 and T.C.A. § 8-30-214.

1120-4-04.03 APPOINTMENTS. The minimum rate of pay in the applicable salary range ~~should be the represents the typical entry entrance~~ rate payable to a person on first appointment to a position in the classification. However, the Commissioner may authorize appointments above the range minimum first step when experience in recruiting and retaining employees for the classification or prevailing salary market data indicate persons are not available at lower rates or when appointing persons exceptionally qualified for the position including reappointments.

Authority: T.C.A. §8-30-202, T.C.A. §8-30-203, T.C.A. §8-30-204 and T.C.A. §8-30-214.

1120-4-06.04 PROMOTIONS. An employee who is promoted, ~~as defined elsewhere in these rules,~~ may receive a promotional salary increase equivalent to one half (1/2) the difference between the salary grades of the current and the new classification, provided however, that no employee may be paid at a rate less than the first step range minimum in the salary range for the new classification and that no career employee shall receive a promotional salary increase which exceeds the top step range maximum in the salary range for the new classification. Employees may receive promotional increases of greater or lesser amounts upon recommendation of the appointing authority, subject to the approval of the Commissioner and budgetary limitations. The Commissioner shall establish a policy regarding promotions in flexibly-staffed positions. ~~Employees moving from the trainee level to the working level classification in a flexibly staffed position may receive salary increases in accordance with this rule sub-section.~~

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204 and T.C.A. § 8-30-214.

1120-4-06.05 DEMOTIONS. An employee who is demoted, ~~as defined elsewhere in these rules,~~ may receive a salary reduction equivalent to one half (1/2) the difference between the salary grades of the current and the new classifications. Employees who are demoted must be paid within the salary range for the new classification even if this results in a salary reduction greater than one half (1/2) the difference between the salary grades of the current and the new classification. Demoted employees may receive salary reductions of greater or lesser amount upon recommendation of the appointing authority, subject to the approval of the Commissioner, and to budgetary limitations.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-214 and T.C.A. § 8-30-318.

110-4-07.06 INVOLUNTARY REDUCTION IN RANK. Unless otherwise specified by law, the Commissioner may approve an appointing authority's recommendation that an employee who receives an involuntary reduction in rank ~~An employee who receives an involuntary reduction in rank may be paid at a rate above the maximum rate of the salary range for the new classification, upon recommendation of the appointing authority with the approval of the Commissioner, or the employee's salary may be reduced to the top step of the salary range for the new classification.~~ Unless otherwise specified by law, the ~~The~~ salary of an employee who receives an involuntary reduction in rank may not be reduced if it falls within the salary range of the lower classification.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-214, ~~and~~ T.C.A. § 8-30-318 and T.C.A. § 8-30-320.

1120-4-08.07 VOLUNTARY REDUCTION IN RANK. ~~An employee who receives a voluntary reduction in rank may be paid at a rate above the maximum rate for the new classification upon recommendation of the appointing authority with the approval of the Commissioner. The salary of an employee who receives a voluntary reduction in rank may also be reduced upon recommendation of the appointing authority with the approval of the Commissioner. An employee voluntarily reduced in rank typically experiences a reduction in salary in accordance with established policy.~~

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-214 and T.C.A. § 8-30-318.

1120-4-09.08 EMPLOYEE TRANSFER AND LATERAL RECLASSIFICATION. An employee who is transferred or laterally reclassified does not receive a salary change as a result of such action.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-214 and T.C.A. § 8-30-318.

~~**1120-4-10 REAPPOINTMENTS AND REEMPLOYMENTS.** An employee who is reappointed or reemployed may have his salary placed at any step in the salary range applicable to the classification to which he is reappointed or reemployed with the approval of the Commissioner.~~

~~**Authority:** T.C.A. § 8-30-214.~~

1120-4-11 RED CIRCLE PAY RATES.09. RATES ABOVE SPECIFIED SALARY RANGE. Employees who ~~receive a reduction in rank or~~ who receive other salary adjustments required by law or who receive salary differentials authorized by these Rules may be paid at a salary rate higher than the maximum of the salary range of their classification. Employees who receive a reduction in rank may have a salary rate above the maximum if recommended by the appointing authority and approved by the Commissioner. Such employees ~~Employees in red circle pay status~~ are eligible for longevity pay and other increases as specified by law or rule.

Authority: T.C.A. § 8-30-214.

~~**1120-4-12.10 SALARY GRADE ADJUSTMENTS.** The Commissioner, with the approval of the Commissioner of Finance and Administration, may make adjustments to the salary grade to which classifications are assigned based on changes in the duties, authority and responsibilities assigned and/or on studies of recruiting and retaining employees in such classification and of prevailing rates in the public and private sector for work of similar kind and nature. Any employee whose salary rate is below the minimum rate for the new salary range to which his classification is reassigned will have his salary adjusted at least to the new minimum rate. Any employee whose salary rate is above the new maximum for the new salary range for his reassigned classification is eligible for red circle pay status subject to the recommendation of the appointing authority, the approval of the Commissioner, and budgetary limitations. Nothing in this section should be construed as precluding the Commissioner from making similar or corresponding adjustments to the salary rates of employees within such reassigned salary ranges subject to the approval of the Commissioner of Finance and Administration and to budgetary limitations.~~

Any employee in a classification for which the salary range is raised shall receive a salary increase in accordance with the promotional salary increase policy as defined elsewhere in these rules. Any employee in a classification for which the salary range is lowered shall receive the same salary considerations as an

~~employee who receives an involuntary reduction in rank and is subject to the same recommendations, approvals, and limitations.~~

The Commissioner may adjust the salary grades of classifications to recognize changes in the duties, responsibilities, and authority. The Commissioner may also establish new salary ranges as a result of a competitive market analysis or a study focusing on recruiting and retaining employees in specific job classifications. The salary grade changes are subject to budgetary limitations and approval by the Commissioner of Finance and Administration. Any employee whose salary is below the minimum of the new salary range will be adjusted at least to the new minimum. Any employee whose salary is above the maximum of the new salary range will not receive an increase. Based on the appointing authority's written justification, the Commissioner may waive the reduction in salary of an employee whose salary is above the maximum of the new salary range.

Employees in classifications receiving a salary grade increase shall receive a salary increase in accordance with the promotional policy as defined in these Rules. Employees in classes receiving a salary grade decrease shall receive the same salary considerations as employees who receive an involuntary reduction in rank.

Authority: T.C.A. § 8-30-212 and T.C.A. § 8-30-214.

1120-4-.13.11 SALARY INCREASES FOR OBTAINING PROFESSIONAL CERTIFICATION—CERTIFIED PROFESSIONAL SECRETARY EXAMINATION. ~~Any clerical-secretarial or clerical-management employee in the State service who passes all parts of the Certified Professional Secretary Examination sponsored by the National Secretaries Association will be granted a two-step salary increase independent of all other salary considerations. Any employee who obtains a nationally recognized professional certification within their occupational field may be eligible for a salary increase as approved by both the Commissioner and the Commissioner of Finance and Administration. Any clerical-secretarial or clerical-management employee in the state service who passes all parts of either the Certified Professional Secretary Examination or the Certified Administrative Professional Examination, sponsored by the International Association of Administrative Professionals will be granted the salary increase prescribed by law.~~

Authority: T.C.A. § 8-50-102.

1120-4-.14 MERIT PAY.

- ~~(1) Merit pay, in the form of salary step adjustments or lump sum performance bonuses, may be awarded on the basis of job performance or other merit factors and cannot be awarded on the basis of race, sex, religion, age, national origin, political affiliation, or other non-merit factor.~~
- ~~(2) The evaluation of job performance will be made according to objective, measurable criteria and/or observable behavioral criteria as developed in the Tennessee Job Performance Planning and Evaluation System which recognizes above average performance, helps improve efficiency, and encourages participation in programs which improve job performance and skills. Each employee in a budgeted merit pay program is automatically placed under consideration for merit pay at least once during a specified period of time, and the appointing authority will provide written justification for denial of merit pay for any employee under such automatic consideration along with specific written suggestions by such authority for employee actions to avoid future denials of merit pay.~~
- ~~(3) Performance bonuses in the form of lump sum awards, subject to the same deductions and credits as longevity payments, may be made in amounts and according to schedules prescribed by the Commissioner subject to the approval of the Commissioner of Finance and Administration and to budgetary limitations.~~

(4) Extraordinary salary step increases may be awarded for extraordinary job performance upon recommendation of the appointing authority, subject to the approval of the Commissioner and to budgetary limitations.

Authority: T.C.A. § 8-30-214.

1120-4-15.12 LONGEVITY. Longevity is a lump sum payment intended to reward employees for service to the state and to encourage those employees to remain employed by the state. ~~All full-time employees employed with one or more agencies, departments, offices, or other subdivisions of the Executive, Judicial, or Legislative branches of the State for thirty-six (36) months or more are eligible for longevity pay. Full-time employees who have prior part-time service consisting of a least a 1600-hour annual schedule shall receive longevity credit for each month of such part-time service in which the employee was scheduled to work a full month and actually work one-tenth of one hour more than half the schedule. Full-time employees with thirty-six (36) months of service shall receive payment for prior part-time hourly service if the length of such part-time service is equivalent to not less than five (5) years of full-time service. Additionally, any part-time employee who is retired from State government, and while so employed full-time did not receive a longevity bonus, and is employed on a regular but part-time basis is eligible for longevity pay based on his years of creditable service prior to retirement plus his total part-time employment after retirement payable based on his service anniversary date in each year in which he is employed part-time. The Commissioner shall establish a policy concerning the calculation and payment of longevity.~~

~~The maximum benefit is for twenty-five (25) years of service. Within the State service, active full-time service, employees eligible to accrue leave under T.C.A. 8-50-801 and T.C.A. 8-50-802 (1600-hour employees), Board of Claims time, paid educational leave and authorized unpaid military leave are creditable toward longevity. Time served in part-time status, other than as described above, sick leave bank, or leave without pay is not creditable toward longevity.~~

~~Persons in the following categories are not eligible for longevity payments: Officials popularly elected to fixed terms in office including the Governor, judges, members of the General Assembly, and the Public Service Commissioners; persons receiving automatic annual raises under the provisions of T.C.A. 8-7-201 or otherwise; persons covered by the provisions of T.C.A. 4-7-111; employees of the Tennessee Bureau of Investigation covered by the provisions of T.C.A. 4-7-111; and State employee teachers who are paid based on local teacher pay scales which increase based on years of experience.~~

~~Employees are first eligible for longevity at the completion of thirty-six (36) months of creditable State service. Longevity is paid in a separate check on the payday at the end of the month next following the completion of a creditable year of State service which constitutes the employee's longevity anniversary date. Employees on terminal leave, paid educational leave, or Board of Claims leave are eligible to receive the payment on their longevity anniversary date.~~

~~Former State employees who return to State service are credited with all prior creditable service. They are eligible for longevity upon the completion of the next full year of creditable service including all months in excess of a whole year of creditable prior service. For example, an employee with four years and nine months of creditable prior service will be eligible for longevity upon the completion of three more months of creditable service. Persons who have been in continuous employment since October 1, 1979, and who had fifteen (15) years or more of creditable State service at that time, have a longevity anniversary date of September 1 and receive their longevity checks on the end of September payday.~~

Authority: T.C.A. § 8-23-206.

1120-4-13 MERIT PAY OR SALARY STEP ADJUSTMENTS. Career employees may be eligible for a program of periodic salary step adjustments subject to the availability of funds as provided in the general

appropriations act for each fiscal year. Nothing in this subsection shall be construed to preclude salary increases for employees in the executive service.

If such merit pay or salary step adjustments are funded, the Department will establish guidelines pursuant to T.C.A. §8-30-214 and make such guidelines available for public inspection.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, and T.C.A. § 8-30-214.

~~**1120-4-16 SALARY STEP ADJUSTMENTS.** Career service employees shall be eligible for a program of periodic salary step adjustments. Under the program, each career service employee in steps one through nine of the salary range for his class of positions, who has at least one year of continuous State service as of July 1 of each fiscal year, shall be eligible for a one step salary increase. A career service employee who is at step ten or above of the salary range for his class of positions shall not be eligible for a one step salary increase under the program. Career service employees who achieve one year of continuous state service during a fiscal year shall be eligible for a one step salary increase upon completion of that one year of continuous State service. All salary step increases under this program are contingent upon satisfactory job performance and are subject to budgetary limitations. Nothing in this subsection shall be construed to preclude salary increases for employees in the executive service.~~

~~Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204 and T.C.A. § 8-30-214.~~

1120-4-17.14 SALARY DIFFERENTIALS. The Commissioner, in consultation with appointing authorities, and the Commissioner of Finance and Administration, may approve programs of salary differentials. In approving such plans, the Commissioner shall specify the terms and conditions under which such differentials may be paid.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203 and T.C.A. § 8-30-204.

~~**1120-4-18.15 ASSIGNING DUTIES OF A HIGHER LEVEL CLASSIFICATION.** No career service employee shall be assigned to perform the majority of the duties and responsibilities of a position in a higher level classification without the approval of the appointing authority. When an employee is so assigned, the duration cannot exceed ninety (90) days without the approval of the Commissioner. The total length of the assignment will be limited to a period of twelve (12) months. from the time the appointing authority initially approves the assignment and it is put into effect.~~

An affected employee must be compensated for all time spent performing these higher level duties after the initial ninety (90) days. Compensation for performing these duties shall be in accordance with the standard promotional pay policy and is effective on the ninety-first (91st) day of the assignment. ~~Compensation awarded under this section shall be subject to budgetary limitations.~~

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204 and T.C.A. § 8-30-224.

~~**1120-4-19 EXECUTIVE GRADE COMPENSATION PLAN.** The Commissioner shall designate those classifications which are executive grade and, therefore, receive no compensatory overtime or cash overtime payments.~~

~~Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203 and T.C.A. § 8-30-204.~~

1120-4-16 FAIR LABOR STANDARDS ACT. The Commissioner, in compliance with the Fair Labor Standards Act, shall designate the classifications which receive cash overtime, classifications which receive compensatory overtime, and classifications which receive no overtime.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, and T.C.A. § 8-30-204.

**RULES
OF THE
TENNESSEE DEPARTMENT OF PERSONNEL HUMAN RESOURCES**

**Chapter 1120-5
JOB PERFORMANCE PLANNING AND EVALUATION**

TABLE OF CONTENTS

1120-5-.01 Purpose	1120-5-.06 Use in Making Personnel Decisions
1120-5-.02 Evaluation Periods	1120-5-.07 Records
1120-5-.03 Employees to be Evaluated	1120-5-.08 Training
1120-5-.04 Evaluation Forms	1120-5-.09 Appeal
1120-5-.05 Evaluation Process	
<u>1120-5-.01</u> Evaluations	<u>1120-5-.05</u> Records
<u>1120-5-.02</u> Employees to be Evaluated	<u>1120-5-.06</u> Training
<u>1120-5-.03</u> Evaluation Process	<u>1120-5-.07</u> Appeal
<u>1120-5-.04</u> Use in Making Human Resources Decisions	

~~**1120-5-.01 PURPOSE.** To promote employee development, enhance employee productivity, serve as a basis for sound personnel decisions, and provide a permanent record of the performance of major job duties and responsibilities for employees in the State service.~~

~~**Authority:** T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204 and T.C.A. § 8-30-319.~~

~~**1120-5-.02.01 EVALUATIONS PERIODS.** Formal written evaluations of the performance of major job duties and responsibilities for all employees, except as noted below, will be provided to the Department on dates and forms prescribed by the Commissioner. Each agency shall provide formal written evaluations of the performance of major job duties and responsibilities for all employees, except as noted below, on dates and in such manner as prescribed by the Commissioner.~~

~~**Authority:** T.C.A. § 8-30-319.~~

~~**1120-5-.03.02 EMPLOYEES TO BE EVALUATED.** The performance of all employees in the state service will be evaluated in a manner subject to this Rule, except for:~~

- ~~(1) Seasonal employees;~~
- ~~(2) Part-time employees;~~
- ~~(3) Limited term employees;~~
- ~~(4) Temporary employees;~~
- ~~(5) Employees of the Governor's Office;~~
- ~~(6) Deputy Commissioners, Assistant Commissioners and employees in equivalent positions;~~
- ~~(7) Emergency employees;~~
- ~~(8) Temporary provisional employees;~~
- ~~(9) Interim employees; and~~
- ~~(10) Executive service employees.~~

~~**Authority:** T.C.A. § 8-30-319.~~

~~1120-5-.04 EVALUATION FORMS.~~ Evaluations shall be recorded on forms prescribed by the Commissioner.

~~Authority: T.C.A. § 8-30-319.~~

~~1120-5-.05.03 EVALUATION PROCESS.~~ The performance evaluation process will be carried out in a manner prescribed by the Commissioner, including An agency shall conduct, at a minimum, the following evaluation process:

- ~~(1) An initial discussion between the supervisor and the employee for the purpose of explaining and clarifying the performance evaluation process, major job duties and responsibilities for which performance will be assessed, and the performance necessary to maintain or achieve a high rating.~~
- ~~(2) Periodic reviews of job performance to provide constructive performance feedback, discuss means of enhancing performance and, if appropriate, to discuss the consequences of mediocre or unsatisfactory performance.~~
- ~~(3) A formal written assessment of the employee's performance which provides the employee with the opportunity to agree or disagree and comment upon the assessment.~~
- ~~(4) A managerial review of the evaluation of each employee by an appropriate manager, designated by the appointing authority, confirming that the evaluation process has been properly completed and appropriately and logically described., including the initial discussion described in (1) above, periodic reviews described in (2) above, and formal written assessment of the employee's performance in which the assessments and conclusions drawn from the assessments are appropriately and logically described and reflected in the overall evaluation of the employee's job performance.~~
- ~~(5) A review of the formal written evaluation of each employee by the appointing authority or designee, which when signed, becomes the official record of the performance of the major job duties and responsibilities of the employee. This evaluation will be recorded and used in making personnel decisions as described below.~~

~~Authority: T.C.A. § 8-30-319.~~

~~1120-5-.06.04 USE IN MAKING PERSONNEL HUMAN RESOURCES DECISIONS.~~ In a manner prescribed by the Commissioner, when When employee performance of major job duties, authority and responsibilities is deemed to be a relevant factor in determining eligibility to compete in promotional examinations, satisfactory or unsatisfactory completion of a probationary period, eligibility to receive merit pay or lump sum performance bonuses, or as a factor in layoffs, demotions, suspensions or dismissals, the performance evaluation described in this Rule will be the evaluation serving as the basis for such decisions. Nothing in this Rule ~~chapter~~ should be construed to imply that performance of major job duties and responsibilities as evaluated in the job performance planning and evaluation system is the only relevant factor that may be used in making the decisions described in this Rule ~~subsection~~.

~~Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-214, T.C.A. § 8-30-304, T.C.A. § 8-30-314, T.C.A. § 8-30-319, T.C.A. § 8-30-320, T.C.A. § 8-30-325, and T.C.A. § 8-30-326.~~

~~1120-5-.07.05 RECORDS.~~ The written evaluations of each employee will be returned by the Commissioner to the appointing authority, who shall retain the original written evaluation in the permanent personnel file of each employee. The Commissioner will retain a record of employee' s current performance evaluations in

~~the information system of the Department. Each agency shall record the formal evaluation of each employee in that employee's human resources file in a manner prescribed by the Commissioner.~~

Authority: T.C.A. § 8-30-319.

~~**1120-5-08_06 TRAINING.** Persons responsible for conducting and/or reviewing the performance evaluation of any employee shall complete a training program specified by the Commissioner. The appointing authority shall ensure that persons responsible for conducting and/or reviewing the performance evaluation of any employee have completed a training program specified by the Commissioner.~~

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, and T.C.A. § 8-30-204.

~~**1120-5-09_07 APPEAL.** Any regular or permanent state employee shall have the opportunity to grieve any final performance evaluation when Department of Personnel procedures have been violated to the extent that the evaluation is unfair or inaccurate. Such grievance shall be filed in accordance with the Rules but the final step will be limited to Step IV, the appointing authority. Upon request an additional review may be conducted by the Commissioner, whose decision shall be final. An employee who receives a job evaluation pursuant to this Rule may file a grievance within fifteen (15) workdays after the receipt of any final performance evaluation on procedural grounds under the provisions of T.C.A. § 8-30-328 (k)(1). Such grievances are limited to the provisions of the informal procedure with the final step being the appointing authority. Employees who are dissatisfied with the appointing authority's decision may submit such decision, with all documentation, to the Commissioner for review. Notwithstanding any law or regulation to the contrary, the decision of the Commissioner shall be final and not subject to further review.~~

Authority: T.C.A. § 8-30-328.

**RULES
OF THE
TENNESSEE DEPARTMENT OF ~~PERSONNEL~~ HUMAN RESOURCES**

**Chapter 1120-6
ATTENDANCE AND LEAVE**

TABLE OF CONTENTS

1120-6-.01	Purpose	1120-6-.15	Holidays
1120-6-.02	Responsibility	1120-6-.16	Civil Leave
1120-6-.03	Regular Work Schedule	1120-6-.17	Educational Leave
1120-6-.04	Workweek	1120-6-.18	Military Leave
1120-6-.05	Overtime	1120-6-.19	American Red Cross Disaster Leave
1120-6-.06	Compensatory Time	1120-6-.20	Maternity Leave
1120-6-.07	Lunch Period	1120-6-.21	Adoptive Leave
1120-6-.08	Rest Breaks	1120-6-.22	Family and Medical Leave
1120-6-.09	Absence Due to Inclement Weather	1120-6-.23	Division of Claims Administration Leave
1120-6-.10	Eligibility to Accrue Leave		
1120-6-.11	Annual Leave	1120-6-.24	Terminal Leave
1120-6-.12	Sick Leave	1120-6-.25	Paid Leave for Excused Absences
1120-6-.13	Bereavement Leave	1120-6-.26	Responsibility for Records and Reports
1120-6-.14	Special Leave		
1120-6-.01	Responsibility	1120-6-.13	Special Leave
1120-6-.02	Regular Work Schedule	1120-6-.14	Holidays
1120-6-.03	Workweek	1120-6-.15	Civil Leave
1120-6-.04	Cash Overtime and/or Accrual of Compensatory Time	1120-6-.16	Educational Leave
		1120-6-.17	Military Leave
1120-6-.05	Compensatory Time	1120-6-.18	Administrative Leave for Disaster
1120-6-.06	Lunch Period	1120-6-.19	Parental Leave
1120-6-.07	Rest Breaks	1120-6-.20	Family and Medical Leave
1120-6-.08	Absence Due to Specific Circumstances	1120-6-.21	Division of Claims Administration Leave
1120-6-.09	Eligibility to Accrue Leave	1120-6-.22	Terminal Leave
1120-6-.10	Annual Leave	1120-6-.23	Accrued Leave Paid at Death
1120-6-.11	Sick Leave	1120-6-.24	Paid Leave for Excused Absences
1120-6-.12	Bereavement Leave	1120-6-.25	Responsibility for Records and Reports

1120-6-.01 PURPOSE. To provide uniform rules concerning attendance and leave management in the State service. The Commissioner may establish or change policy as necessary.

Authority: T.C.A. § 8-30-215.

1120-6-.02.01 RESPONSIBILITY. It is the responsibility of the employee's immediate supervisor, or a designated timekeeper to determine the type of leave to be charged for each absence, and to properly record and report it. It is the employee's responsibility to request appropriate leave and the immediate supervisor shall be responsible for approving such leave.

Authority: T.C.A. § 8-30-215.

1120-6-03.02 REGULAR WORK SCHEDULE. The regular schedule for most employees is 8:00 a.m. to 4:30 p.m., Monday through Friday. Local conditions may cause these hours to vary, but an employee scheduled to work seven and a half (7.5) hours per day, Monday through Friday, is considered to be on a regular work schedule. Any agency may use irregular work schedules and vary its work hours and workdays at the discretion of the appointing authority. Any work schedule can be modified as necessary to provide a reasonable accommodation for an employee with a disability, as determined by the appointing authority. Any full-time schedules other than thirty-seven and a half (37.5) hours per week must be approved in advance by the Commissioner and the Commissioner of Finance and Administration.

Authority: T.C.A. § 4-4-105 and T.C.A. § 8-30-215.

1120-6-04.03 WORKWEEK. The standard workweek for accounting purposes begins at ~~11 p.m.~~ 12:01 a.m. Sunday Saturday and runs one hundred sixty eight (168) continuous hours with seven (7) consecutive twenty-four (24) hour periods to ~~11 p.m.~~ 12:01a.m. the following ~~Saturday Sunday~~. Variation to this standard workweek must be submitted to and may be approved by the Commissioner.

Authority: T.C.A. § 4-4-105.

1120-6-05 OVERTIME .04 CASH OVERTIME AND/OR ACCRUAL OF COMPENSATORY TIME.

~~Tennessee Code Annotated 8-23-201 and the Fair Labor Standards Act provide that additional compensation may be paid to certain State employees who work in excess of regularly scheduled hours at the direction of an appropriate manager. Such payments must be approved in advance by the Commissioner and the Commissioner of Finance and Administration. The Commissioner will establish policy and procedures for administering overtime payments to include the following:~~

- ~~(1) Executive Grade Personnel. Executive grade employees as defined by the Commissioner will not be eligible to receive any compensation for hours worked beyond their regular schedule. However, if an executive grade employee is scheduled to work on a legal holiday, the holiday may be rescheduled.~~
- ~~(2) Exempt Personnel. Employees defined as "exempt" by the Fair Labor Standards Act may receive regular compensatory time for hours worked beyond their regular schedule at the direction of the appointing authority or other appropriate supervisor or manager subject to the approval of the appointing authority, the Commissioner and the Commissioner of Finance and Administration.~~
- ~~(3) Non-Exempt Personnel. Employees defined as "non-exempt" by the Fair Labor Standards Act receive compensation for hours worked beyond their regular schedule at the direction of the appointing authority or other appropriate supervisor or manager, in accordance with the provisions of that act.~~
- ~~(4) Exceptions. Exceptions to this rule must be recommended by the appointing authority and approved in advance by the Commissioner and the Commissioner of Finance and Administration. Such recommended exceptions must be consistent with State and Federal law and filed with the Comptroller of the Treasury.~~

The Fair Labor Standards Act (FLSA) mandates that non-exempt employees receive additional compensation in certain circumstances. In addition, T.C.A. § 8-23-201 provides that additional compensation may be paid to certain state employees who work in excess of regularly scheduled hours at the direction of an appropriate manager. The Commissioner will establish policy and procedures for administering overtime payments to include the following:

- (1) Exempt Non-Compensatory Time Employees. Employees defined as "exempt non-compensatory time" by the Commissioner will not be eligible to receive any compensation for hours worked beyond their regular schedule. However, if an exempt non-compensatory time employee is scheduled to work

on a legal holiday, the appointing authority may grant discretionary leave with pay equal to the hours worked on a legal holiday.

- (2) Exempt Employees. Employees defined as "exempt" by the FLSA may receive regular compensatory time for hours worked beyond their regular schedule provided that it was at the direction of the appointing authority or other appropriate supervisor or manager. The Commissioner shall determine the exempt classes that are eligible for this regular compensatory time. Exempt employees may accumulate a maximum of four hundred and eighty (480) hours of regular compensatory time. Regular compensatory time is earned on an hour-for-hour basis and is distinct from premium compensatory time authorized by the FLSA.
- (3) Non-Exempt Employees. Employees defined as "non-exempt" by the FLSA must receive compensation for all hours spent performing the principle duties assigned to them provided that it was at the direction of the appointing authority or other appropriate supervisor or manager. Non-public safety employees who are non-exempt may accumulate no more than two hundred and forty (240) hours of premium compensatory time. Their total compensatory time (regular and premium compensatory time) may not exceed four hundred and eighty (480) hours. Public safety employees who are non-exempt may accumulate a maximum of four hundred and eighty (480) hours of premium compensatory time.
- (4) Exceptions. Individual exceptions to this rule must be recommended by the appointing authority and approved in advance by the Commissioner and the Commissioner of Finance and Administration. Such recommended exceptions must be consistent with state and federal law and in consultation with the Comptroller of the Treasury and the Attorney General's Office.

Authority: T.C.A. § 8-23-201.

1120-6-06.05 COMPENSATORY TIME. Compensatory time is leave credit earned by an exempt or non-exempt employee when compensable overtime hours are worked beyond their regular schedule and are not compensated in cash. Compensatory time is generally accrued on a weekly basis. The Commissioner will establish policy and procedures to include the following:

- (1) Use of Compensatory Time. The use of compensatory time is subject to the approval of the appointing authority or a designated manager in the same manner as annual leave. An employee who has accrued compensatory time and requests use of that time shall be permitted to use such time off within a reasonable period after making the request. When a request for compensatory time off is received, it shall be honored unless to do so would be unduly disruptive to the agency's operations. Mere inconvenience is an insufficient basis for denial. An agency should reasonably and in good faith anticipate that the employee's request would impose an unreasonable burden on the agency's ability to provide services of acceptable quality and quantity for the public during the time requested without the use of the employee's services.

Reasonable period will be determined by considering the customary work practices within the agency based on the facts and circumstances in each case. Such practices include, but are not limited to (a) the normal schedule of work, (b) anticipated peak workloads based on past experience, (c) emergency requirements for staff and services, and (d) the availability of qualified substitute staff.

The use of compensatory time in lieu of cash payment for overtime by non-exempt employees must be pursuant to some form of agreement or understanding between the employer and the employee (or the representative of the employee) reached prior to the performance of the work.

- (2) Compensatory Time Transferable. Compensatory time is transferable between the agencies of State service. Compensatory time earned may be taken prior to the beginning of terminal leave, taken prior to separation if the employee has no terminal leave, or paid in a lump sum at separation. If an

~~employee in a State service agency transfers to another State agency outside the State service which will not accept the employee's compensatory time balance, the State service agency must compensate the transferring employee for the value of the employee's compensatory time balance. The value of compensatory time accrued by a non-exempt employee is calculated at a rate not less than the employee's average rate over the last three years of employment, less any salary differential, or the employee's regular hourly rate in the State service agency at the time of the transfer, less any salary differential, whichever is higher. The value of the compensatory time accrued by an exempt employee is calculated based on the employee's regular hourly rate, less any salary differential, in the State service agency at the time of transfer. The value of compensatory time of an employee in a non-leave accrual status is calculated at the employee's regular hourly rate at the time of the change from a leave accrual status to a non-leave accrual status. An employee's compensatory time shall be transferred between state service agencies. If an employee in a state service agency transfers to another state agency outside the state service which will not accept the employee's compensatory time balance, the state service agency must compensate the transferring employee for the value of the employee's compensatory time balance. The value of the compensatory time accrued by an exempt employee is calculated based on the employee's regular hourly rate in the state service agency at the time of transfer.~~

(3) Use of Compensatory Time Before Annual Leave. Accumulated compensatory time must be used before annual leave unless an employee's accumulated annual leave balance at the beginning of the pay period for which leave is requested is within two (2) days of the maximum accrual allowed for the employee's service group code as provided in these Rules.

(4) Payment of Compensatory Time at Separation. Generally, an agency must make a lump sum payment for accrued compensatory time when an employee separates from state service. If, however, a retiring employee requests terminal leave, that employee must use accrued compensatory time prior to terminal leave. Terminal leave is the annual leave balance of a retiring employee. Any annual leave balance remaining after the employee's last working day is considered terminal leave.

~~(4) Maximum Compensatory Time Accrual.~~ Compensatory time may be accrued up to a maximum of four hundred and eighty (480) hours. Any variation to this maximum accrual limit must be approved in advance by the Commissioner and the Commissioner of Finance and Administration.

~~Any exempt or non-exempt employee who earns authorized overtime credit in excess of the maximum accrual must be paid cash for those hours at his regular hourly rate unless the Fair Labor Standards Act requires those hours to be paid at the premium rate.~~

(5) Amount Earned and Maximum Accumulation. Non-public safety employees who are non-exempt may accumulate a maximum of two hundred and forty (240) hours of premium compensatory overtime. Public safety employees who are non-exempt may accumulate a maximum of four hundred and eighty (480) hours of premium compensatory overtime. Totals for regular and premium compensatory overtime will be added together and no employee will be allowed to exceed a total accumulation of both regular and/or premium compensatory overtime over four hundred and eighty (480) hours. Any variation to this maximum accrual limit must be approved in advance by the Commissioner and the Commissioner of Finance and Administration.

Any exempt or non-exempt employee who earns authorized overtime credit in excess of the maximum accrual must be paid cash for those hours on an hour-for-hour basis unless the Fair Labor Standards Act requires payment at a premium rate.

Non-exempt employees are permitted to receive premium (time and one-half) compensatory overtime in lieu of premium cash overtime if the agency lacks the necessary funds or if the employee requests compensatory time instead of cash and the appointing authority approves the request. Premium compensatory overtime occurs when a non-exempt employee, who is authorized to receive compensatory overtime in lieu of cash, physically works more than forty hours (40) during a work

week, the employee shall be compensated at one and half times the hours actually worked above forty (40).

Authority: T.C.A. § 8-23-201 and T.C.A. § 8-30-214.

1120-6-07.06 LUNCH PERIOD. All employees, except those specifically excluded in T.C.A. § 4-4-105, are allowed a one (1) hour unpaid lunch (meal) period. If a supervisor requires an employee to work during any part of their one-hour meal period, the employee is considered to be at work and must be compensated accordingly.

The authorized meal period must be taken during the work shift and may not be used to alter arrival or departure time by not using the meal period or any part thereof.

Certain employees cannot be relieved of duties to have a meal period during their work shift. The employee situation usually results from "fixed post" assignments in which employees may not leave their work station. These employees are considered to be at work even if they are able to eat a meal during their work shift and must be compensated accordingly.

Authority: T.C.A. § 4-4-105, T.C.A. § 8-30-202 and T.C.A. § 8-30-215.

1120-6-08.07 REST BREAKS. Appointing authorities, at their discretion, may allow their employees two (2) rest breaks, of fifteen minute (15) duration each, during a workday. ~~paid rest breaks during each workday.~~ These rest breaks are a privilege and not a right and should be taken at times that do not interfere with service to the public. A rest break may not be used to alter arrival or departure time, used in conjunction with the lunch hour, used with any type of leave, or be accumulated for usage at a later time.

Authority: T.C.A. § 8-30-215.

~~**1120-6-09 ABSENCE DUE TO INCLEMENT WEATHER.** The Commissioner will establish policy concerning absence during periods of inclement weather.~~

~~**Authority:** T.C.A. § 8-30-215.~~

1120-6-08 ABSENCE DUE TO SPECIFIC CIRCUMSTANCES. The Commissioner will establish policy concerning absences for:

- (1) Inclement weather;
- (2) Public health emergency;
- (3) State emergency; and
- (4) Uninhabitable building.

Authority: T.C.A. § 8-30-215.

1120-6-10.09 ELIGIBILITY TO ACCRUE LEAVE. An eligible employee accrues annual and sick leave based upon hours worked, excluding overtime, pursuant to T.C.A. § 8-50-801 and T.C.A. § 8-50-802. provisions stated in T.C.A. § 8-50-101. To accrue leave an eligible employee must be in a positive pay status at least the major fraction of a month excluding overtime. A major fraction of a month is defined as one-tenth (0.1) of one (1) hour over 50% of the regularly scheduled working hours.

Leave is accrued on a regular workday basis. One day of leave is equivalent to seven and a half (7.5) hours for employees on a thirty-seven and one-half (37.5) hour per workweek schedule. One day of leave is equal to eight (8) hours for employees on a forty (40) hour per workweek schedule. Employees on other workweek schedules as approved by the Commissioner accrue based on those schedules.

Employees changing from one schedule to another will have their hourly balances adjusted accordingly.

Employees who work sixteen hundred (1,600) hours in a year and work the major portion of the month are eligible to accrue leave, except for those listed in T.C.A. § 8-50-801(e).

Employees eligible to accrue leave are as follows:

- ~~(1) employees with regular, temporary provisional and interim appointments who are employed full-time;~~
- ~~(2) employees serving on full-time temporary appointments begin to accrue leave after the completion of six (6) months of active service. The first day following the completion of the six months of service is regarded as the beginning date for the purpose of accruing leave. Each period of temporary employment should be treated separately;~~
- ~~(3) any part-time or seasonal employee who is scheduled to work 1600 hours or more in a fiscal year;~~
- ~~(4) any employee currently eligible to accrue leave who receives a full-time emergency or full-time temporary appointment shall continue to accrue leave, provided there is no break in service;~~
- ~~(5) leave accrual exceptions – employees who do not accrue leave are as follows:~~
 - ~~(a) employees on temporary appointment who have worked less than six (6) months;~~
 - ~~(b) employees on educational leave;~~
 - ~~(c) employees on emergency appointment;~~
 - ~~(d) employees on Division of Claims Administration leave;~~
 - ~~(e) employees on terminal leave;~~
 - ~~(f) employees on military leave without pay;~~
 - ~~(g) employees on special leave without pay;~~
 - ~~(h) employees on maternity leave without pay;~~
 - ~~(i) seasonal or part-time employees who are scheduled to work less than 1600 hours in a fiscal year;~~
 - ~~(j) employees on sick bank leave.~~
- ~~(6) limited term employees, i.e., commissioners, etc. Time served in a full-time limited term appointment can be used in establishing the proper leave group if the employee subsequently becomes eligible for leave accrual.~~

Authority: T.C.A. § 8-23-101, T.C.A. § 8-50-801 and T.C.A. § 8-50-802.

1120-6-11.10 ANNUAL LEAVE. The Commissioner will establish policy and procedures for administering the annual leave program in accordance with T.C.A. § 8-50-801.

- (1) Amount Earned and Maximum Accumulation. Annual leave is earned with maximum accumulation as follows:
 - (a) ~~Group 1~~— Employees with less than five (5) years of full-time service accrue annual leave at the rate of one (1) day for each month or major fraction of a month of active service and may accumulate a maximum of thirty (30) workdays.
 - (b) ~~Group 3~~— Employees with five (5) years and less than ten (10) years of full-time service accrue annual leave at the rate of one and one-half (1 ½) days for each month or major fraction of a month of active service and may accumulate a maximum of thirty-six (36) workdays.
 - (c) ~~Group 4~~— Employees with ten (10) years and less than twenty (20) years of full-time service accrue annual leave at the rate of one and three-fourths (1 ¾) days for each month or major fraction of a month of active service and may accumulate a maximum of thirty-nine (39) workdays.
 - (d) ~~Group 5~~— Employees with twenty (20) years or more of full-time service accrue annual leave at the rate of two (2) days for each month or major fraction of a month of active service and may accumulate a maximum of forty-two (42) workdays.
- (2) Creditable Service. Any month, which was a part of a 1,600 hour or greater annual schedule, in which an employee is scheduled to work a full month, and actually works one-tenth of one hour more than half the scheduled hours, shall be creditable for maximum accumulation purposes.
- (3) Transfer of Annual Leave to Sick Leave. Leave earned in excess of the maximum allowable accumulation for a group code based on years of service as defined in T.C.A. § 8-50-801 will be transferred to the employee's sick leave account annually in the month of the employee's last hire date.
- (4) Annual Leave Paid as a Lump Sum. When separating from state employment, an employee shall be paid for any annual leave accumulation in a lump sum unless that employee is dismissed or terminated from state service for gross misconduct, or resigns from state service to avoid dismissal for gross misconduct, or was guilty of gross misconduct prior to leaving state service. In cases involving gross misconduct, the employee forfeits his annual leave.
- ~~(4)~~ ~~Annual Leave May Be Used as Terminal Leave. When separating from State employment, an employee shall be paid for any annual leave accumulation unless terminated from State service for gross misconduct.~~
- (5) Annual Leave as Terminal Leave Prior to Retirement. An employee may use annual leave as terminal leave when retiring from state employment or may receive a lump sum payment for annual leave balances.
- ~~(5)~~(6) Annual Leave May Not Be Advanced. Annual leave may not be taken until earned.
- ~~(6)~~(7) Employee Meetings. Annual leave may be used to attend meetings of employee associations which are qualified for payroll dues deduction. Except as enumerated in T.C.A. § 8-50-110, leave allowed for this purpose cannot exceed two (2) days per year.
- ~~(7)~~(8) Annual Leave Transferable. Annual leave is transferable between State agencies and State colleges, universities, technical institutes and area vocational schools. Unless there is a break in service, annual leave must be transferred to and will be accepted from, state agencies and higher education institutions, legislative and judicial branches.

Authority: T.C.A. § 8-50-110, T.C.A. § 8-50-801, T.C.A. § 8-50-803, and T.C.A. § 8-50-807. ~~and T.C.A. § 8-50-110.~~

1120-6-~~12~~11 SICK LEAVE. Sick leave is accrued by an employee at the rate of one (1) day for each month or major fraction of a month of active service. The Commissioner will establish policy and procedures governing the use of sick leave.

- (1) Use of Sick Leave. An appointing authority may grant an eligible employee sick leave for any of the following reasons:
 - (a) personal illness;
 - (b) disability due to accident;
 - (c) exposure to a contagious disease;
 - (d) medical and dental appointments;
 - (e) illness or death in the immediate family, or others who, at the discretion of the appointing authority, have a relationship which merits similar consideration;
 - (f) ~~maternity (up to 30 working days for female employees only)~~birth and care of an infant child (up to thirty (30) workdays); and
 - (g) adoption (up to thirty (30) working days if the child is one year old or less).
- (2) Reinstatement of Accumulated Sick Leave. Employees who work on a full-time continuous basis for one full year or more, leave in good standing, and return to work shall be credited with and may use paid sick leave accumulated prior to separation immediately upon certification of the previous balance from the appropriate agency upon their return to State employment. ~~Teachers hired from State colleges, universities, technical institutes, area vocational schools and local school boards in Tennessee are also included under this sub-rule provision.~~ Persons hired from state higher education institutions and persons who were teachers with local school boards in Tennessee are also included under this provision.
- (3) Sick Leave Transferable. Unless there is a break in service, sick leave is must be transferred to and will be accepted from state agencies and higher education institutions, legislative and judicial branches, transferable between State agencies and State colleges, universities, technical institutes and area vocational schools.
- (4) Required Documentation. Any employee may be required to present evidence to an appointing authority, the Commissioner, or any other appropriate authority, to support the reason for any absence during the time for which sick leave was taken.
- (5) Doctor's Certification of Absence. Sick leave may not be denied to any employee who furnishes a statement of a licensed physician or accredited Christian Science practitioner in support of the reason for such absence. Additional documentation may be required if there is substantial evidence of sick leave abuse by the employee.
- (6) Sick Leave Restrictions.
 - (a) Sick Leave During Terminal Leave. Sick leave may not be used as terminal leave. An employee presenting evidence of an illness during terminal leave may utilize sick leave up to the original separation date, ~~however, if an employee presents evidence of an illness during terminal leave then sick leave may be used.~~
 - (b) Sick Leave May Not Be Advanced. Sick leave may not be taken until earned.

Authority: T.C.A. § 4-21-408, T.C.A. § 8-50-802, T.C.A. § 8-50-803, T.C.A. § 8-50-804 and T.C.A. § 8-50-806 and T.C.A. § 807.

1120-6-~~13~~12 BEREAVEMENT LEAVE.

- (1) The officers and employees of the various agencies, boards, and departments of state government shall be granted three (3) days paid leave in the event of death of such officers' or employees' spouse, child, step-child, parents, siblings, grandparents, grandchildren, stepparents, foster parents, or parents-in-law without charge to the affected officers' or employees' accumulated leave accounts. One (1) day of leave is equivalent to seven and a half (7.5) hours for employees on a thirty-seven and a half (37.5) hour per workweek schedule. One (1) day of leave is equivalent to eight (8) hours for employees on a forty (40) hour per workweek schedule. One (1) day of leave is equivalent to twelve (12) hours for the Department of Military firefighters.
- (2) This section shall not be construed to increase the total number of leave days provided in Rules of the Department of ~~Personnel~~ Human Resources for the death of a family member as defined in this section.

Authority. T.C.A. § 8-50-113.

1120-6-~~14~~13 SPECIAL LEAVE. Special leave is leave without pay. At the discretion and upon recommendation of the appointing authority, the Commissioner may approve requests for special leave in accordance with policy and procedure.

Authority: T.C.A. § 8-30-215.

1120-6-~~15~~14 HOLIDAYS. The General Assembly, by law, establishes legal holidays which are observed by the closing of State offices. The Governor, upon request by the Commissioner, may also establish additional time off for observance of holidays. The following days have been designated by the General Assembly as legal holidays:

New Year's Day	January 1
Martin Luther King, Jr. Day	Third Monday in January
Washington Day	Third Monday in February
Good Friday	Friday before Easter
Memorial or Decoration Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veterans' Day	November 11
Thanksgiving Day	Fourth Thursday in November
Christmas Day	December 25

The Governor may, at his discretion, substitute the Friday after the fourth (4th) Thursday in November for Columbus Day. Employee who are ineligible to accrue leave are not eligible for holiday pay.

~~Part-time or seasonal employees who are ineligible to accrue leave are not eligible for holiday pay.~~

Authority: T.C.A. § 15-1-101.

1120-6-~~16~~15 CIVIL LEAVE. The Commissioner will establish policy and procedures for state employees to be excused from their job duties when involved in civil or criminal proceedings as a juror.

Authority: T.C.A. § 22-4-108.

1120-6-17.16 EDUCATIONAL LEAVE. The Commissioner will establish policy and procedures for state employees to be placed on educational leave for participation in full-time ~~training~~ continuing education as defined in the Rules of the Department of Human Resources 1120-8.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, and T.C.A. § 8-30-204 and T.C.A. § 22-4-108.

1120-6-18.17 MILITARY LEAVE.

- (1) **Military Leave With Pay.** A leave of absence with pay, not to exceed ~~fifteen (15)~~ twenty (20) working days in any one year, will be granted to employees who are members of the reserve components of the Armed Forces of the United States, including members of the Tennessee National Guard, for periods they are engaged in the performance of duty or training activities in the service of the State or the Federal Government while under orders. Holidays and scheduled off duty days do not count toward the ~~fifteen (15)~~ twenty (20) days allowed. During the period of approved paid military leave the employee incurs no loss of service time and continues to earn regular annual leave and sick leave. There shall be no loss of rights or benefits to which the employee is otherwise entitled. Military leave with pay will not be granted for regularly scheduled monthly training for reservists or national guardsmen.
- (2) **Military Leave without Pay.** Leave without pay will be granted for periods of active duty or training activity with the Armed Forces of the United State, its reserve components, or the Tennessee National Guard for authorized periods beyond the ~~fifteen (15)~~ twenty (20) days of paid leave in a calendar year. In addition, leave without pay will be granted to employees entering the regular components of the Armed Forces of the United States as a result of military conscription or for a period of voluntary enlistment. During the period of leave without pay for military service, the employee retains all accumulated annual and sick leave, retirement status, and continues to earn time toward seniority, retirement and longevity pay. Continuation in the State's insurance programs, if elected, shall be granted subject to appropriate state insurance program provisions.
- (3) **Air Force Auxiliary Civil Air Patrol Leave.** A leave of absence with pay, not to exceed fifteen (15) working days in any one calendar year, will be granted to employees who are members of the United States Air Force Auxiliary Civil Air Patrol and who participate in a training program for the civil air patrol, or in emergency and disaster services, as defined in T.C.A. § 58-2-101, if the leave of absence is at the request of the employee's wing commander or the wing commander's designated representative.

Authority: T.C.A. § 8-33-105 and T.C.A. § 8-33-109 and T.C.A. § 42-7-102.

1120-6-19 AMERICAN RED CROSS DISASTER LEAVE. 18 ADMINISTRATIVE LEAVE FOR DISASTER. A state employee who is a certified disaster service volunteer of the American Red Cross may be granted leave from work with pay for a period not to exceed fifteen (15) work days in each year to participate in special disaster relief services for the American Red Cross. The employee shall be released from work for this function upon written request of the American Red Cross for the services of that employee, and upon written approval of that employee's appointing authority.

Authority: T.C.A. § 8-50-810.

~~1120-6-20 MATERNITY LEAVE.~~ ~~Maternity leave (sick, annual or special leave) is an absence from work granted a woman employee, not serving an initial probationary period, and will begin the day her child is born. Sick leave used is limited to thirty (30) working days. The Commissioner will establish procedures for State employees to be placed on maternity leave.~~

Authority: T.C.A. § 8-50-802, T.C.A. § 8-30-215 and T.C.A. § 4-21-408.

~~**1120-6-.21 ADOPTIVE LEAVE.** Employees involved with adoption procedures shall be granted special leave for a period of up to thirty (30) days. Employees may use sick leave for all or a portion of that thirty (30) days if the child is one (1) year old or less. In the event both parents are State employees the aggregate sick leave used is limited to thirty (30) days. Additional special leave may be granted at the discretion of the appointing authority not to exceed one (1) year.~~

Authority: T.C.A. § 8-50-806.

1120-6-.19 PARENTAL LEAVE.

- (1) An employee who has been employed for at least twelve (12) consecutive months as a full-time employee, may be absent from such employment for a period not to exceed four (4) months for adoption, pregnancy, childbirth and nursing an infant, where applicable. With regard to adoption, the four (4) month period shall begin at the time an employee receives custody of the child.
- (2) An employee may use up to thirty (30) sick leave workdays for parental leave. In the event both parents are state employees, the aggregate sick leave used is limited to thirty (30) days.
- (3) In incidents of adoption, an appointing authority has the discretion to grant additional special leave not to exceed one (1) year.
- (4) The Commissioner will establish procedures pertaining to parental leave.

Authority: T.C.A. § 4-21-408, T.C.A. § 8-30-215, T.C.A. § 8-50-802, and T.C.A. § 8-50-806.

1120-6-.22 20 FAMILY AND MEDICAL LEAVE. The Commissioner shall establish policies and procedures for implementing the provisions and requirements of the Family and Medical Leave Act (FMLA).

Authority: T.C.A. § 8-30-215.

~~**1120-6-.23.21 DIVISION OF CLAIMS ADMINISTRATION LEAVE.** Employees who are injured in the line of duty have the option of being placed immediately on leave without pay and drawing lost time compensation through the Division of Claims Administration, or using sick and/or annual leave and then drawing lost time compensation. The Division of Claims Administration is responsible for determining whether an employee is eligible for workers' compensation due to a job related injury or illness.~~

- ~~(1) Eligibility for Lost Time Compensation. To be eligible for lost time compensation from the Division of Claims Administration, an employee must be in a without pay status due to injury or job related illness for more than seven (7) calendar days. If the employee is unable to work after more than fourteen (14) calendar days, lost time compensation from the Division of Claims Administration will be paid effective from the first day the employee is in a without pay status following the injury. An employee may elect to use sick, annual or compensatory leave or draw lost time compensation from the Division of Claims Administration.~~
- (1) Workers' Compensation Pay. An employee may not receive workers' compensation pay for any period that the employee used sick, annual, or compensatory leave.
- (2) Effect on Anniversary Dates. Time served on Division of Claims Administration leave will not advance the employee's longevity, salary or service anniversary date.

(3) Assault Pay. Employees who are injured in the line of duty, as the result of an assault which disables them from performing their jobs, will be allowed to remain on the regular payroll for a period not to exceed twenty-eight (28) calendar days subject to approval by the Commissioner. Such disability must have occurred no later than twenty-eight (28) calendar days from the date of injury. If the same injury results in an employee being unable to perform his job for more than twenty-eight (28) calendar days and provided that a proper claim has been filed with the Division of Claims Administration within ten (10) calendar days of the date of injury, the employee may receive the difference between his regular salary and the weekly compensation rate awarded by the Division of Claims Administration for an additional sixty-two (62) calendar days. Thus, an employee who is disabled as a result of an assault may receive full pay through a combination of regular payroll and Division of Claims Administration compensation for a total of ninety (90) calendar days before being reduced to the usual lost time rate of the Division of Claims Administration or using accumulated sick, annual or compensatory leave.

(4) Injured in the Line of Duty. A commissioned member of the Tennessee Department of Safety, a driver's license examiner, correctional officer or youth service officer who is injured in the line of duty, and whose injury disables him from performing his regular duties, whether such disability is temporary or permanent, shall be retained upon the regular payroll until the employee's claim for compensation for such disability is determined by the Division of Claims Administration. The Governor and the Attorney General must approve the request of the appointing authority.

Authority: ~~T.C.A. 9-8-201, T.C.A. 9-8-202~~ and T.C.A. §8-50-111 and T.C.A. §68-102-402.

~~**1120-6-.24,22 TERMINAL LEAVE.** When separating from State employment, employees shall be paid for any annual leave except in cases of dismissal for gross misconduct. An employee who resigns from State service to avoid dismissal for gross misconduct is not eligible for annual leave compensation. An employee, in a non-leave accrual status at separation, shall be paid for any annual leave balance at the employee's regular hourly rate at the time of change from a leave accrual status to a non-leave accrual status. Nothing in this subsection shall be construed to prohibit lump sum payment for terminal leave. A retiring employee may elect terminal leave unless the employee is retiring from state service to avoid dismissal for gross misconduct.~~

(1) Employees Subject to State Retirement. Employees who are members of the Tennessee Consolidated Retirement System and are entitled to terminal leave must be compensated for their terminal leave prior to the effective date of their retirement.

~~(2) Death. Leave balances of deceased employees shall be paid as lump sum payments. Any outstanding leave balance (sick, annual, compensatory) will be paid to a deceased employee's estate or to a beneficiary designated by the employee or, if none, the beneficiary designated for receipt of retirement benefits with the Tennessee Consolidated Retirement System.~~

~~(3)(2) Termination of Benefits. During the period of terminal leave On the date terminal leave begins, an employee will:~~

~~(a) Cease to be in a leave earning status on the date terminal leave begins.~~

~~(b) Cease to be eligible for salary increases or salary adjustments. The salary rate in effect on the day before the employee begins terminal leave will be used to determine terminal leave payments. last day worked will be used in determining terminal leave payments.~~

~~(4)(3) Accounting for Terminal Leave:~~

~~(a) Saturdays, Sundays and Legal Holidays. Credit must be allowed during the terminal leave period as is allowed for regular annual leave. To be paid for a holiday while on terminal leave an employee must be in a paid status past the holiday. Saturdays, Sundays and official holidays shall~~

- not be used in computing terminal leave unless such days are considered as workdays for the employee in the employee's job assignment. To be paid for a holiday while on terminal leave an employee must be on terminal leave past the holiday.
- (b) ~~Beginning and Ending of Terminal Leave Period. Terminal leave begins the next workday following the last full workday or date of death. The last day of terminal leave will be the official date of separation.~~ Terminal leave must begin the next workday following the last day in active pay status. Active pay status is a term applied to an employee who is actually working or who is using paid leave other than paid terminal leave or sick leave bank leave. The day after the last day of terminal leave will be the employee's official date of separation.

Authority: T.C.A. § 8-50-801, T.C.A § 8-50-807 and T.C.A. § 8-50-808.

1120-6-.23 ACCRUED LEAVE BALANCES PAID AT DEATH. Leave balances of deceased employees shall be paid as lump sum payments. Any outstanding leave balance (sick, annual, or compensatory) will be paid to a beneficiary designated by the employee or, if none, the beneficiary designated for receipt of retirement benefits with the Tennessee Consolidated Retirement System, or, when appropriate, the deceased employee's estate.

Authority: T.C.A § 8-50-807 and T.C.A. § 8-50-808.

1120-6-.25, 24 PAID LEAVE FOR EXCUSED ABSENCES. An A full-time employee may be granted leave with pay for the following excused absences:

- (1) ~~State Examination or Job Interview. Employees allowed to participate in examinations administered by the State of Tennessee or to be interviewed for other State employment at the request of a responsible official of the interviewing agency or a staff member of the department may be granted leave with pay. An agency may require written verification that the employee was at a state administered examination or at a state job interview.~~
- (2) Elections. Any person entitled to vote in an election held in this State must be granted paid leave not to exceed three (3) hours in accordance with established procedures. If the work schedule of an employee begins three (3) or more hours after the opening of the polls or ends three (3) or more hours before closing of the polls of the county where the employee is registered to vote, paid leave will not be granted. The Commissioner may specify the hours during which the employee may be absent. Application for such absence shall be made to the employee's appointing authority before twelve o'clock (12:00) noon of the day before the election.
- (3) ~~Discretionary. An appointing authority with the approval of the Commissioner may place an employee on leave with pay any time it is considered necessary for the welfare of the employee or the proper operation of the agency. An appointing authority may grant discretionary leave with pay to an employee for a period of time not to exceed ten (10) working days when it is considered necessary for the welfare of the employee or the proper operation of the agency. The Commissioner must approve any period of discretionary leave that exceeds ten (10) working days. The appointing authority must submit such requests in writing directly to the Commissioner.~~

Authority: T.C.A. § 2-1-106 and T.C.A. § 8-30-215.

1120-6-.265 RESPONSIBILITY FOR RECORDS AND REPORTS. An official attendance and leave record with supporting documents will be maintained for State employees on forms designated by the Commissioner with the exception of officials defined by law or by the Commissioner. The Commissioner will designate a manner for documenting official attendance and leave information for employees in state service.

Authority: T.C.A. §8-30-101, T.C.A. §8-30-202, T.C.A. §8-30-203, and T.C.A. §8-30-204 and T.C.A. § 10-7-504.

**RULES
OF THE
TENNESSEE DEPARTMENT OF PERSONNEL HUMAN RESOURCES**

**Chapter 1120-7
EQUAL EMPLOYMENT OPPORTUNITY OPPORTUNITIES (EEO), AMERICANS WITH DISABILITIES
(ADA) AND AFFIRMATIVE ACTION (AA)**

TABLE OF CONTENTS

1120-7-.01 — Scope
1120-7-.02 — Statement of Policy
1120-7-.03 — Communication of Policy
1120-7-.04 — Agency Responsibilities
1120-7-.05 — Department of Personnel Responsibilities
1120-7-.06 — Governor's Advisory Committee

1120-7-.01 Statement of Policy
1120-7-.02 Agency Responsibilities
1120-7-.03 Department of Human Resources Responsibilities

~~**1120-7-.01 SCOPE.** This rule sets forth the steps taken by the State of Tennessee to carry out the intent of the Governor's Executive Order 13 thus complying with Title VII, the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12101 et. seq. (the "ADA"), and other Federal and State statutes.~~

~~**Authority:** T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-207, T.C.A. § 8-30-221, T.C.A. § 8-30-222, T.C.A. § 8-30-305, T.C.A. § 8-50-103(a) and T.C.A. § 8-50-104.~~

~~**1120-7-.02.01 STATEMENT OF POLICY.**~~

- ~~(1) It is the policy of the State of Tennessee to promote equal employment opportunity and to eliminate unlawful discrimination against individuals because of race, color, sex, religion, national origin, ancestry, age, disability or other non-merit factors. All State employees will be responsible for adhering to this policy.~~
- ~~(2) Management and supervisory personnel will actively support recruitment and career development programs to ensure equitable representation of protected groups in all job categories.~~
- ~~(3) Management and supervisory personnel will create and promote a work environment that is free of sexual harassment.~~

~~**Authority:** T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-207, T.C.A. § 8-30-221, T.C.A. § 8-30-222, T.C.A. § 8-30-305, T.C.A. § 8-50-103(a) and T.C.A. § 8-50-104.~~

~~The State of Tennessee is firmly committed to the principle of fair and equal employment opportunities for its citizens and strives to protect the rights and opportunities of all people to seek, obtain, and hold employment without being subjected to illegal discrimination or illegal harassment in the workplace. It is the state's policy to provide an environment free of discrimination or harassment of an individual because of that~~

person's race, color, national origin, age (40 and over), sex, pregnancy, religion, creed, disability, veteran's status, or any other category protected by state and/or federal civil rights laws.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-221, and T.C.A. § 8-50-104.

~~1120-7-.03 COMMUNICATION OF POLICY.~~

- ~~(1) A copy of the State's policy regarding equal employment opportunity will be circulated to all employees and be displayed conspicuously in all State facilities and shall include promotional slogans endorsing the State's policy for hiring and recruitment of qualified individuals with disabilities.~~
- ~~(2) Agency meetings should be held annually with managers and supervisors to affirm the principles of equal employment opportunity and the continuing endorsement of this policy in all personnel activities.~~
- ~~(3) All recruitment sources will be notified in writing of the State's equal employment opportunity policy.~~
- ~~(4) Written notification of this policy will be sent to community agencies and organizations oriented to all protected groups. Channels of communication will be established with community leaders, educational institutions, community action agencies, neighborhood multi-service centers, and other State, local, and community sponsors of social service activities.~~

~~Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-205, T.C.A. § 8-30-206, T.C.A. § 8-30-207, T.C.A. § 8-30-221, T.C.A. § 8-30-222 and T.C.A. § 8-30-302.~~

~~1120-7-.04.02 AGENCY RESPONSIBILITIES.~~

- ~~(1) Each appointing authority in the State service will be held responsible for compliance with the State's policy and executive orders pertaining to equal employment opportunity.~~
- ~~(2) Each appointing authority will designate an executive level employee to coordinate and supervise the affirmative action program within that agency.~~
- ~~(3) Each appointing authority will submit to the Commissioner an annual affirmative action plan designed to conform to affirmative action guidelines issued by the Department.~~
- ~~(4) Each agency will inform their supervisory personnel of their role in carrying out the agency's equal employment opportunity program.~~
- ~~(5) Each agency will conduct an annual internal evaluation of its affirmative action program and report the results to the Commissioner.~~

~~Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-206, T.C.A. § 8-30-207, T.C.A. § 8-30-221, T.C.A. § 8-30-222, T.C.A. § 8-50-103 and T.C.A. § 8-50-10(a).~~

In demonstrating the agency's commitment to the equal employment opportunities policy, each appointing authority in state service shall:

- (1) Be held responsible for compliance with the state law, policy, and executive orders pertaining to equal employment opportunities (EEO), Americans with Disabilities (ADA) and Affirmative Action (AA);
- (2) Develop an equal employment opportunity compliance policy statement and inform employees of the agency's commitment to that policy;

- (3) Designate an employee to coordinate EEO, ADA, and AA programs within that agency;
- (4) Inform supervisory personnel of their role in carrying out the agency's equal employment opportunities policies;
- (5) Maintain processes for internal investigations of workplace discrimination or harassment complaints; and
- (6) Submit to the Commissioner a completed affirmative action plan annually in a manner prescribed by the Commissioner.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-221, and T.C.A. § 8-50-104.

1120-7-.05.03 DEPARTMENT OF PERSONNEL HUMAN RESOURCES RESPONSIBILITIES.

- (1) The Commissioner will represent the Governor in matters relating to equal employment opportunity in the state service;
- ~~(2) The Commissioner will establish appropriate guidelines and procedures governing the preparation, submission and review of the affirmative action plan by each agency.~~
- ~~(3)~~(2) The Department shall periodically review ~~testing, certification, recruitment, appointment, assignment, promotion and discharge policies and procedures~~ employment practices to insure that these practices are not discriminatory;
- (3) The Commissioner will establish appropriate guidelines and procedures governing the preparation, submission and review of the affirmative action plan by each agency;
- (4) The Department will provide training and technical assistance in the development, implementation and monitoring of agencies' affirmative action plans and equal employment opportunity programs;
- (5) The Department will provide training and technical assistance to employees and agencies regarding compliance with the ADA;
- ~~(5)~~(6) The Department will inform any person claiming unlawful discrimination or harassment of the appropriate courses of action procedures for pursuing a complaint;
- ~~(6)~~(7) ~~The Department will report to the Governor each year the equal employment opportunity activities of each department, agency and commission in the State service. This report may contain recommendations for additional programs necessary to accomplish the purpose equal employment opportunity. The Department will report to the Governor the equal employment opportunity activities of each department, agency and commission in the state service; and~~
- ~~(7)~~(8) The Department will inform the Governor when instances occur of non-compliance or failure to demonstrate good faith efforts under this Rule.

Authority: T.C.A. § 8-30-202, and T.C.A. § 8-30-203, ~~T.C.A. § 8-30-204, T.C.A. § 8-30-205, T.C.A. § 8-30-206, T.C.A. § 8-30-207, T.C.A. § 8-30-221, T.C.A. § 8-30-222 and T.C.A. § 8-50-103(a).~~

1120-7-.06 GOVERNOR'S ADVISORY COMMITTEE.

- ~~(1) The Commissioner shall chair the Governor's Advisory Committee on Equal Employment Opportunity. The Committee will be appointed by the Governor and will consist of nine (9) Tennesseans who have demonstrated a concern for the principles of equal employment opportunity.~~
- ~~(2) The Committee will meet periodically to review the implementation of the State's equal employment opportunity program and will advise the Governor of ways to strengthen and improve the over all administration of the equal employment opportunity and affirmative action policies of the State service.~~

Authority: ~~T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-205, T.C.A. § 8-30-206, T.C.A. § 8-30-207, T.C.A. § 8-30-221, T.C.A. § 8-30-222 and T.C.A. § 8-50-103(a).~~

**RULES
OF THE
DEPARTMENT OF PERSONNEL HUMAN RESOURCES**

**Chapter 1120-8
TRAINING LEARNING AND DEVELOPMENT**

TABLE OF CONTENTS

1120-8-.01 — General Statement
1120-8-.02 — Policy
1120-8-.03 — Out-Service Training
1120-8-.04 — In-Service Training
1120-8-.05 — Exclusions

1120-8-.01 Learning and Development Provided by the Department
1120-8-.02 Requests for Continuing Education and Learning
1120-8-.03 Continuing Education and Learning
1120-8-.04 Exclusions

~~1120-8-.01 GENERAL STATEMENT.~~ Training is the planned development process which provides learning opportunities beneficial to and consistent with the goals of State government. Training activities must have specific learning objectives and use a course outline or agenda. Participation in training programs will be considered a work assignment.

~~Authority:~~ T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204 and T.C.A. § 8-30-205.

1120-8-.02 POLICY.

- ~~(1) Every effort will be made to improve the quality of the performance of State employees. Training programs are provided to retain qualified and competent employees through activities of in-service training initiated by the individual agency and the Departments of Finance and Administration, General Services, and Personnel.~~
- ~~(2) Out-service training provides opportunities for employees in State service to attend educational, vocational, and professional institutions and facilities to receive training which meets specific departmental needs for scientific, technical, professional and administrative skills. Training activities for the purpose of reviewing for professional licensing or certification will be considered only for those licenses or certificates determined to be applicable by the Commissioner.~~

~~Authority:~~ T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204 and T.C.A. § 8-30-205.

1120-8-.01 LEARNING AND DEVELOPMENT PROVIDED BY THE DEPARTMENT. Structured learning and development is a process which provides agencies with programs and activities linked to their goal achievement and performance improvement.

- (1) The Department provides learning and development in the areas of leadership development, talent management, performance management, and professional skills. Learning and development activities in each agency will be coordinated through an agency designee.

- (2) The Department may grant Continuing Education Units (CEUs) for learning and development which meets national standards. One (1) CEU unit shall be granted for each ten (10) hours of instruction.
- (3) The Commissioner must approve agency requests for learning and development not offered by the Department and related to agency job requirements.
- (4) The Commissioner must approve requests for CEUs for the learning and development not offered by the Department and related to agency job requirements.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, and T.C.A. § 8-30-205.

~~**1120-8-03 OUT-SERVICE TRAINING.** Out-service training is a supplement to the in-service training programs. Employees are considered for out-service training only when the training requested cannot be acquired through available in-service training.~~

~~(1) Types of Training.~~

- ~~(a) Full-time training consists of a training program for an employee that lasts for a period of more than eighty (80) work days, which may require residency at a training institution and that the employee be relieved of his regular job responsibilities. Full-time training should be for the purpose of fulfilling a specialized need which affects the on-going operation of an agency rather than enhancing an individual's generalized educational desires.~~
- ~~(b) Short-term training consists of training through seminars, short courses, educational workshops and institutes for a period of less than eighty (80) work days.~~
- ~~(c) Part-time training consists of training through courses during part of the employee's regular work hours while the employee maintains his regular job responsibilities.~~
- ~~(d) Training after work hours is formal training outside of the employee's scheduled work hours requiring the expenditure of State funds.~~

~~(2) Eligibility. All State service employees are eligible for participation in out-service training activities, subject to the recommendation of the appointing authority and the approval of the Commissioner and the Commissioner of Finance and Administration.~~

~~Requests for out-service training participation will be reviewed for content and use of employee time by the Commissioner and for the availability of funds by the Commissioner of Finance and Administration.~~

~~(3) Approval of Training Requests. Requests for out-service training must be approved by the Commissioner in accordance with the following criteria:~~

- ~~(a) availability of in-service programs to address the described need;~~
- ~~(b) cost-effectiveness;~~
- ~~(c) job-relatedness;~~
- ~~(d) availability of programs in public (in-state) institutions;~~
- ~~(e) employee's length of service as prescribed by the Commissioner.~~

~~(4) Employee's Responsibility.~~

~~(a) Training assignment: Assignment to training activities carries the same obligations for attendance and performance as other work assignments.~~

~~(b) Financial Responsibility.~~

- ~~1. An employee engaged in full-time training must agree to reimburse the State for training expenses, including salaries and wages paid by the State, if the employee does not continue employment in the State service after completion of the training for a period of twelve (12) months or twice the training time, whichever is greater.~~
- ~~2. Such reimbursement to the State will be made in accordance with an official contract between the employee and the agency, and will be for an amount proportionate to the uncompleted period of service specified.~~
- ~~3. The employee or his estate is not bound by this agreement if the training activity is terminated prior to completion, either at the convenience of the State or because of death, prolonged illness, disability, or similar conditions beyond the control of the employee.~~
- ~~4. Discharge for any cause will not automatically relieve the employee of financial obligation.~~
- ~~5. Terminal leave cannot be used to reduce the pay back period.~~
- ~~6. Failure to successfully complete a training assignment because of an unexcused absence may result in reimbursement to the State for all costs incurred, including salary.~~

~~(5) Appointing Authority's Responsibility.~~

- ~~(a) The appointing authority will maintain appropriate contact with the employee in training and the institution concerned to ensure attendance and performance by the employee.~~
- ~~(b) Documentation of the successful completion of the activity will be the responsibility of each agency and will be made available to the Department.~~

~~(6) Payment of Salary, and Related Expenses. Expenses which may be authorized for payment are:~~

- ~~(a) Travel. The cost of travel in accordance with the State's comprehensive travel regulations.~~
- ~~(b) Tuition. If available, outside funding sources may be used in lieu of State payment.~~
- ~~(c) Non-consumable supplies. Textbooks which can be resold will become the property of the State and should be maintained in an accessible location.~~
- ~~(d) Salary. Payment in accordance with the type of training as defined below:~~

- ~~1. Full-Time Training. An employee may receive a maximum of 75% of his salary during the period of full-time training. When the State requires an employee to acquire additional formal education to accomplish his duties, an employee may be compensated at full salary with the prior approval of the Commissioner and the Commissioner of the Department of Finance and Administration. If an employee should receive salary assistance through fellowships, grants, or other outside sources, the salary during the training period shall not exceed the employee's regular salary. A notarized statement of salary funding and sources must be submitted.~~
- ~~2. Short-Term Training. Employees may receive their regular salary during the period of such training and may receive payment for authorized expenses.~~

3. ~~Part Time Training.~~ Employees may receive their regular salary during the period of such training and may receive payment for authorized expenses. In special instances, when travel is necessary or other conditions warrant, the appointing authority may recommend payment of all or part of the cost of the related travel in accordance with the comprehensive travel regulations.
4. ~~Training After Work Hours.~~ Employees participating in approved training activities outside the normal work schedule are not eligible for additional salary payment. Reimbursement may be made for expenses outlined in subsection 6(d)1 and 6(d)2 and in some instances employees may receive reimbursement for travel in accordance with the comprehensive travel regulations.

~~Reimbursement will only be made on courses recommended by the appointing authority and approved by the Commissioner and the Commissioner of Finance and Administration. Approval must be secured prior to the beginning of the course and reimbursement will be contingent upon successful completion documented by the attended institution.~~

~~(7) — Employment Status During Full-Time Out-Service Training.~~

- ~~(a) — Leave Status.~~ An employee engaged in authorized full-time training will be placed on educational leave during the period specified in the training agreement. Any extension of this leave must have prior approval. During the period of full-time out-service training, an employee will be subject to the attendance and vacation policy of the institution attended. Sick and annual leave will not be accrued for the period involved; however, previously accumulated sick and annual leave will be reinstated when the employee returns to full-time work.
- ~~(b) — Salary Increases and Adjustments.~~ Full-time out-service training will not affect the employee's consideration for any salary increase or adjustment for which the employee may be eligible.
- ~~(c) — Continuous Service.~~ Full-time out-service training will not constitute an interruption of continuous service.
- ~~(d) — Payroll Deductions.~~ All previously authorized deductions will be continued during the training period, provided the adjusted salary is sufficient for the deductions.
- ~~(e) — State Contributions.~~ Contributions from the State to the employee's insurance premiums and retirement account will continue.

~~(8) — Nationally Sponsored Seminars.~~ One-day nationally sponsored seminars which focus on generic training, i.e., (effective supervisor, train-the-trainer, communication skills, time management, etc.) will not be approved. Out-service training should be used to meet technical training needs specific to each agency that cannot be accomplished through existing in-service programs.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204 and T.C.A. § 8-30-205.

~~1120-8-.04 IN-SERVICE TRAINING.~~

- ~~(1) — Qualification Criteria.~~ All in-service training to be recorded on an employee's State training transcript must meet the following criteria:
 - ~~(a) — Meet CEU standards as outlined by the National Council on the Continuing Education Unit. One (1) CEU equals ten (10) classroom contact hours.~~
 - ~~(b) — Address specific job skills related to the employee's current assignment.~~

- ~~(c) — Be evaluated by the Department to ensure instructor quality and validity of course content.~~
- ~~(2) — Eligibility. All State service employees are eligible to participate in in-service training activities related to their current assignment. Employees of other State agencies are eligible to participate on a space available basis.~~
- ~~(3) — Requesting Participation. Interdepartmental and Departmental participation requests will be reviewed for approval by the Commissioner through the designated agency training coordinator(s).~~
- ~~(4) — Approval of New In-Service Training Programs. Requests for new in-service training programs will be reviewed for approval by the Commissioner in accordance with the following criteria:
 - ~~(a) — In-Service training provided by a source from outside the State service must be approved by the Department.~~
 - ~~(b) — The training should be the most economical and effective means of obtaining the necessary level of service, knowledge or job skills.~~~~
- ~~(5) — Responsibility for Record Keeping. An official training record or CEU transcript for employees in State service will be maintained by the Department. Requests for transcripts will be made in a manner established by the Commissioner. Requests for revisions in an employee's transcript must include a certificate or other documentation supporting the request.~~

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204 and T.C.A. § 8-30-205.

1120-8-.02 REQUESTS FOR CONTINUING EDUCATION AND LEARNING. Upon the identification of a specialized technical need by the agency, an employee may be eligible for continuing education from higher education, vocational, and professional institutions. Employees, in consultation with the agency, may select one of the following continuing education options:

- (1) Full-time Education. Full-time education lasts for more than eighty (80) workdays and may require residency at an institution or facility. During the program, the employee is relieved of regular job responsibilities;
- (2) Part-time Education. Part-time education lasts for less than eighty (80) workdays and is held during the employee's regular work hours. The employee maintains regular job responsibilities during this program;
- (3) Short-term Learning. Short-term learning consists of seminars, short courses, and educational workshops that last for less than eighty (80) workdays. The employee maintains regular job responsibilities during this program; and
- (4) After Work Hours Education or Learning. After work hours education or learning consists of seminars, short courses, and educational workshops and is held outside the employee's scheduled shift. The employee maintains regular job responsibilities during this program.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, and T.C.A. § 8-30-205.

1120-8-.03 CONTINUING EDUCATION AND LEARNING. All state employees are eligible to participate in continuing education and learning related to their current job assignment, subject to the recommendation of the appointing authority and the approval of the Commissioner and the Commissioner of Finance and Administration.

- (1) Criteria. The Commissioner may approve continuing education and learning based on any of the following criteria:

- (a) Lack of availability of programs offered by the Department;
 - (b) Job relatedness;
 - (c) Cost-effectiveness; or
 - (d) Availability of programs in public Tennessee higher education institutions;
- (2) Appointing Authority Responsibilities. The appointing authority must:
- (a) Submit to the Commissioner, in advance, an approval request for each employee to attend continuing education and learning;
 - (b) Monitor employee attendance and performance; and
 - (c) Document completion and maintain a public record.
- (3) Salary and Related Expenses. In the event the appointing authority grants reimbursement to the employee for salary and related expenses, the appointing authority must approve, in advance, reimbursement for the following and submit the authorization to the Commissioner:
- (a) Travel. Reimbursement shall be for travel in accordance with the state's comprehensive travel regulations;
 - (b) Tuition. The appointing authority shall approve tuition reimbursement subject to the approval of Finance and Administration; and
 - (c) Salary. Salary payment is based on the following types of continuing education and learning:
 - (i) Full-time. Employees in full-time education shall receive seventy-five percent (75%) of their regular salary. When the state requires an employee to obtain additional education, employee compensation is possible at full salary with the prior approval of the Commissioner and the Commissioner of Finance and Administration. If an employee receives salary assistance through scholarships, fellowships, grants or other outside sources, the total amount received from the state and outside sources during the continuing education period shall not exceed the employee's regular salary. The employee must submit a notarized statement of salary funding and sources to the appointing authority.
 - (ii) Part-time. Employees in part-time education shall receive their regular salary.
 - (iii) Short-term. Employees in short-term learning shall receive their regular salary.
 - (iv) After work hours. An employee in after work hours education or learning is not eligible for additional salary payment.
 - (d) Distribution of salary. The appointing authority is responsible for payment of the employee's reimbursement for salary. Distribution is contingent upon completion of the learning and development program and must be documented by the attended institution.
- (4) Employment status during full-time continuing education and learning.
- (a) Leave Status. An employee engaged in authorized full-time continuing education and learning is on educational leave during the period approved by the appointing authority. The appointing authority must approve any extension of this leave. An employee will not accrue sick and annual leave during this period.

- (b) Salary Increases and Adjustments. If eligible, an employee in full-time continuing education and learning will continue to receive any salary increases or adjustments.
 - (c) Continuous Service. Full-time continuing education and learning will not interrupt continuous service for purposes of longevity.
 - (d) Payroll Deductions. All prior authorized deductions will continue during full-time continuing education and learning provided the adjusted salary covers the deductions.
 - (e) State Contributions. Contributions from the state to the employee's insurance premiums and retirement account will continue.
- (5) Employee's responsibilities.
- (a) An employee in full-time continuing education and learning must contractually agree to work for the agency for twelve (12) months or twice the total educational leave, whichever is greater. If the employee fails to fulfill the contract, the employee must reimburse the state for expenses incurred during the full-time continuing education and learning, including salaries and wages paid by the state. Neither sick nor terminal leave can be used to reduce the reimbursement period.
 - (b) An employee in continuing education and learning will be held to the same attendance and performance standards as other work assignments. An employee must reimburse the state for all costs, including salary, resulting from unexcused absences and incompleteness of a learning and development program. Collection of reimbursement is the responsibility of the agency.
 - (c) If an activity in continuing education and learning is terminated prior to completion, either at the convenience of the state or because of death, prolonged illness, disability, or similar conditions beyond the control of the employee, neither the employee nor the employee's estate may be responsible for reimbursement of expenses.
 - (d) If an employee is discharged for any cause from the state or the educational institution, relief of financial obligation is not automatic.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, and T.C.A. § 8-30-205.

1120-8-.054 EXCLUSIONS. ~~Participation at annual conferences, symposiums, conventions, official meetings, expositions, etc., which do not award Continuing Education Units is not a training activity. Approval by the Commissioner for such participation is not required.~~ Annual conferences, symposiums, conventions, official meetings, summits, and expositions do not require approval by the Commissioner.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204 and T.C.A. § 8-30-205.

**RULES
OF THE
TENNESSEE DEPARTMENT OF PERSONNEL HUMAN RESOURCES**

**Chapter 1120-9
EMPLOYEE RELATIONS PROGRAM ADMINISTERED BY THE DEPARTMENT OF HUMAN
RESOURCES**

TABLE OF CONTENTS

1120-9-.01 Purpose	1120-9-.04 Sick Leave Bank
1120-9-.02 Communications	1120-9-.05 Employee Service Awards
1120-9-.03 State Employees' Charity Fund	1120-9-.06 Employee Suggestion Award Program
<u>1120-9-.01</u> Tennessee Employees' Charitable Campaign	
<u>1120-9-.02</u> Sick Leave Bank	
<u>1120-9-.03</u> Employee Service Awards	
<u>1120-9-.04</u> Employee Suggestion Award Program	

~~**1120-9-.01 PURPOSE.** The Department will ensure that programs are available in State service that will recognize employee service and suggestions for improvement of State Government. The Department will promote productive working relationships and effective communication between management and employees. State employees will be encouraged to serve their communities through the State sponsored charity fund program.~~

~~**Authority:** T.C.A. § 8-30-202, T.C.A. § 8-30-203 and T.C.A. § 8-30-204.~~

~~**1120-9-.02 COMMUNICATIONS.** The Department will promote meaningful communication between management and State employees. Information about anything which affects employment in State government will be available to every employee. The Employee Relations Division will aid by referring employees to appropriate avenues for job related inquiries.~~

~~**Authority:** T.C.A. § 8-30-202, T.C.A. § 8-30-203 and T.C.A. § 8-30-204.~~

~~**1120-9-.03 STATE EMPLOYEES' CHARITY FUND** **1120-9-.01 TENNESSEE EMPLOYEES CHARITABLE CAMPAIGN.** The State Employees' Charity Fund. The Tennessee Employees Charitable Campaign will be coordinated annually by the Department. The Governor and the Commissioner will be designated as chairman and co-chairman respectively.~~

~~Employees may contribute through payroll deduction to social services and health agencies authorized by the Commissioner and recommended by an employee committee appointed by the Commissioner. Procedures and methods for deductions of monies are at the discretion of the Governor, the Commissioner and the Commissioner of Finance and Administration.~~

~~**Authority:** T.C.A. § 8-30-202, T.C.A. § 8-30-203 and T.C.A. § 8-30-204.~~

~~1120-9-04.02~~ **SICK LEAVE BANK.** The Department will administer a bank which provides emergency sick leave to member employees who have personally suffered disability due to a catastrophic illness or accident. The Department will administer a bank which grants paid sick leave to qualifying members who are medically certified as unable to perform the duties of their jobs as a result of a personal illness, injury, accident, disability, medical condition, or quarantine and who have exhausted all their personal sick, compensatory, and annual leave balances.

Authority: T.C.A. §§ 8-50-901 and through 8-50-910.

1120-9-05.03 EMPLOYEE SERVICE AWARDS.

- (1) The Department will provide a consistent and uniform system through which employees will receive appropriate recognition for their service to state government. Each participating agency will verify eligible employees' length of service and submit a request for awards to the appropriate vendor.
- (2) Service award credit will be given for the same periods of employment in state Government as are recognized by the Tennessee Consolidated Retirement System for retirement credit, excluding any service credit recognized by the Tennessee Consolidated Retirement System for service in local governments or the public school systems other than state owned and operated schools.
- (3) Service awards will be presented following five (5) years of creditable service and at each increment of five (5) years thereafter. ~~The Department will assist participating agencies in making arrangements for special presentations of awards in recognition of thirty five (35) or more years of service.~~
- (4) Awards provided by the Department will be at the discretion of the Commissioner ~~and will be reasonably priced and of such quality to reflect positively on the employees of State government.~~

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203 and T.C.A. § 8-30-204.

~~1120-9-06.05~~ **EMPLOYEE SUGGESTION AWARD PROGRAM.** The Department will administer the Employee Suggestion Award Program in accordance with guidelines set forth in T.C.A. §4-27-101, *et seq.* ~~This program provides for cash or honorary awards to State employees for original, innovative suggestions which improve the efficiency and/or effectiveness of State government. Under this program, cash or honorary awards may be made to state employees and retired state employees whose adopted suggestions result in substantial savings or improvement in state operations.~~

Authority: T.C.A. §§ 4-27-101, ~~et seq.~~ through 4-27-105, T.C.A. § 8-30-202, T.C.A. § 8-30-203 and T.C.A. § 8-30-204.

**RULES
OF THE
TENNESSEE DEPARTMENT OF ~~PERSONNEL~~ HUMAN RESOURCES**

**Chapter 1120-10
DISCIPLINARY ACTION**

TABLE OF CONTENTS

1120-10-.01 Purpose	1120-10-.05 Causes for Disciplinary Action
1120-10-.02 Policy	1120-10-.06 Examples of Disciplinary Offenses
1120-10-.03 Minimum Due Process	1120-10-.07 Progressive Disciplinary Action
1120-10-.04 Exception to Minimum Due Process	
<u>1120-10-.01 Policy</u>	<u>1120-10-.05 Examples of Disciplinary Offenses</u>
<u>1120-10-.02 Minimum Due Process</u>	<u>1120-10-.06 Progressive Disciplinary Action</u>
<u>1120-10-.03 Exception to Minimum Due Process</u>	<u>1120-10-.07 Review of Written Warning</u>
<u>1120-10-.04 Causes for Disciplinary Action</u>	<u>1120-10-.08 Executive Service Employee</u>

~~**1120-10-.01 PURPOSE.** To establish standards for the application of disciplinary procedures which will assure fairness and uniformity among agencies and institutions subject to the provisions of these rules.~~

~~**Authority:** T.C.A. ~~8-30-202, T.C.A. 8-30-203 and T.C.A. 8-30-204.~~~~

~~**1120-10-.02.01 POLICY.** The intent of this chapter is to establish fair and uniform standards for the application of disciplinary procedures among agencies and institutions subject to the provisions of these Rules. A career employee may be warned, suspended, demoted or dismissed by his appointing authority whenever just or legal cause exists. The degree and kind of action is at the discretion of the appointing authority, but must be in compliance with the intent of the provisions of this Rule and the Act. ~~An executive service employee serves at the pleasure of the appointing authority.~~~~

~~**Authority:** T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-318, T.C.A. § 8-30-325, and T.C.A. § 8-30-326 and T.C.A. § 8-30-330.~~

~~**1120-10-.03.02 MINIMUM DUE PROCESS.**~~

- ~~(1) Career employees ~~have~~ obtain a property right to a position in the classification in which they currently hold career status. Therefore, no suspension, demotion, dismissal or any other action which deprives a ~~regular~~ (career) employee of ~~his~~ this property right' will become effective until minimum due process is provided as outlined ~~below~~ in this Rule.~~
- ~~(2) Minimum due process consists of the following:~~
 - ~~(a) The employee shall be notified of the charges against him. Such notification shall detail times, places, and other pertinent facts concerning the charges and ~~should~~ shall be in writing.~~

- (b) The notification ~~will~~ must provide an opportunity for the employee to have a pre-decision discussion with an appropriate manager and ~~will~~ must state the mechanism through which such a discussion may be arranged. The employee should be given a reasonable period of time to prepare to answer charges and present information relevant to the charges presented, which might influence the manager's decision.
 - (c) The manager conducting such discussions must be an appointing authority or manager who has direct access to an appointing authority for this purpose.
 - (d) ~~The meeting outlined above~~ The discussion process outlined herein shall be for the purpose of allowing the employee to present information to the manager regarding the disciplinary action under consideration.
 - (e) The discussion shall be informal. The employees shall have the right to present written statements of witnesses or any other information with regard to the charges. Attendance and participation by persons other than the manager and the employee shall be at the discretion of the manager.
 - (f) If the employee declines the opportunity to have the discussion or present information, the provisions of this section are deemed to have been met.
 - (g) The due process discussion is not considered to be a contested case hearing as defined under the Uniform Administrative Procedures Act.
 - (h) The Commission shall determine as a preliminary matter to the merits of a grievance, a grievant's allegation that he or she was denied minimum due process.
- ~~(3) The Commission shall determine as a preliminary matter to the merits of a grievance, a grievant's allegation that he or she was denied minimum due process.~~

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204 and T.C.A. § 8-30-331.

1120-10-04.03 EXCEPTION TO MINIMUM DUE PROCESS. When an employee is acting in a dangerous or otherwise ~~threatful~~ threatening manner and must be removed from the workplace immediately, it is not necessary for the agency to provide minimum due process prior to ~~removal~~ removing the employee from the workplace. In such case, the appointing authority shall place the employee on discretionary leave with pay, in accordance with policies established by the Commissioner, pending due process. ~~Minimum due process must be provided after removal as soon as practicable. The employee, in this case, may be placed on leave or on immediate suspension without pay.~~ Minimum due process is required as quickly as practicable after removing the employee from the workplace.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203 and T.C.A. § 8-30-204.

1120-10-054 CAUSES FOR DISCIPLINARY ACTION. Causes for disciplinary action fall into two 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. § 8-30-202, T.C.A. § 8-30-203 and T.C.A. § 8-30-204.

1120-10-.065 EXAMPLES OF DISCIPLINARY OFFENSES. The following causes are examples of acts that may warrant disciplinary action. This list is not all-inclusive and shall not limit an appointing authority's discretion in disciplinary matters; those considered for disciplinary action and should not be considered the only causes of action.

- (1) Inefficiency ~~or incompetency~~ in the performance of duties;
- (2) Incompetency in the performance of duties;
- ~~(2)~~(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;
- ~~(3)~~(5) Careless, negligent or improper use of state property or equipment;
- ~~(4)~~(6) Failure to maintain satisfactory and harmonious working relationships with the public and fellow employees;
- ~~(5)~~(7) Habitual improper use of sick leave ~~privileges;~~
- ~~(6)~~(8) Habitual pattern of failure to report for duty at the assigned time and place;
- ~~(7)~~(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;
- ~~(8)~~(10) Gross misconduct; ~~or conduct unbecoming an employee in the State service.~~
- (11) Conduct unbecoming an employee in state service;
- ~~(9)~~(12) Conviction of a felony;
- ~~(10)~~(13) Willful abuse or misappropriation of state funds, property or equipment;
- ~~(11)~~(14) Falsification of an official document relating to or affecting employment;
- ~~(12)~~(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;
- ~~(13)~~(16) Trespassing on the property of any state officer or employee for the purpose of harassment;
- ~~(14)~~(17) Damage or destruction of state property;
- ~~(15)~~(18) Acts that would endanger the lives and property of others;
- ~~(16)~~(19) Possession of unauthorized firearms, lethal weapons, alcohol or illegal drugs on the job;
- ~~(17)~~(20) Brutality in the performance of duties;
- ~~(18)~~(21) Refusal to accept a reasonable and proper assignment from an authorized supervisor (insubordination);
- ~~(19)~~(22) Reporting to work under the influence of alcohol or illegal drugs, or partaking of such on the job;
- ~~(20)~~(23) Sleeping or failure to remain alert during duty hours;

~~(21)~~(24) ~~Betrayal of~~ Unauthorized disclosure of confidential information;

~~(22)~~(25) Garnishment of wages for more than one indebtedness;

~~(23)~~(26) 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

~~(24)~~(27) For the good of the service as outlined in T.C.A. § 8-30-326.

Authority: ~~T.C.A. § 8-30-203, T.C.A. § 8-30-202 and T.C.A. § 8-30-203.~~ **Authority:** T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-326, and T.C.A. §§ 2-19-201 through 2-19-208.

1120-10-~~07~~06 PROGRESSIVE DISCIPLINARY ACTION.

~~(1)~~—The supervisor is responsible for maintaining the proper performance level, conduct and discipline of the employees under his supervision. When corrective action is necessary, the supervisor ~~must~~ should administer disciplinary action ~~beginning at the appropriate step as described~~ at the lowest appropriate step for each area of misconduct. Corrective actions include:

~~(2)~~(1) Oral Warning.

(a) The supervisor will meet privately with the employee to:

~~(a)~~(1) ~~Review with the employee exactly what is expected on the job and why.~~ Review with the employee exact job expectations and the reasons for those expectations.

~~(b)~~(2) ~~Explain to the employee how he has not met requirements and why present conduct or performance is unacceptable.~~ Explain to the employee how a job requirement has not been met and detail how the present performance or conduct is unacceptable.

~~(c)~~(3) Allow the employee to give reasons for his such inappropriate actions or failures.

~~(d)~~(4) Make suggestions for correction.

~~(e)~~— Record the date of the discussion and other necessary information for future reference.

~~(f)~~— Written follow-up to the discussion may be forwarded to the employee but is not required. ~~Written follow-up to an oral warning should not be construed as a written warning as described below and will not become part of the employee's official personnel file.~~

(5) Provide the employee with documentation of the date of the discussion and other necessary information for future reference.

(b) Written follow-up to the discussion may be forwarded to the employee but is not required. Written follow-up to an oral warning should not be construed as a written warning as described below and shall not be maintained as part of the employee's official human resources file.

~~(3)~~(2) Written Warning.

(a) The supervisor will meet with the employee and:

~~(a)~~(1) Review the points covered in the oral warning, if an oral warning~~(e)~~ was administered. ~~The employee will be told that a significant change in his present conduct or performance must be made.~~

~~(b) Tell the employee he will receive a letter covering the significant points of the discussion to include:~~

- ~~1. What has been expected and how these expectations have not been met.~~
- ~~2. Suggestions for improvement.~~
- ~~3. Indication that failure to improve will lead to further disciplinary action.~~

~~(e) Review with the organizational unit head the contents of the letter prior to its delivery to the employee by the supervisor.~~

~~(d) A copy of the written warning may be placed in the employee's official personnel file in the agency personnel office at the discretion of the appointing authority. Any written warning which has been issued to an employee shall be automatically expunged from the employee's personnel file after a period of two (2) years from the date of the letter; provided, that the employee has had no further disciplinary actions with respect to the same area of performance, conduct, and discipline.~~

(2) Review with the employee exact job expectations and the reasons for those expectations.

(3) Explain to the employee how job requirements have not been met and detail how the present performance or conduct is unacceptable.

(4) Allow the employee to give reasons for such inappropriate actions or failures.

(5) Make suggestions for correction.

(6) Indicate that failure to improve will lead to further disciplinary action.

(7) Tell the employee the discussion will be documented in a letter which shall cover the significant points of the discussion.

(b) A copy of the written warning may be placed in the employee's human resources file in the agency human resources office at the discretion of the appointing authority. Written warnings do not become a part of an employee's human resources file until the review process established in 1120-10-.07 is complete or thirty (30) calendar days have passed.

~~(4)(3) Suspension Without Pay.~~

(a) After the agency has met minimum due process requirements is provided, an appointing authority may suspend a career employee without pay for disciplinary purposes, for such length of time as the authority considers appropriate, not to exceed thirty (30) workdays in a rolling twelve (12) month period. With the approval of the Commissioner, a career employee may be suspended for a longer period pending the investigation or trial of any charges against the employee. a suspension without pay may be issued by the appointing authority for one (1) to thirty (30) days. No employee may be suspended without pay for disciplinary purposes for more than thirty (30) days in any consecutive twelve (12) month period. Suspensions with or without pay of more than thirty (30) days may be issued pending the outcome of an investigation or legal action with approval of the Commissioner.

(b) Before issuance, a written notice of the suspension without pay will be prepared. The notice will contain an account of the circumstances which led to the decision to issue the suspension, the beginning and ending dates of the suspension and information to the employee concerning his rights of appeal as outlined in Chapter 1120-11 of these rules. A

~~copy of the notice will be placed in the employee's official personnel file and a copy will be sent to the Department.~~

(b) Any employee who is suspended will receive a written notice from the appointing authority that will contain the following:

- (1) an account of the circumstances which led to the decision to issue the suspension;
- (2) the beginning and ending dates of the suspension; and
- (3) information to the employee concerning appeal rights as outlined in Chapter 1120-11 of these Rules. A copy of the notice will be placed in the employee's human resources file and a copy shall be forwarded to the Department.

~~(5)(4) Dismissal.~~

~~(a) After minimum due process is provided, an employee may be dismissed by the appointing authority from his position for unacceptable conduct or performance of duties. After the agency has met minimum due process requirements, an appointing authority may dismiss a career employee for unacceptable performance or conduct.~~

~~(b) Before an a career employee is dismissed, the appointing authority must provide a written notification detailing the circumstances leading to the decision to dismiss will be prepared. The notice will indicate the effective date and inform the employee of his rights to appeal as outlined in Chapter 1120-11 of these Rules. A copy of the notice will be placed in the employee's official personnel human resources file and a copy will be sent to the Department.~~

~~(c) Before an a career employee can be dismissed, the agency must provide he must be given ten (10) calendar days paid notice. During the notice period an employee will not be required to report for duty. The employee's accumulated annual leave balance may be used during this notice period only if dismissal was for gross misconduct.~~

~~(5)(5) Transfer or Demotion. If it is determined by the appointing authority determines that an a career employee's ability to satisfactorily perform his the required duties is beyond the capabilities of the employee or the employee has been compromised by notorious conduct to the extent that he is ineffective in his position, the appointing authority may choose to demote or transfer the career employee to another position. The appointing authority may not demote or transfer a career employee more than fifty (50) miles until after the agency has met minimum due process requirements as outlined herein. the employee may be demoted or transferred to a position that is more appropriate after minimum due process has been provided.~~

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, T.C.A. § 8-30-318, T.C.A. § 8-30-325, T.C.A. § 8-30-326 and T.C.A. § 8-30-330.

1120-10-.07 REVIEW OF WRITTEN WARNING.

- (1) A career employee who wishes to contest a written warning may request a review of that warning by the agency appointing authority or designee for this purpose. The employee must submit a written request for review to the appointing authority no later than thirty (30) calendar days from receipt of a written warning. The request for review should include documentation of any mitigating circumstances causing the employee to believe that the warning is undeserved.
- (2) The appointing authority or designee will review the warning and all documentation submitted by the employee and make a decision which may be one of the following:

- (a) There is sufficient cause for written warning and it stands as issued. The request for review and the response become a part of the employee's human resources file.
 - (b) There is sufficient cause for an oral warning and the appointing authority reduces the written warning to an oral warning.
 - (c) There is insufficient cause for disciplinary action of any kind resulting in retraction of the written warning.
- (3) The appointing authority or designee will communicate the written decision to the employee within fifteen (15) workdays of receipt of request for review.
- (4) The appointing authority's written decision is final.
- (5) Any written warning issued to an employee and a request for review and findings shall be automatically expunged from the employee's human resources file after a period of two (2) years, provided that the employee has had no further disciplinary actions with respect to the same area of performance, conduct, and discipline.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, T.C.A. § 8-30-204, and T.C.A. § 8-30-330.

1120-10-.08 EXECUTIVE SERVICE EMPLOYEE. An executive service employee serves at the will and pleasure of the appointing authority.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203 and T.C.A. § 8-30-208.

**RULES
OF THE
TENNESSEE DEPARTMENT OF ~~PERSONNEL~~ HUMAN RESOURCES**

**Chapter 1120-11
GRIEVANCE**

TABLE OF CONTENTS

1120-11-.01 Purpose	1120-11-.06 Scope of Procedure
1120-11-.02 Policy	1120-11-.07 Grievable Matters
1120-11-.03 Responsibility	1120-11-.08 Exceptions and Non-Grievable Matters
1120-11-.04 Basic Standards	1120-11-.09 Technical Advice and Assistance
1120-11-.05 Procedures	
1120-11-.01 Policy	1120-11-.06 Grievable Matters
1120-11-.02 Responsibility	1120-11-.07 Exceptions and Non-Grievable Matters
1120-11-.03 Basic Standards	1120-11-.08 Technical Advice and Assistance
1120-11-.04 Procedures	
1120-11-.05 Scope of Procedure	

~~1120-11-01 PURPOSE.~~ To provide clear, orderly and expedient procedures through which all career or permanent employees of the State service may process bona fide complaints or grievances.

Authority: T.C.A. 8-30-328

1120-11-.02.01 POLICY.

- (1) Career and permanent ~~service~~ employees will be given every opportunity to resolve bona fide ~~complaints or grievances~~ through established procedures. Every reasonable effort will be made to resolve grievances at the lowest possible step in the procedure.
- (2) Employees using this procedure are entitled to process ~~their complaints or grievances~~ without fear, interference, discrimination, or reprisal.

Authority: T.C.A. §8-30-328.

1120-11-.03.02 RESPONSIBILITY.

- (1) The Commissioner ~~will be~~ is responsible for providing and maintaining the basic standards and guidelines for implementing this ~~rule~~ chapter.
- (2) Appointing authorities ~~will be~~ are responsible for the proper ~~effectuation~~ implementation of this ~~rule~~ chapter throughout their respective agencies. Modification of these procedures may be made in order to satisfy unusual circumstances within an agency if such modification is approved by the Commissioner.
- (3) Appointing authorities ~~will be~~ are responsible for ensuring that all employees and supervisory ~~personnel~~ staff are aware of the provisions of this ~~rule~~ chapter.

Authority: T.C.A. § 8-30-328.

1120-11-~~04~~.03 BASIC STANDARDS.

- (1) A ~~complaint or~~ grievance must be filed at the appropriate step in the grievance procedure within fifteen (15) standard workdays (Monday - Friday, 8:00 a.m. - 4:30 p.m.) of the action which is the basis for the grievance; otherwise it will be considered untimely and invalid.
- (2) Although no standard grievance forms are provided, agencies may develop and make available such forms to employees. ~~No grievance may be denied because a standard form adopted by an agency has not been used. An agency may not deny an employee's grievance because a standard form was not used. Grievances must be expressed in reasonable terms. Each grievance submitted should contain:~~
 - (a) the basis for the grievance;
 - (b) the settlement or corrective action desired by grievant; and
 - (c) sufficient facts or other information to begin an investigation.
- (3) A grievant may represent himself or be represented by a state employee of the employee's choice at any step in the procedure of the grievance procedure prior to a Level 4 hearing. The grievant and the agency may have counsel present at discussion or hearing of fact prior to Level 5, but counsel may not participate in the discussion or hearing. The presence of any other observer is at the discretion of the manager or supervisor in charge of the discussion or hearing.
- (4) At the informal hearing before the appointing authority (i.e., the Level 4 hearing), an attorney or a representative of an employee may speak on behalf of the employee. The presence of any other observer at this discussion is at the discretion of the appointing authority or designee in charge of that discussion.
- (5) ~~Legal counsel may represent a grievant before the Civil Service Commission, which is the final step of this procedure. The grievant and the agency may have counsel present at discussions prior to the final step. The presence of other observers at discussions prior to the final step of this procedure is at the discretion of the manager or supervisor in charge of that discussion. The grievant and the agency may be represented by counsel in actions before the Civil Service Commission, which is the final step of this procedure. The presence of additional observers at this step is at the discretion of the presiding Administrative Law Judge.~~
- (6) Grievants may present grievances during ~~business hours~~ the standard workday or other mutually agreeable hours as work situations may require. Grievance discussions held during the scheduled off-duty hours for a grievant, witness, or representative will be considered the same as ~~overtime work hours worked, including overtime if applicable.~~ Grievants or employees who are required to appear as witnesses or representatives will not be required to use leave for such periods and shall be reimbursed for travel and other expenses in accordance with the comprehensive travel regulations.
- (7) Grievances concerning suspension without pay, demotion, dismissal, or any other loss of a property right must be appealed to the lowest management level in the organization with authority to ~~overturn the suspension~~ filed directly with the appointing authority, warden, or superintendent.
- (8) ~~Grievances concerning dismissal should be appealed directly to the appointing authority, warden, or superintendent.~~

- (8) An employee who believes that a disciplinary action or layoff is the result of alleged discrimination prohibited by T.C.A. § 8-50-103 or T.C.A. § 4-21-401 may be appealed directly to the file a grievance directly with the appointing authority, warden, or superintendent through this procedure. If the aggrieved is unsatisfied with the decision, the grievance and the appointing authority's response may be appealed to the Commission within thirty (30) days or the Tennessee Human Rights Commission as provided in T.C.A. 8-50-103(b). A grievant may also proceed directly to the Tennessee Human Rights Commission as provided in T.C.A. §§ 4-21-401 and 8-50-103.
- (9) The agency must communicate grievance decisions should be communicated in writing directly to the grievant in a timely manner as outlined in Chapter 1120-11-05 1120-11-04. Agencies must use certified or registered mail is mandatory if a decision must be mailed if mailing the written decision. If hand delivered, a grievance decision Hand delivered grievance decisions should must include a written heading indicating "Hand Delivered" with a place for a the employee's signature. No other form of communication is acceptable.
- (11) ~~Grievances must be expressed in reasonable terms. Each grievance submitted should contain:~~
- ~~(a) the basis for the grievance;~~
 - ~~(b) the settlement or corrective action desired by grievant; and~~
 - ~~(c) sufficient facts or other information to begin an investigation.~~

Authority: T.C.A. § 8-30-326 and T.C.A. § 8-30-328.

1120-11-05-04 PROCEDURES. ~~The appropriate entrance step is determined by the grievant's relative level in the organization.~~ Procedures shall not be more than five (5) steps to finality as follows:

- (1) Step I - Grievant's Immediate Supervisor (~~verbal~~)
 - (a) The employee presents a written grievance to the supervisor Verbal discussion with supervisor within fifteen (15) workdays of cause the action which is the basis for the grievance.
 - (b) Supervisory investigation and fact finding. The supervisor investigates and issues a written decision to the grievant within fifteen (15) workdays of the discussion.
 - ~~(c) Decision clearly communicated to grievant within five (5) workdays of discussion.~~
- (2) Step II - Next Appropriate Higher Level of Management (~~written~~)
 - (a) ~~Written grievance submitted to appropriate manager within ten (10) workdays of receipt of Step I decision.~~ The employee submits a written grievance to the appropriate manager within fifteen (15) workdays of receipt of the Step I written decision.
 - (b) ~~Informal discussion or hearing of facts and allegations. The manager conducts an informal discussion or hearing of facts and allegations, investigates and issues a written decision to the grievant within thirty (30) workdays of the receipt of the grievance.~~
 - ~~(c) Investigation, fact finding and written decision communicated to grievant within ten (10) workdays of discussion.~~
- (3) Step III - Next Appropriate Higher Level of Management (~~written~~)

- (a) ~~Written grievance and prior step decision submitted to next appropriate manager within ten (10) workdays of receipt of decision from Step II. The employee submits a written grievance to the appropriate manager within fifteen (15) workdays of receipt of the Step II written decision.~~
 - (b) ~~Informal discussion or hearing of facts and allegations with witnesses and documentation. The manager conducts an informal discussion or hearing of facts and allegations, investigates and issues a written decision to the grievant within thirty (30) workdays of the receipt of the grievance.~~
 - (c) ~~Investigation, fact finding and written decision clearly communicated to grievant within ten (10) workdays of discussion.~~
- (4) Step IV – Appointing Authority Level (written)
- (a) ~~Written grievance and prior step decision submitted to appointing authority or designee within ten (10) workdays of receipt of decision from Step III. The employee submits a written grievance to the appointing authority or designee within fifteen (15) workdays of receipt of the Step III written decision.~~
 - (b) ~~Informal discussion or hearing of facts, allegations and testimony by appropriate witnesses as determined by the appointing authority or designated representative as soon as practical. Whenever possible, the fourth step hearing shall be conducted by a manager who had no input to or involvement in the original decision to discipline. The appointing authority or designee conducts an informal discussion or hearing of facts, allegations, and testimony. Whenever possible, a manager who had no input or involvement in the original decision to discipline shall conduct the fourth step hearing. The informal discussion or hearing is not a contested case hearing pursuant to the Uniform Administrative Procedures Act.~~
 - (c) ~~Investigation, fact finding and written final agency decision communicated to grievant within ten (10) workdays of discussion. The appointing authority or designee investigates and issues a written decision to the grievant. The appointing authority shall have sixty (60) workdays, from the receipt of the grievance, to complete the hearing and issue a written decision.~~
 - (d) The appointing authority shall have full authority to overturn, reduce, or alter any disciplinary action based on information gathered at the Step IV hearing including reinstatement of leave and awards of back pay, if appropriate, which may be offset by income earned from alternative employment or unemployment insurance payments received.
- (5) Step V (Formal - Career Employee only)
- (a) ~~Written grievance and all relevant documentation shall be submitted within thirty (30) days of receipt of decision from Step IV to: The employee submits a written grievance, all relevant documentation, and a copy of the Step IV written decision within thirty (30) calendar days of receipt of the Step IV decision to:~~

Secretary, Civil Service Commission
Tennessee Department of ~~Personnel~~ Human Resources
~~Second Floor~~ First Floor, James K. Polk Building
505 Deaderick Street
Nashville, TN 37243-0635

- (b) Hearings will be held pursuant to T.C.A. § 8-30-328 and the Uniform Administrative Procedures Act.
- (c) An agency or employee may appeal the decision of the Administrative Law Judge to the Civil Service Commission. Administrative reviews before the Civil Service Commission shall be limited to the technical records from the administrative procedures division, which may include

transcripts from the fifth level hearing. Parties may submit additional proposed findings of fact and conclusions of law to the Commission no later than ten (10) workdays prior to the scheduled review.

~~(6)~~ By written agreement, the manager involved and employee may extend the time limits set herein not in excess of six (6) months. The time limits set herein may be extended not in excess of six (6) months by written agreement between the manager involved and the employee. Failure of management to proceed within established time limits entitles the grievant to proceed to the next step in this procedure.

~~(7)~~ Failure of management to proceed within any established time limits entitles the grievant to proceed to the next step in this procedure.

~~(7)~~~~(8)~~ Hearings conducted at Step V will conform to the model rules of the Secretary of State for contested cases and the Department hereby adopts Secretary of State rule 1360-4-1 in statutory compliance.

Authority: T.C.A § 8-30-328 and T.C.A. § 4-5-219.

1120-11-~~06~~.05 SCOPE OF PROCEDURE.

(1) The Commission will serve as the final step for all grievances by career employees.

(2) The agency appointing authority will serve as the final step for all grievances by ~~permanent~~ executive service employees.

Authority: T.C.A. § 8-30-328.

1120-11-~~07~~.06 GRIEVABLE MATTERS.

(1) Disciplinary suspension or demotion;

(2) Disciplinary dismissal;

~~(3)~~ Any disciplinary action or layoff that the employee believes is the result of discrimination prohibited by T.C.A. § 8-50-103 or T.C.A. § 4-21-401. The employee may file such grievance directly with the appointing authority, warden, or superintendent;

~~(3)~~~~(4)~~ Involuntary geographical transfer of an employee or official duty station more than fifty (50) miles. Distance will be determined by drawing a circle, with a fifty (50) mile radius, centered on the previous official duty station;

~~(4)~~~~(5)~~ Non-compliance with an approved reduction in force plan by an appointing authority;

~~(5)~~~~(6)~~ Prohibited political activity as outlined in T.C.A. Title 2, Chapter 19 ("The Little Hatch Act");

~~(6)~~~~(7)~~ Coercion of an employee to waive his right to consideration on an eligibles list ~~certificate of eligibles~~;

~~(7)~~~~(8)~~ Final performance evaluations ~~under certain circumstances~~ based on procedural grounds to the fourth step; and

~~(8)~~~~(9)~~ Other matters within the discretion or control of the appointing authority or the Commission. Other matters determined at the sole discretion of the appointing authority to be grievable, but not included in section 1120-11-.07 below.

Authority: T.C.A. § 8-30-328.

1120-11-~~08~~07 EXCEPTIONS AND NON-GRIEVABLE MATTERS.

- (1) Actions that affect employees who are not career ~~nor permanent~~ employees;
- ~~(2)~~ (2) Actions that affect employees who are not covered under T.C.A. § 41-22-407 (d)(3);
- ~~(2)~~(3) Actions that affect an employee serving an initial probationary period;
- ~~(3)~~(4) Normal supervisory counseling and management;
- ~~(4)~~(5) Non-selection for promotion when the appointment was in compliance with these Rules and the Act;
- ~~(5)~~(6) ~~Verbal~~ Oral and written reprimands;
- ~~(6)~~(7) Performance ~~award decisions~~ evaluation ratings;
- ~~(7)~~(8) Actions resulting from suggestions adopted by the State Employee Suggestion Award Board;
- ~~(8)~~(9) Actions resulting from reductions in force ~~when an approved reduction in force plan was followed~~ when the actions by the appointing authority were in compliance with statutes and rules;
- ~~(9)~~(10) Shift, post, and overtime assignments;
- ~~(10)~~(11) Reasonable work assignments outside those normally associated with the employee's assigned job classification;
- ~~(11)~~(12) Salary range assigned to classifications;
- (13) Administration of salary increases established and funded by the legislature;
- ~~(12)~~(14) Classification of position;
- ~~(13)~~(15) Denial of leave requests except as provided for in ~~T.C.A. § 8-50-801 and T.C.A. § 8-50-801~~ T.C.A. § 8-50-110 and T.C.A. § 8-50-802;
- ~~(14)~~(16) Matters relating to internal agency or program management ~~which are~~ based on discretionary decision making;
- ~~(15)~~(17) Demotions during subsequent probation, ~~if such demotion is to the job classification from which the employee was promoted and at a salary rate no lower than the salary rate had the promotion not occurred~~ when the demotion is to the job classification the employee held prior to the promotion and at a salary rate no lower than the salary rate had the promotion not occurred;
- ~~(16)~~(18) Agency rules or policies which do not conflict with statutes, rules, or policies of the Department of ~~Personnel~~ Human Resources; and
- ~~(17)~~(19) Any other matter over which an appointing authority or the Commission has no control or jurisdiction or is without the authority to grant requested relief.

Authority: T.C.A. § 8-30-328.

1120-11-.08 TECHNICAL ADVICE AND ASSISTANCE.

- (1) Technical questions regarding this rule may be resolved by referring questions to the agency ~~personnel section~~ human resources office.
- (2) Unresolved technical questions to an agency ~~personnel section~~ human resources office may be resolved by referring such to the Department's ~~of Personnel~~-Employee Relations Division.
- (3) Disputes over grievability may be resolved by an agency's appointing authority or by ~~the Commissioner~~ the Civil Service Commission. The ~~Civil Service~~ Commission may review such determinations and, at its discretion, take whatever action it deems appropriate.
- (4) The intent of this policy is to legally, efficiently, and fairly resolve bona fide ~~complaints and~~ grievances. The initiation of a grievance should not be considered as a negative reflection against an employee, supervisor, or agency management, but should be considered as an effort to communicate and seek resolution of work related problems.
- (5) Management should consider grievances objectively, fairly, and expeditiously while maintaining a helpful, cordial, and professional attitude throughout the process of redress.

Authority: T.C.A. § 8-30-328.

**RULES
OF THE
TENNESSEE DEPARTMENT OF PERSONNEL HUMAN RESOURCES**

**Chapter 1120-12
REVIEW OF WRITTEN WARNING**

TABLE OF CONTENTS

1120-12-.01 Purpose
1120-12-.02 Policy

1120-12-.01 PURPOSE. ~~To provide employees a forum, exclusive of the formal grievance procedure, for the purpose of contesting written warnings.~~

Authority: ~~T.C.A. § 8-30-202, T.C.A. § 8-30-203 and T.C.A. § 8-30-204.~~

1120-12-.02 POLICY.

- ~~— (1) Career or permanent employees who receive contested written warnings may request a review of that warning by the agency appointing authority or designee for this purpose. Such review should be requested, in writing, no later than thirty (30) days of its receipt. The request for review should include documentation of any mitigating circumstances causing the employee to believe that the warning was undeserved.~~
- ~~— (2) The appointing authority or designee will review the warning and all documentation submitted by the employee and make a decision which may be one of the following:~~
 - ~~— (a) There is sufficient cause for warning, it therefore stands as issued, the request for review and the response becomes a part of the employee's personnel file.~~
 - ~~— (b) There is sufficient cause for counseling or verbal warning; therefore, the written warning is reduced and removed from the employee's personnel file.~~
 - ~~— (c) There is insufficient cause for action of any kind; therefore, the written warning is removed from the employee's personnel file.~~
 - ~~— (d) Written warnings should not be considered a part of an employee's personnel file until such time as the review established by this rule chapter is complete or thirty (30) days has passed.~~
- ~~— (3) The appointing authority or designee will respond, in writing, to the employee within ten (10) workdays of receipt of request for review utilizing the most appropriate delivery method.~~
- ~~— (4) The decision of the appointing authority will be final.~~

Authority: ~~T.C.A. § 8-30-202, T.C.A. § 8-30-203 and T.C.A. § 8-30-204.~~

**RULES
OF THE
TENNESSEE DEPARTMENT OF ~~PERSONNEL~~ HUMAN RESOURCES**

**Chapter 1120-~~1312~~
AWARDS OF ATTORNEY'S FEES AND COST**

TABLE OF CONTENTS

1120-13-.01 Purpose
1120-13-.02~~1~~ Policy

1120-13-.01 PURPOSE. ~~To provide a consistent manner in which fees and reasonable costs may be awarded to attorneys representing successfully appealing employees before the Commission.~~

Authority: ~~T.C.A. § 8-30-328.~~

1120-13-.02 POLICY. The Civil Service Commission may, at its discretion, award reasonable fees and costs to a successfully appealing employee's attorney in accordance with the following terms and conditions.

- (1) The maximum hourly rate for attorneys representing successfully appealing employees before the Commission shall be as follows:
 - (a) Appeals of disciplinary suspension of less than ten (10) days and all other grievable matters:
 - ~~1.(i) Thirty dollars (\$30) per hour for time~~ Thirty-five percent (35%) of the maximum hourly rate established by the Commission for time spent in hearings before the Commission;
 - ~~2.(ii) Twenty dollars (\$20) per hour for reasonable time~~ Twenty-five percent (25%) of the maximum hourly rate established by the Commission for reasonable time spent in preparation for such a hearing; and
 - ~~3.(iii) In no case shall attorney's fees exceed one hundred dollars (\$100)~~ two hundred dollars (\$200) per day, nor shall such fees exceed one two thousand dollars (\$1,000) (\$2,000) per appeal.
 - (b) Appeal of disciplinary dismissal, demotion, or suspension of ten (10) days or more:
 - ~~1. The prevailing hourly rate shall be based on the skill and effort involved in the case and the standard fees for practice in the same geographic area subject to a maximum rate of eighty five dollars (\$85) per hour.~~
 - ~~2. The prevailing hourly rate shall be established by affidavit provided by the prevailing attorney.~~

Attorney's fees awarded by the Commission shall be awarded at the same rates established by Guidelines for the Defense of Individual Employees issued by the State of Tennessee Office of the Attorney General and Reporter.

- (2) All awards of costs shall be limited to reasonable costs actually incurred. Awards of costs for travel shall be subject to the provisions of the comprehensive travel regulations in effect at the time the claim is made.
- (3) ~~All claims for attorney's fees and costs shall be submitted in writing to the following address after the Commission has rendered its decision.~~

~~Secretary, Civil Service Commission
Tennessee Department of Personnel
Second Floor, James K. Polk Building
Nashville, TN 37243-0635~~

~~Such claims shall specify the hours of preparation, in hours and tenths of hours, the nature of services performed during such preparation, the hours of hearing time, and a complete itemized statement of costs claimed.~~

The request for attorney's fees and costs shall be supported by affidavit from the prevailing attorney. All claims for attorney's fees and costs shall be submitted to the following address after the Commission has rendered its decision.

Secretary, Civil Service Commission
Tennessee Department of Human Resources
First Floor, James K. Polk Building
505 Deaderick Street
Nashville, TN 37243

Such claim shall specify the hours of preparation, in hours and tenths of hours, the nature of services performed during such preparation, the hours of hearing time, and a complete itemized statement of costs claimed.

- (4) In no event shall a claim be paid which is not received by the Secretary of the Commission within sixty (60) days of the effective date of the Commission's order.
- (5) The Secretary of the Commission shall review all such ~~All such claims shall be reviewed by the Secretary of the Commission~~ for compliance with these Rules, the law, and the Commission's decision. The secretary is authorized to approve payment of such claims for any amount up to and including the amount claimed.

Authority: T.C.A. § 8-30-328.

**RULES
OF THE
TENNESSEE DEPARTMENT OF PERSONNEL**

**Chapter 1120-14
EMPLOYEE FEEDBACK**

TABLE OF CONTENTS

1120-14-.01 Purpose
1120-14-.02 Employee Surveys
1120-14.03 Use of Survey Results

1120-14-.01 PURPOSE. ~~To identify means of increasing the effectiveness and efficiency of State agencies, to provide policy makers with employee opinions regarding personnel management practices and other aspects of employment, and to promote employee job satisfaction and morale.~~

Authority: ~~T.C.A. § 8-30-202, T.C.A. § 8-30-203 and T.C.A. § 8-30-204.~~

1120-14-.02 EMPLOYEE SURVEYS.

~~(1) Conduct of Employee Surveys. With the approval of the appointing authority, employees will periodically be offered the opportunity to complete a survey questionnaire soliciting opinions on personnel management practices and programs, means of enhancing efficiency and effectiveness of their organizations, and other topics and issues of interest to agencies and the Commissioner. The survey shall be designed and conducted to insure that the opinions and statements of employees cannot be identified with any individual employee.~~

~~(2) Reports. Reports will be prepared by the Department summarizing the results of surveys.~~

Authority: ~~T.C.A. § 8-30-202, T.C.A. § 8-30-203 and T.C.A. § 8-30-204.~~

1120-14-.03 USE OF SURVEY RESULTS. ~~Survey results will be used to guide employees, supervisors and managers in identifying opportunities to improve policies, procedures, and personnel management programs, and other practices, enhancing the operation of State agencies.~~

Authority: ~~T.C.A. § 8-30-202, T.C.A. § 8-30-203 and T.C.A. § 8-30-204.~~

**RULES
OF THE
TENNESSEE DEPARTMENT OF HUMAN RESOURCES**

**Chapter 1120-13
RULES AND REGULATIONS FOR ACCESS TO PUBLIC RECORDS**

TABLE OF CONTENTS

<u>1120-13-.01 Production Costs</u>	<u>1120-13-.03 Waiver of Production Costs</u>
<u>1120-13-.02 Payment of Production Costs</u>	<u>1120-13-.04 Reduction of Fees</u>

1120-13-.01 PRODUCTION COSTS.

Upon request for records under Tennessee's Public Records Act, T.C.A. § 10-7-501, et seq., the Department shall charge the requesting party a reasonable charge for production costs, including labor, duplication and delivery, based on the most current Schedule of Reasonable Charges issued by the Office of Open Records Counsel, available at <http://tennessee.gov/comptroller/openrecords>.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, and T.C.A. § 10-7-501, et seq.

1120-13-.02 PAYMENT OF PRODUCTION COSTS. The Department shall provide the requesting party an estimate of the production costs, including labor, duplication and delivery, before the initial production of the requested documents. The Department shall require the requesting party to provide full payment of the production costs before copies of the requested records are delivered or otherwise made available.

1120-13-.03 WAIVER OF PRODUCTION COSTS.

- (1) The Department shall waive production cost if the total production cost, including labor, duplication and delivery, is less than ten dollars (\$10).
- (2) When the requesting party is a federal, state or local government agency, the Department shall provide the requested copies of public records without charge. A request made by a federal, state, or local government agency on behalf of a citizen under the Tennessee Public Records Act shall be treated as a request by a citizen and charged accordingly.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, and T.C.A. § 10-7-501, et seq.

1120-13-.04 REDUCTION OF FEES. The Commissioner may reduce any part of the fees calculated under these rules upon a determination that such reduction is in the best interest of the public.

Authority: T.C.A. § 8-30-202, T.C.A. § 8-30-203, and T.C.A. § 10-7-501, et seq.