

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN RESOURCES**

**CHAPTER 1120-02
EMPLOYMENT PRACTICES**

TABLE OF CONTENTS

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

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, 8-30-203, and 8-30-204. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal and new rule filed December 14, 2010; effective May 31, 2011.

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. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal and new rule filed December 14, 2010; effective May 31, 2011.

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;

(Rule 1120-02-.03, continued)

- (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, 8-30-302, 8-30-304, and 8-30-305.. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal and new rule filed December 14, 2010; effective May 31, 2011.

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

(Rule 1120-02-.04, continued)

- (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.

(Rule 1120-02-.04, continued)

- (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, 8-30-301, 8-30-302, 8-30-303, 8-30-305, 8-30-307 and 10-7-504.

Administrative History: (For history prior to January 2, 1988, see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011.

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

(Rule 1120-02-.05, continued)

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, 8-30-308, and 8-30-309. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011.

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. §§8-30-222, 8-30-308, and 8-30-309. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011.

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 8-30-310. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011.

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, 8-30-308, and 8-30-309. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new

(Rule 1120-02-.08, continued)

rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011.

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, 8-30-322, and 8-30-323. Administrative History: (For history prior to January 2, 1988, see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011.*

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;
 - (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

(Rule 1120-02-.10, continued)

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, 8-30-308, 8-30-309, 8-30-311, 8-30-313, and 8-30-317. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011.

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.

(Rule 1120-02-.11, continued)

- (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, 8-30-202, 8-30-203, 8-30-204, 8-30-208, 8-30-309, 8-30-311, 8-30-315, 8-30-316, 8-30-317, 8-30-318, 8-30-322, and 8-30-323. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal and new rule filed December 14, 2010; effective May 31, 2011.

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

(Rule 1120-02-.12, continued)

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

(Rule 1120-02-.12, continued)

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, 8-30-203, 8-30-204, 8-30-208, 8-30-309, 8-30-311, 8-30-315, 8-30-316, 8-30-323, 8-50-801, and 8-50-802. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal and new rule filed December 14, 2010; effective May 31, 2011.

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.

(Rule 1120-02-.13, continued)

- (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, 8-30-208, 8-30-312, and 8-30-314. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011.

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, 8-30-309, and 8-30-311. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal and new rule filed December 14, 2010; effective May 31, 2011.

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

(Rule 1120-02-.15, continued)

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, 8-30-318, and 8-30-320. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2 of the Introduction at the beginning of the chapters.) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal and new rule filed December 14, 2010; effective May 31, 2010.

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, 8-30-322, 8-30-325, and 8-30-326. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2 of the Introduction at the beginning of the chapters.)

(Rule 1120-02-.16, continued)

Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal and new rule filed December 14, 2010; effective May 31, 2011.

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 8-30-217. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2 of the Introduction at the beginning of the chapters.) *Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal and new rule filed December 14, 2010; effective May 31, 2011.*

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, 8-30-203 and 10-7-504. **Administrative History:** *Original rule filed December 14, 2010; effective May 31, 2011.*