

**RULES  
OF  
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1120-11-.04	Procedures	1120-11-.09	Repealed
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. **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.

**1120-11-.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. **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.

**1120-11-.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:

(Rule 1120-11-.03, continued)

- (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 8-30-328. **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.

**1120-11-.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.

(Rule 1120-11-.04, continued)

- (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

(Rule 1120-11-.04, continued)

- (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 4-5-219. **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. Amendment filed October 25, 1995; effective February 28, 1996. Amendment filed May 6, 1996; effective July 20, 1996. Repeal and new rule filed December 14, 2010; effective May 31, 2011.

#### 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. **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.

#### 1120-11-.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");

(Rule 1120-11-.06, continued)

- (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. **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 25, 1994. Amendment filed October 25, 1995; effective February 28, 1996. Amendment filed May 6, 1996; effective July 20, 1996. Repeal and new rule filed December 14, 2010; effective May 31, 2011.

#### **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;

(Rule 1120-11-.07, continued)

- (118) 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. **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. Amendment filed October 25, 1995; effective February 28, 1996. Amendment filed May 6, 1996; effective July 20, 1996. Repeal and new rule filed December 14, 2010; effective May 31, 2011.

#### **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. **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 25, 1994. Repeal and new rule filed December 14, 2010; effective May 31, 2011.

#### **1120-11-.09 REPEALED.**

**Authority:** T.C.A. §8-30-328. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2). Repeal and new rule filed November 18, 1987; effective January 2, 1988. Repeal filed December 14, 2010; effective May 31, 2011.