



# POLICY

<b>Approved by:</b> Rebecca R. Hunter, Commissioner	<b>Policy Number:</b> 12-013 (Rev. 8/13)
<b>Signature:</b> <i>Rebecca R. Hunter</i>	<b>Supersedes:</b> 12-013, 97-026, 11-018
<b>Application:</b> Executive Branch Agencies and Employees, Human Resource Officers	<b>Effective Date:</b> August 1, 2013
<b>Authority:</b> T.C.A. § 4-3-1703, T.C.A. § 8-30-104, T.C.A. § 8-30-318, T.C.A. § 8-50-801, T.C.A. § 50-7-304	<b>Rule:</b> Chapter 1120-06 and Chapter 1120-11

**Subject:**

## Reinstatement of Terminated Employees

This policy applies to preferred employees dismissed and subsequently reinstated during the appeals process. The purpose of this policy is to ensure consistent application of Tenn. Code Ann. § 8-30-318. This policy will not apply to settlements, either by mediation or agreed order, which specifically exclude return of leave.

In any case in which a successfully appealing employee has been awarded reinstatement, back pay, or attorney's fees, the agency involved shall have a period of thirty (30) days from the date of the final order within which to provide reinstatement, back pay and/or attorney's fees. Agencies should submit necessary documentation relevant to back pay to the Technical Services Division within three (3) days of the final order. If the employee is successful in obtaining reinstatement to a position from which the employee has been terminated, the employee shall be reinstated to a position in the county in which he or she was employed at the time of termination. The Department may grant exceptions on an individualized basis.

If an employee is awarded back pay, the reinstatement decision or order must specifically address back pay to the employee and whether any offset of income earned from other employment or unemployment compensation claims will occur. If so, the reinstatement decision or order should address the offset. Additionally, the reinstatement decision or order must include language that the back pay award shall be subject to all required withholdings for applicable state and/or federal taxes, retirement contributions, etc.

A terminated employee who successfully appeals dismissal for gross misconduct and is reinstated must be credited with any annual leave used during the ten (10) calendar day paid notice and any annual leave forfeited to the state as a result of the dismissal for gross misconduct. The annual time used must be changed to discretionary leave with pay, and the annual leave must be added back to the employee's balance, along with any forfeited annual leave and any leave the individual would have accrued had the employee not been terminated.

<b>DOHR Policy:</b>	<b>Policy Number:</b>
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Questions regarding this policy may be directed to the Technical Services Division or the Employee Relations Division.

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Values – *Communications \* Teamwork \* User-Friendly \* Respect \* Excellence \* Integrity \* Teamwork*