STATE OF TENNESSEE
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Opinion No. 13-64

Written Reprimands of Police Officers

QUESTION

Does Tenn. Code Ann. § 38-8-304 affect the process for issuing a written reprimand to a police officer and, if so, how does this statute affect that process?

OPINION

No, unless the written reprimand takes one of the employment actions against a police officer described in Tenn. Code Ann. § 38-8-304.

ANALYSIS

Chapter 8 of Title 38 of the Tennessee Code governs the employment and training of police officers, and Tenn. Code Ann. § 38-8-304 specifically addresses the process to be followed before a police officer may be dismissed, demoted, suspended without pay or transferred for punitive reasons. This statute specifically provides:

> Before any dismissal, demotion, suspension without pay or transfer for punitive reasons may be imposed, the following must be complied with:
>
> (1) The police officer shall be notified in writing of all charges, the basis for the changes, and the action that may be taken;
>
> (2) The police officer shall be given an opportunity, within a reasonable time limit after the date of the written notice provided for in subdivision (1), to respond orally and in writing to the charges. The time limit shall be determined by the agency, but in no event shall it be less than five (5) calendar days unless agreed to by the police officer, and
>
> (3) In making a response, the police officer may be assisted by counsel at the officer's own expense.

Tenn. Code Ann. § 38-8-304.

When construing statutes such as Tenn. Code Ann. § 38-8-304, Tennessee courts will determine and effectuate the General Assembly's intent and purpose by focusing on the text of the statute and giving "the words their natural and ordinary meaning in the context in which they appear and in light of the statute's general purpose." *Britt v. Dyer's Employment Agency, Inc.*, 396 S.W.3d 519, 523 (Tenn. 2013). If the statute's language is clear and unambiguous, a court will "look no further to ascertain the statute's meaning."

By its plain terms, Tenn. Code Ann. § 38-8-304 applies only to any "dismissal, demotion, suspension without pay or transfer for punitive reasons." It does not apply to a written reprimand unless the reprimand takes one of the actions against the officer specifically listed in Tenn. Code Ann. § 38-8-304. *See Phillips v. Tenn. Technological Univ.*, 984 S.W.2d 217, 219 (Tenn. 1998) (court recognizing the rule of statutory construction that the mention of one subject in a statute means the exclusion of other subjects that are not mentioned.) The General Assembly's exclusion of any reference to disciplinary action short of dismissal, demotion, suspension, or punitive transfer supports an inference of its intent that the application of Tenn. Code Ann. § 38-8-304 be limited to those disciplinary actions. If one of those disciplinary actions is taken, then the employer of the police officer must follow the process established by Tenn. Code Ann. § 38-8-304.

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