

G.O.C. STAFF RULE ABSTRACT

BOARD: Tennessee Board of Optometry

SUBJECT: Prohibition Upon the Practice of Optometry In or In
Conjunction With Any Retail Store or Other
Commercial Establishment Where Merchandise Is
Displayed or Offered for Sale

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 63-8-112,
63-8-113 and 63-8-125

EFFECTIVE DATES: November 16, 2014 through June 30, 2015

FISCAL IMPACT: The Board estimates that the Rule will not affect
state or local government revenues. The Board
estimates that the cost of enforcing the Rule will not
exceed \$10,000 per year.

STAFF RULE ABSTRACT: Beginning July 2, 2015, the Rule requires a
licensed optometrist's office to have a permanent,
structural separation between the optometrist's
office and any retail store or commercial
establishment. The optometrist's office must also
have an entrance for a patient that opens directly
onto a public street, lobby or corridor.

Public Hearing Comments

The Board received the following written and oral comments concerning the proposed rule:

1. Comment: The Tennessee Association of Optometric Physicians continues to receive reports of optometrists being controlled by or treated as if they were employees of retail-establishments. The proposed rule is necessary to protect the independence and personal professional judgment of optometrists leasing space from retail establishments.
2. Comment: The proposed rule should be rejected or revised for the following reasons: 1) 2003 Public Chapter 246 (currently codified at Tenn. Code Ann. § 63-8-125) terminated any authority on the part of the board to mandate complete separation between an optometrist's office and a lessor's retail establishment by codifying a list of requirements for lease agreements between optometrists and retailers that did not include a complete-separation provision; 2) no meaningful relationship exists between the proposed complete-separation requirement and the independence of an optometrist's professional judgment; 3) mechanisms available under the current regulatory regime, as well as less onerous alternative new regulations, including rules or practices related to disclaimers and notices, would suffice to implement Section 63-8-113(c)(6); and 4) the complete-separation requirement deviated from the Board's own prior practice in enforcing Section 63-8-113(c)(6) against Jeffery Rothman in 1997 and would be, consequently, beyond the Board's statutory rule-making authority.
3. Comment: Optometrists who lease space from retail establishments have experienced frequent efforts to interfere with their professional judgment and onerous scheduling and business-practice requirements placed upon them by retail lessors. One retail lessor had required an optometrist lessee to participate in "transitioning" patients from the exam space to the retail space in an express effort to circumvent the existing two-door policy. The permanent separation required by the proposed rule is less onerous than the enforcement of patient-privacy rules against retail establishments that were not positioned to comply with them.
4. Comment: A complete separation between an optometrist's office and a retailer of ophthalmic materials interferes with an optometrist's ability to ensure that the retailer's dispensing opticians provide patients with the lenses and care they require.
5. Comment: The requirement of a permanent separation would require expensive, extensive and at times impractical renovations to the office space an optometrist lease from a retail establishment.
6. Comment: The proposed rule will inconvenience optometric patients who wish to purchase ophthalmic materials at an adjacent retailer because a permanent structural separation of the optometrist's office from the retail store will, in some cases, require that they walk outside and be exposed to the elements.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 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.

**Board of Optometry
Rule 1045-02-.17
Statement of Economic Impact**

Types of small businesses that will be directly affected by the proposed rules:

The proposed rule will directly affect licensed optometrists, who – properly considered – are healthcare providers, not small businesses.

Types of small businesses that will bear the cost of the proposed rules:

Licensed optometrists will bear the costs of the proposed rule..

Types of small businesses that will directly benefit from the proposed rules:

Licensed optometrists will benefit from the proposed rule.

Description of how small business will be adversely impacted by the proposed rules:

There is no foreseeable adverse impact from this rule.

Alternatives to the proposed rule that will accomplish the same objectives but are less burdensome, and why they are not being proposed:

The Board of Optometry does not believe there are less burdensome alternatives to the proposed rule.

Comparison of the proposed rule with federal or state counterparts:

Federal: The Board of Optometry is not aware of any federal counterparts.

State: The proposed rule does not conflict with any state counterpart.

Effect of possible exemption of small businesses from all or any part of the requirements contained in the proposed rule:

If an exemption were provided to the licensed optometrist affected by the proposed rule, such optometrists and their patients would be deprived of all the benefits resulting from the rule.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed rule will not have an impact on local governments.

Department of State
Division of Publications
 312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
 Nashville, TN 37243
 Phone: 615-741-2650
 Fax: 615-741-5133
 Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 08-22-14
 Rule ID(s): 5790
 File Date: 2/18/14
 Effective Date: 1/16/14

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission: Tennessee Department of Health/Board of Optometry
Division: Health Related Boards
Contact Person: John Scott Gentry, O.D.
Address: 665 Mainstream Drive, Poplar Room, Nashville, TN
Zip: 37243
Phone: (615) 532-5100
Email: drsgod@aol.com

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
1045-02	General Rules Governing the Practice of Optometry
Rule Number	Rule Title
1045-02-.17	Prohibition Upon the Practice of Optometry In Or In Conjunction With Any Retail Store or Other Commercial Establishment Where Merchandise Is Displayed Or Offered for Sale

Chapter Number	Chapter Title
Rule Number	Rule Title

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Rule 1045-02-.17 Prohibition Upon the Practice of Optometry In Or In Conjunction With Any Retail Store or Other Commercial Establishment Where Merchandise Is Displayed Or Offered for Sale is created pursuant to the following language:

- (1) Pursuant to T.C.A. §§ 63-8-113(c)(6) and 63-8-125, a licensed optometrist shall practice in a location that is independently operated and is physically separate from a retailer of ophthalmic materials or other commercial establishment pursuant to the following requirements:
 - (a) After July 1, 2015, there shall be a permanent structural separation between a licensed optometrist's office and any retailer of ophthalmic materials or other commercial establishment;
 - (b) The permanent structural separation, such as a wall, shall not contain a door or any other opening that leads directly to a retailer of ophthalmic materials or other commercial establishment;
 - (c) The licensed optometrist's office shall have an entrance for patients that opens directly onto a public street, lobby, corridor, or other public thoroughfare; and
 - (d) A retailer of ophthalmic materials or other commercial establishment shall not, either directly or indirectly, control or attempt to control the professional judgment or practice of the licensed optometrist.
- (2) A lease between a licensed optometrist and a retailer of ophthalmic materials or other commercial establishment shall not be deemed a violation of T.C.A. §§ 63-8-113(c)(6) and/or 63-8-125 solely on the basis that the rental payments are based, in whole or in part, on the revenue earned by the licensed optometrist from his/her practice.
- (3) Violation of this rule may subject a licensee to disciplinary action pursuant to Rule 1045-02-.10.

Authority: T.C.A. §§ 63-8-113 and 63-8-125

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
David Talley	X				
Jeff Foster	X				
John Gentry	X				
Richard Orgain	X				
Dennis Mathews	X				
Kimberly Button				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Board of Optometry on February 26, 2014, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 12/11/2013

Rulemaking Hearing(s) Conducted on: (add more dates). 02/26/2014

Date: 06/11/2014

Signature: *John Scott Gentry, O.D.*

Name of Officer: John Scott Gentry, O.D.

Title of Officer: Chairman, Tennessee Board of Optometry



My Commission Expires JUNE 21, 2016

Subscribed and sworn to before me on: 6/11/14

Notary Public Signature: *J Seidman*

My commission expires on: 6/21/16

All rulemaking hearing 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.

Robert E. Cooper, Jr.
 Robert E. Cooper, Jr.
 Attorney General and Reporter

8-15-14
 Date

Department of State Use Only

Filed with the Department of State on:

8/18/14

Effective on:

11/16/14

Tre Hargett

Tre Hargett
Secretary of State

RECEIVED
2014 AUG 18 PM 12:47
DEPARTMENT OF STATE

Department of State
Division of Publications
 312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
 Nashville, TN 37243
 Phone: 615-741-2650
 Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 10-13-14
 Rule ID(s): _____
 File Date: 10-23-14
 Effective Date: 10-23-14

Filing Form for Stay of Effective Date on Rules, Withdrawal of Stay, and Withdrawal of Rules

Agency/Board/Commission:	<u>Tennessee Department of Health/Board of Optometry</u>
Division:	<u>Health Related Boards</u>
Contact Person:	<u>Sean McMinn</u>
Address:	<u>G-16 War Memorial Building</u>
Zip:	<u>37243</u>
Phone:	<u>(615) 741-3056</u>
Email:	<u>Sean.mcminn@capitol.tn.gov</u>

Type of Action on Rule:

Stay of Effective Date of Rules

Rule Filing Date: (mm/dd/yy) 08/18/14
 Rule Original Effective Date: (mm/dd/yy) 11/16/14
 Length of Stay (not to exceed 75 days): 60 days
 New Effective Date of Rule Filing: (mm/dd/yy) 01/15/15

Notice of Withdrawal of Stay

Stay Filing Date: (mm/dd/yy)
 Stay Effective Date: (mm/dd/yy)
 New Effective Date of Rule Filing: (mm/dd/yy)

Notice of Withdrawal of Rules

Rule Filing Date: (mm/dd/yy)
 Rule Effective Date: (mm/dd/yy)

Rule(s) (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/RuleTitle per row)

Chapter Number	Chapter Title
<u>1045-02</u>	<u>General Rules Governing the Practice of Optometry</u>
Rule Number	Rule Title
<u>1045-02-.17</u>	<u>Prohibition Upon the Practice of Optometry In Or In Conjunction With Any Retail Store or Other Commercial Establishment Where Merchandise Is Displayed Or Offered for Sale</u>



Date: October 23, 2014

Signature: *Sean McMinn*

Name of Officer: Sean McMinn

Title of Officer: Legislative Attorney

Subscribed and sworn to before me on: October 23, 2014

Notary Public Signature: *Sherry C. Smith*

My commission expires on: June 21, 2016

Department of State Use Only

Filed with the Department of State on: 10-23-14

Tre Hargett

Tre Hargett
Secretary of State

2014 OCT 23 PM 1:05

RECORDING UNIT

G.O.C. STAFF RULE ABSTRACT

<u>DEPARTMENT:</u>	Tennessee Higher Education Commission
<u>DIVISION:</u>	Postsecondary School Authorization
<u>SUBJECT:</u>	Authorization and Regulation of Postsecondary Institutions and their Agents
<u>STATUTORY AUTHORITY:</u>	Tennessee Code Annotated, Sections 49-7-2002, 49-7-2003, 49-7-2004--49-7-2008, 49-7-2011, 49-7-2013 and 49-7-2014(a).
<u>EFFECTIVE DATES:</u>	December 1, 2014 through June 30, 2015
<u>FISCAL IMPACT:</u>	None, however the implementation of the new rule "Return of Regulatory Fees" will require minimal expenditures and the operation of this rule will result in a reduction of fee revenue equal to the amount and excess of any reserve balance as of the end of the fiscal year that is greater than two million dollars.
<u>STAFF RULE ABSTRACT:</u>	<p>These rules make revisions related to the authorization and regulation of postsecondary institutions and their agents as follows:</p> <p>1540-01-02 Definitions:</p> <ul style="list-style-type: none">• Generally, the revisions to .03 are intended to improve internal consistency as well as consistency between the rules and the Postsecondary Education Authorization Act of 1974, T.C.A. §§ 49-7-2001-2020 ("the Act").• Revisions also incorporate changes made during the 2008 rulemaking process. In October 2011, the Davidson County Chancery Court declared the 2008 rulemaking revisions void and of no effect as a result of a procedural error. <p>1540-01-02-.05 Exemption:</p> <ul style="list-style-type: none">• The revision to .05(1) clarifies that the exemption authority is located in T.C.A. §49-7-2004.• The revisions to .05(1)(a)1. and 2. address situations where there is no charge directly to the student, but the institution does receive funds on behalf of the student

through a program as described in the revision. It has become apparent to THEC that the current rule restricts the allocation of federal funds to certain educational providers and that this was not the intent of the rule. Thus, the revision is made to avoid an unintended consequence of the current wording of the rule • The revisions to .05(1)(a)4. Improves understanding.

- The addition of .05(1)(b) and (c) and the deletion of current .08(10) place all exemptions under .05 and clarify the grounds under which short term programs, seminars, workshops, and professional enhancement may be exempt. This revision should make the rules more user-friendly and improve understanding.
- The addition of .05(1)(d) and (f) reintroduce exemptions into the rules that were removed from the rules as a result of the determination of the Davidson County Chancery Court in October 2011 that the 2008 rulemaking revisions were void and of no effect as a result of a procedural error. The language in .05(1)(d) is similar to language that appeared in the 1998 version of the rules, which appears to have been deleted in error.
- The addition of .05(1)(e) exempts a type of exam preparation not contained in .05(1)(d). This exemption is listed separately because the nature of the training requires that explicit provisions be included to address promotion and advertising.
- The additions of .05(1)(g) and (h) and the deletion of current .08(8) place all exemptions under .05. This revision should make the rules more user-friendly and improve understanding.
- The revisions to .05(2)-(4) clarify that an institution may request a determination of exemption for either programs or the institution as a whole. The revisions also remove the language that limits the term of the exemption status. This allows THEC to award exemptions for an unlimited amount of time while preserving the ability to revoke or amend an exemption. These revisions benefit institutions by simplifying the exemption review process and better describing the procedure for receiving a determination of exemption.

1540-01-02-.07 Institutional Applications:

- The revisions to .07(6)-(10) make the rule consistent with T.C.A. § 49-7-2013, corrects internal cross references, and places all bond requirements under one paragraph.

1540-01-02-.08 Regulations for Specific School Types:

- The deletion of .08(3)(a) removes redundancy in the rules as rule .02(4)(e) allows Commission Staff to establish application deadlines.

- THEC is deleting current .08(8) and (1 0), but is providing for the exemptions in .05. This modification serves to place all exemptions under .05. This revision should make the rules more user-friendly.

1540-01-02-.11 Institutional Catalog:

- THEC added .11 (1)(r) as a result of the revision made to .19 concerning cash discounts. This revision seeks to ensure that all students receive the institution's SS-7039 (October2011) 20 RDA 1693 cash discount policy and protects an institution in the event of a complaint.

1540-01-02-.13 Enrollment Agreements and Disclosure Standards:

- The addition of .13(2)U) was made as a result of adding language to .19 allowing institutions to offer cash discounts. This revision seeks to ensure that all students are made aware that the institution has a cash discount policy and protects an institution in the event of a complaint.
- The revision to .13(3) is due to a waiver made by Dr. Richard Rhoda on April 29, 2010. At that time, it was determined that it was necessary to waive the rule provisions that require that certain language concerning placement, completion and withdrawal data appear in the enrollment agreement because the language contained in the rule had become obsolete and potentially misleading as a result of the passage of and subsequent implementation of 2008 Public Chapter 1103 (codified at Tenn. Code Ann.§ 49-7-2019). The revision will benefit students and institutions by making sure students receive clear and recent statistical data.

1540-01-02-.14 Financial Standards:

- The revision to .14(6) is due to a waiver made by Dr. Richard Rhoda on April 29, 2010. At that time, it was determined that certified public accountants are not performing audits on smaller companies and that the cost of audits is prohibitive to smaller institutions.
- The revision to .14(7) is made to ensure that institution monies are not comingled with personal monies.

1540-01-02-.16 Personnel and Instructor Qualifications:

- The revisions to .16(1), (2), and (11)(a) and (d) put into the rule the policy of the Commission regarding the institution staff requiring the filing of a School Personnel Application, state that qualifications must be met, and explain the institution's evidentiary burden. These revisions also result in the deletion of current paragraph (12). The ten (1 0) day filing date allows THEC to obtain personnel qualification information following an

individual hire date such that THEC can review the information and notify the institution of any problems prior to the new hire beginning work or continuing in the position for very long. The ten (10) day filing date was in the 2008 and 2009 versions of the rules but was removed as a result of the October 2011 Davidson County Chancery Court declaration that the 2008 rulemaking revisions were void and of no effect as a result of a procedural error.

- The language of current rule .16(11)(d)4. and 5. can be read such that an instructor with a bachelor's degree may not be qualified to teach an associate, diploma, or certificate level program. THEC opines that this was not the intent of the rule. Therefore, THEC has revised the rule so that an instructor will be qualified to teach all program levels beneath the highest level for which the instructor is qualified. This revision benefits institutions by simplifying the qualification requirements.
- The revisions to .16(13) are necessitated by other changes to the rule.
- The revisions to .16(15) generally clarify the language of the rule. The revision of paragraph (c) is intended to provide guidance as to the term "common ownership."

1540-01-02-.19 Fair Consumer Practices and Student Complaints:

- The addition of .19(5) and (6) allows institutions to provide cash discounts to students under certain circumstances and allows institutions to issue monetary awards, such as scholarships, under certain circumstances. Neither provision requires pre-approval by THEC, but institutions are required to provide any necessary documentation if asked by THEC to establish compliance. THEC proposes this revision in recognition of the fact that under certain circumstances cash discounts and monetary awards are appropriate. This revision, which was requested by institutions, will benefit institutions by allowing students to use cash payments, but it will also protect students by requiring that all students be made aware of the policy.

1540-01-02-.26 Return of Regulatory Fees:

- The addition of paragraph (1) is a result of discussions during the 2009 rulemaking proceeding. At that time, institutions were concerned that the fee increase was excessive. In response, THEC crafted this rule to ensure that it collects no more than is necessary to cover the costs in the annual budget and to maintain a reasonable surplus. This will benefit institutions by ensuring that excess collections will be returned to the institutions as described in the rule.

- Paragraph (2) provides a mechanism by which an institution can request a refund of all, or a portion, of fees paid if it decides to withdraw a pending application. This will benefit institutions by allowing THEC to return a portion of the fees depending on how much staff review has occurred at the time of withdrawal. This rule is similar to language that was removed from the 2000 rules as a result of the republication of the rules following the Davidson County Chancery Court's determination in October 2011 that the 2008 rulemaking revisions were void and of no effect as a result of a procedural error.

Public Hearing Comments

Rules of Interest - Definition of Accreditation, College and University and Institution Names

- 1540-01-02-.03 – Definitions
- 1540-01-02-.06(14) – Minimum Authorization Standards and Requirements

Comment Summary

The January 30, 2014 proposed revisions to Rule Chapter 1540-01-02 did not include certain changes that were in the December 6, 2013 draft language. The commenters refer to the proposed definition of accreditation, college and university in .03 and language revising .06(14) concerning institution names.

Commenting Entities

- Tennessee Association of Independent Colleges & Schools
- National College of Business & Technology (Nashville, Madison, Bristol, Knoxville, Bartlett and Memphis)
- Daymar Colleges Group (Clarksville, Nashville and Murfreesboro)
- Virginia College School of Business and Health (Chattanooga)
- Southeastern Institute (Nashville)
- Remington College (Nashville and Memphis, Tennessee and Heathrow, Florida)
- North Central Institute (Clarksville) (as to definition of accreditation)

Commission Staff Response

DPSA includes this comment for purposes of the rulemaking record; however, the subject of the comment is outside the scope of this rulemaking. Pursuant to T.C.A. § 4-5-203(c)(2)(B), an agency may make changes to a rule after the rulemaking hearing as long as the changes are within the scope of the rulemaking notice. In this instance, the institution name rule at .06(14) and the definitions of accreditation, college and university in .03 are not addressed in the Notice of Rulemaking Hearing. Therefore, if the Commission were to adopt revisions to these rules, it would be acting outside the scope of the notice and violating T.C.A. § 4-5-203(c)(2)(B).

For purposes of background, DPSA notes that on December 6, 2013, DPSA sent authorized institutions draft rule revision language via email and encouraged institutions to review the language and submit comments. On January 16, 2014, the Committee of Postsecondary Educational Institutions considered a set of rule revisions drafted by DPSA. The revisions were drafted after considering the December 6, 2013 draft language, filed comments, and legislative activity. Thereafter, on January 30, 2014, the Commission approved the proposed revisions for purposes of filing a Notice of Rulemaking Hearing and conducting a hearing as soon as possible.

DPSA notes that proposed legislation regarding an institution's name was introduced in the 108th General Assembly. In the first session, SB0546/HB969 did not pass. In the second session, SB1963 regarding an institution's name was filed on January 22, 2014, and HB2162 was filed on January 28, 2014. As of April 15, 2014, the legislation passed out of the Senate and the House of Representatives.

Rules of Interest – Definition of Agent and Agent Permitting

- Rule 1540-01-02-.03(1)(e) – Definitions
- 1540-01-02-.16(15) – Personnel and Instructor Qualifications

Comment Summary

Clarification is needed as to whether "an individual that is distributing general institution information or program information without the offer of enrollment or use of enrollment forms, whether theirs or forms from the State, would this person not be considered an agent and, therefore, would not need an agent fee?"

Commenting Entities

- Tennessee Association of Independent Colleges & Schools

- National College of Business & Technology (Nashville and Madison)
- Daymar Colleges Group (Clarksville, Nashville and Murfreesboro)
- Virginia College School of Business and Health (Chattanooga)
- Southeastern Institute (Nashville)
- Remington College (Nashville and Memphis, Tennessee and Heathrow, Florida)

Commission Staff Response

Distributing general institution or program information constitutes solicitation under the definition of agent and the person will have to obtain an agent permit if he or she otherwise meets the definition of agent.

Rule of Interest – Definition of Agent

Rule 1540-01-02-.03(1)(e) – Definitions

Comment Summary

The definition of agent should remain unaltered. As the definition currently reads, a person who hands out information about educational opportunities in the area is not required to obtain an agent permit when the person has other primary job duties. Handing out such information creates good will within the community.

Commenting Entities

North Central Institute (Clarksville)

Commission Staff Response

DPSA disagrees that the current definition does not require an agent permit as described in the comment. Additionally, the proposed definition is preferable as it better reflects the statutory definition found at T.C.A. § 49-7-2003(1).

Rule of Interest – Degree Designations

Rule 1540-01-02-.08(3)(b) – Regulation for Specific School Types

Comment Summary

The rules do not go far enough to address the issue of degree designation.

Commenting Entities

- Tennessee Association of Independent Colleges & Schools
- National College of Business & Technology (Nashville, Madison, Bristol, Knoxville, Bartlett and Memphis)
- Daymar Colleges Group (Clarksville, Nashville and Murfreesboro)
- Virginia College School of Business and Health (Chattanooga)
- Southeastern Institute (Nashville)
- Remington College (Nashville and Memphis, Tennessee and Heathrow, Florida)

Commission Staff Response

DPSA includes this comment for purposes of the rulemaking record; however, the subject of the comment is outside the scope of this rulemaking. Pursuant to T.C.A. § 4-5-203(c)(2)(B), an agency may make changes to a rule after the rulemaking hearing as long as the changes are within the scope of the rulemaking notice. In this instance, the degree designation paragraph, 1540-01-02-.08(3)(b) is not addressed in the Notice of Rulemaking Hearing. Therefore, if the Commission were to adopt revisions to this rule, it would be acting outside the scope of the notice and violating T.C.A. § 4-5-203(c)(2)(B).

Additionally, DPSA notes that proposed legislation regarding degree designations was introduced in the 108th General Assembly. Members introduced SB1170/HB1091 in the first session; however, the legislation did not pass. On March 19, 2014, the Senate bill came up in the second session and the Senate Education Committee assigned the bill to general sub.

Rule of Interest - Disclosure of Completion, Retention, and Placement Rates

1540-01-02-.13(3)(a) – Enrollment Agreements and Disclosure Standards

Comment Summary

This rule requires only institutions in this sector to disclose completion, retention, and placement rates to potential students in the enrollment agreement. State institutions and some private institutions do not have similar disclosure requirements. If the purpose of the rule is to provide consumer protection, the rule should be applied to all potential students of all institutions or none at all.

Commenting Entities

University of Phoenix (Cordova, Chattanooga, Clarksville, Knoxville, Murfreesboro, and Nashville, Tennessee and Phoenix, Arizona)

Commission Staff Response

DPSA notes that the Commission's authority to promulgate rules pursuant to T.C.A. § 49-7-2005(a)(6) applies to title 49, chapter 7, part 20. This part does not apply to institutions exempt pursuant to T.C.A. § 49-7-2004, which includes public institutions and some private institutions. This rulemaking is conducted pursuant to the rulemaking authority granted in T.C.A. § 49-7-2005(a)(6); therefore, the rules presented do not include exempt institutions.

Additionally, the Commission has the authority to require the disclosures by authorized institutions. Chapter 1540-01-02 has required that institutions disclose withdrawal, completion, and placement information since March 1993. T.C.A. § 49-7-2006(a)(1)(D) permits THEC to specify disclosures required to be given to prospective students along with a catalog or brochure prior to enrollment. T.C.A. § 49-7-2008(f)(3) allows THEC to require that institutions publish placements rates and employment and earnings information. Also, pursuant to T.C.A. § 49-7-2019: "Information related to graduation, job placement and tuition costs required to be provided to the commission shall also be provided in writing to a prospective student for the specific field of study in which the student is considering enrolling." DPSA notes that the latter statutory reference was not included in the Notice of Rulemaking Hearing authority, but has been added.

Rule of Interest – In-Field Placement Services

1540-01-02-.13(4) – Enrollment Agreements and Disclosure Standards

Comment Summary

Language should be added to 1540-01-02-.13(4) such that institutions that "do not have in-field placement services" may receive a waiver of 1540-01-02-.13(3).

Commenting Entities

Bridgepoint Education (Ashford University and University of the Rockies)

Commission Staff Response

DPSA includes this comment for purposes of the rulemaking record; however, the subject of the comment is outside the scope of this rulemaking. Pursuant to T.C.A. § 4-5-203(c)(2)(B), an agency may make changes to a rule after the rulemaking hearing as long as the changes are within the scope of the rulemaking notice. In this instance, Rule 1540-01-02-.13(4) was not addressed in the Notice of Rulemaking Hearing. Therefore, if the Commission were to adopt revisions to this rule, it would be acting outside the scope of the notice and violating T.C.A. § 4-5-203(c)(2)(B).

Rule of Interest – Filing of School Personnel Applications

1540-01-02-.16(1) – Personnel and Instructor Qualifications

Comment Summary

The due date should be changed to 20 calendar days from the start date rather than 10 days from the hire date.

Commenting Entities

Bridgepoint Education (Ashford University and University of the Rockies)

Commission Staff Response

DPSA does not recommend adoption of this comment. DPSA contends that obtaining the information as soon as possible after the hire date allows DPSA to review the information and notify the institution of any problems prior to a new hire beginning work or continuing in the position for very long. DPSA notes that it is in the best interest of the institution and the new employee to submit the necessary documentation as soon as possible to avoid problems in the event the employee does not meet THEC's minimum qualifications.

Rule of Interest – Definition of Administrative Personnel

1540-01-02-.16(1)(b) and (3) – Personnel and Instructor Qualifications

Comment Summary

The reference to "administrative personnel" in .16(1)(b) and (3) should include the term "senior."

Commenting Entities

Bridgepoint Education (Ashford University and University of the Rockies)

Commission Staff Response

DPSA includes this comment for purposes of the rulemaking record; however, the subject of the comment is outside the scope of this rulemaking. Pursuant to T.C.A. § 4-5-203(c)(2)(B), an agency may make changes to a rule after the rulemaking hearing as long as the changes are within the scope of the rulemaking notice. Although Rule 1540-01-02-.16(1)(b) is included in the Notice of Rulemaking Hearing, other rules defining and using the term "administrative personnel" are not in the notice. Specifically, Rule 1540-01-02-.16(3) and (4) are not addressed in the notice. Therefore, DPSA is not recommending adoption of this comment at this time. Additionally, DPSA believes the definition is clear and the term "administrative personnel" best suits the needs of a variety of entities and organizational structures.

Rules of Interest - Personnel and Instructor Qualifications

- 1540-01-02-.16(2) – Personnel and Instructor Qualifications (to be renumbered .16(3))
- 1540-01-02-.16(11)(b) &(c) – Personnel and Instructor Qualifications (to be renumbered .16(12)(b)&(c))

Comment Summary

The January 30, 2014 proposed revisions to Rule Chapter 1540-01-02 did not include certain changes that were in the December 6, 2013 draft language. The commenters refer to .16(2) and (11)(b) and (c) concerning instructor qualifications.

Commenting Entities

- Tennessee Association of Independent Colleges & Schools
- National College of Business & Technology (Nashville and Madison)
- Daymar Colleges Group (Clarksville, Nashville and Murfreesboro)
- Virginia College School of Business and Health (Chattanooga)
- Southeastern Institute (Nashville)
- Remington College (Nashville and Memphis, Tennessee and Heathrow, Florida)

Commission Staff Response

DPSA includes this comment for purposes of the rulemaking record; however, the subject of the comment is outside the scope of this rulemaking. Pursuant to T.C.A. § 4-5-203(c)(2)(B), an agency may make changes to a rule after the rulemaking hearing as long as the changes are within the scope of the rulemaking notice. In this instance, .16(2) and (11)(b) and (c) are not addressed in the Notice of Rulemaking Hearing. Therefore, if the Commission were to adopt revisions to these rules, it would be acting outside the scope of the notice and violating T.C.A. § 4-5-203(c)(2)(B).

As to 1540-01-02-.16(2) and (11)(b) and (c), DPSA notes that it is intended that the paragraphs and subparagraphs as currently worded will remain in the rules. The only language revision proposed in

the December 6, 2013 draft language sent to institutions was a typographical correction to .16(11)(b) that did not affect the meaning of the subparagraph. While this correction could have been included in the Notice of Rulemaking Hearing, it was not, and given such, it would be outside the scope of the rulemaking to include the revision at this time. DPSA will investigate whether the typographical correction can be made outside the rulemaking process of the Uniform Administrative Procedures Act.

Rule of Interest – Cash Discounts

Rule 1540-01-02-.19(5) – Fair Consumer Practices and Student Complaints (New Paragraph)

Comment Summary

The commenters support the addition of rule language concerning cash discounts.

Commenting Entities

- Tennessee Association of Independent Colleges & Schools
- National College of Business & Technology (Nashville, Madison, Bristol, Knoxville, Bartlett and Memphis)
- Daymar Colleges Group (Clarksville, Nashville and Murfreesboro)
- Virginia College School of Business and Health (Chattanooga)
- Southeastern Institute (Nashville)
- Remington College (Nashville and Memphis, Tennessee and Heathrow, Florida)

Commission Staff Response

No response is necessary.

Rule of Interest – Cash Discounts

Rule 1540-01-02-.19(5) – Fair Consumer Practices and Student Complaints (New Paragraph)

Comment Summary

1. The Commission should clarify the phrase “discount for cash payment” and whether “tuition grants” are “discounts for cash payment.” The phrase should mean “a lower tuition charge in exchange for a student paying the institution directly in advance using a credit card or other direct payment method that is not federal financial aid.”
2. Clarification is needed to ensure that the rule paragraph does not include awards that are given to individual students on a case-by-case basis, including awards for corrections, customer service credits, and operational error corrections. The speaker proposes the following language be added: “For purposes of Section 6, a scholarship, tuition waiver, or other award does not include internal adjustments, including but not limited to, awards for corrections, customer service credits, and revisions for operational error.”

Commenting Entities

Bridgepoint Education (Ashford University and University of the Rockies)

Commission Staff Response

1. DPSA adopts the comment, in part. First, DPSA provides clarification herein by noting that “tuition grants” would be included in new paragraph (6) of Rule 1540-01-02-.19 and by adding the word “similar” to .19(6) such that the language reads: “An institution may award a scholarship, tuition waiver, or other similar award provided:” Second, DPSA opines that allowing an institution to define cash payment provides institutions greater flexibility and control.
2. DPSA does not adopt this comment at this time as the qualifying language in (6)(a)-(c) adequately limits the types of waivers or awards that are acceptable. Elsewhere, the rules support that an institution correctly bill a student and, in the event that billing is erroneous, post necessary corrections to the student’s account.

Rule of Interest - Return of Regulatory Fees

Rule 1540-01-02-.26 – Return of Regulatory Fees (New Rule)

Comment Summary

When refunds are issued based on a percentage of the total of all reauthorization fees paid by an institution, small schools are going to be under-refunded.

Commenting Entities

West Tennessee Business College

Commission Staff Response

According to the language of .26, an institution will receive a percentage of the refund amount that is equal to the percentage paid of the total reauthorization fees collected. Under this methodology, the percentage of the refund to the reauthorization fee paid will be the same for all institutions. Thus, no institution will be under-refunded.

Rule of Interest - Return of Regulatory Fees

Rule 1540-01-02-.26 – Return of Regulatory Fees (New Rule)

Comment Summary

The commenters support the addition of rule language concerning a return of regulatory fees.

Commenting Entities

- Tennessee Association of Independent Colleges & Schools
- National College of Business & Technology (Nashville, Madison, Bristol, Knoxville, Bartlett and Memphis)
- Daymar Colleges Group (Clarksville, Nashville and Murfreesboro)
- Virginia College School of Business and Health (Chattanooga)
- Southeastern Institute (Nashville)
- Remington College (Nashville and Memphis, Tennessee and Heathrow, Florida)

Commission Staff Response

No response is necessary

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 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.

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule:
The Tennessee Higher Education Commission (THEC) represents that the businesses affected by these rule revisions are non-exempt postsecondary educational institutions. THEC opines that approximately 98 or 52% of the non-exempt postsecondary educational institutions may be small businesses.
- (2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:
THEC represents that the additional reporting, recordkeeping and other administrative costs required for compliance with the proposed rule revisions is minimal. Similarly, the rule revisions do not require small business institutions to procure any professional skills that the institution would not already need to comply with the current rules.
- (3) A statement of the probable effect on impacted small businesses and consumers:
THEC represents the following:
 - The adoption of new rule .26 titled "Return of Regulatory Fees," may result in a refund to small businesses and such refund may be passed down, in whole or in part, to the students through lower fees or tuition.
 - The revisions to rules .11 and .13 are applicable only when an institution elects to adopt a cash discount policy as provided for in the revision to rule .19. Using a cash discount may in fact benefit institutions and students by providing the institution a more certain form of payment and the student lower tuition costs.
 - The revision to rule .14 should benefit small business institutions by alleviating the financial burden of submitting audited financial statements.
 - The revision to rule .19(6) should benefit small business institutions by providing clarity as to when an institution may offer scholarships, tuition waivers or similar awards. Being able to offer such awards may aid the recruitment efforts of small business institutions.
- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business:
THEC represents that this is not applicable because the proposed rule revisions are not burdensome, intrusive or costly.
- (5) A comparison of the proposed rule with any federal or state counterparts:
THEC represents that there are no federal or state counterparts to the proposed rule revisions.
- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule:
THEC represents that this question is not applicable because the proposed rule revisions are not burdensome, intrusive or costly. Moreover, exemption from the rules noted in response to number (3) would operate to deny small businesses the benefit of the refund, the waiver of the audit requirement, and the use of cash discounts and tuition awards.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

THEC represents that the proposed rule revisions will not have a financial impact on local governments.

**Department of State
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 09-01-14
Rule ID(s): 5794
File Date: 9-2-2014
Effective Date: 12-1-2014

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Tennessee Higher Education Commission
Division:	Division of Postsecondary School Authorization
Contact Person:	Julie M. Woodruff
Address:	Parkway Towers, Suite 1900, 404 James Roberson Parkway, Nashville
Zip:	37243-0830
Phone:	(615) 253-8857
Email:	Julie.woodruff@tn.gov

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
1540-01-02	Authorization and Regulation of Postsecondary Institutions and Their Agents
Rule Number	Rule Title
1540-01-02-.03	Definitions
1540-01-02-.05	Exemption
1540-01-02-.07	Institutional Applications
1540-01-02-.08	Regulations for Specific School Types
1540-01-02-.11	Institutional Catalog
1540-01-02-.13	Enrollment Agreements and Disclosure Standards
1540-01-02-.14	Financial Standards
1540-01-02-.16	Personnel and Instructor Qualifications
1540-01-02-.19	Fair Consumer Practices and Student Complaints
1540-01-02-.26	Return of Regulatory Fees

Chapter 1540-01-02

Authorization and Regulation of Postsecondary Education Institutions and Their Agents

1540-01-02-.03 Definitions.

- (1) The following definitions are complementary to definitions in T.C.A. § 49-7-2003 and have the following meanings, unless the context clearly indicates otherwise:
- (a) "Ability-to-benefit" as used in these regulations, in contrast to the use of that term for federal financial aid or other purposes, means students, regardless of financial condition, who do not possess a high school diploma or GED, but who have demonstrated that they can profit materially or personally from a certain course of study.
 - (b) "Academic" in description of a program or institution means that which is organized primarily for academic training or transfer.
 - (c) "Act" means the Postsecondary Education Authorization Act of 1974, Tennessee Code Annotated §§ 49-7-2001, et seq. as amended.
 - (d) "Adverse action" means action taken by the Executive Director or Commission to penalize, limit, change, suspend or cause to cease activity that is in non-compliance with the Act and these rules. Such adverse action may include but not be limited to fines of \$500 per violation per day; suspension of activity; conditional authorization or revocation.
 - (e) "Agent" means ~~a person employed full or part time by the institution, whether the institution is located within or without the state of Tennessee, to act as representative, solicitor, broker, or independent contractor to directly procure or induce people to become students or enrollees for the institution at an off-campus location~~ any person owning any interest in, employed by or representing for remuneration a postsecondary educational institution, who, by solicitation in any form, outside of the institution, enrolls or seeks to enroll a student for education offered by an authorized institution, or offers to award educational credentials, for remuneration, on behalf of any such institution for any such purpose.
 - (f) "Associate degree" means a credential issued to students who complete a vocational or academic program or curriculum consisting of at least 60 semester credit hours or 90 quarter credit hours of instruction, or equivalent.
 - (g) "Authorization to operate" means permission or licensure to operate for a specified time in a specified place(s). An institution or agent awarded a letter or certificate of authorization in Tennessee shall not use terms to interpret the letter or certificate which specify or connote greater approval than simple permission to operate. Terms which may not be used include, but are not limited to, "accredited," "supervised," "endorsed," and "recommended by the Commission."
 - (h) "Authorization site visit" means an institutional site visit conducted by Commission staff or Postsecondary Committee members to verify compliance with Postsecondary Education Authorization Act of 1974, Tennessee Code Annotated §§ 49-7-2001, et seq. as amended and the chapter 1540-01-02 of the Postsecondary Regulations. The authorization visit is commonly called a 'site visit'.
 - (i) "Bachelor's degree" means a credential issued to students who complete a vocational or academic program or curriculum consisting of at least 120 semester credit hours or 180 quarter hours, or equivalent.

- (j) "Certificate program" generally means one or more technical courses usually completed in one to twenty-six weeks, or up to and including 500 contact hours normally with a single skill objective.
- (k) "Certified" when used to modify audit refers to an audit in accordance with Generally Accepted Auditing Standards (GAAS) and in accordance with the auditing standards set forth in the book, "Government Auditing Standards" issued by the Comptroller of the United States (often referred to as the "yellow book" standards). If, However, the entity is required for other reasons to have conducted a certified audit in accordance with O.M.B., Circular A-133, such an audit shall be an acceptable substitute for the audit required pursuant to these regulations.
- (l) "Closed enrollment" means instruction provided between an educator or educational service to a group or business on a private contractual bases, whereby public solicitation does not occur and the instructional provider is given a list of enrollees to train at no cost to the students.
- (m) "College" means (1) a unit of a university offering specialized degrees or (2) a postsecondary institution offering courses of study leading to traditional undergraduate college degrees. Some examples of traditional degrees are: Associate of Arts, Associate of Science, Bachelor of Arts, Bachelor of Science, and Bachelor of Fine Arts.
- (n) "Commission" means the Tennessee Higher Education Commission.
- (o) "Contact Hour" (clock hour) refers to actual directed or supervised instructional time, not to be less than 50 minutes for every 60 minutes of time.
- (p) "Credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers or words which signify, purport, or are generally taken to signify enrollment, attendance, progress or satisfactory completion of the requirements or prerequisites for education at a postsecondary educational institution. ~~refers to educational credentials which include but are not limited to: certificates, diplomas, letters of designation, degrees, transcripts or any other papers generally taken to signify progress or completion of education / training at a postsecondary educational institution.~~
- (q) "Degree" means letters of designation or credential or a title from a postsecondary level program acceptable to and so authorized by the Commission and/or an accrediting body recognized by the U.S. Department of Education. Typically used in some form is the term 'associate', 'bachelor', 'masters' or 'doctor' in the credential designation.
- (r) "Diploma program" means a program of instruction offering technical and some basic course work. Some general or peripheral courses may be included. The program shall generally range for more than 500 contact hours but less than contact requirements for the Associates degree.
- (s) "Doctoral degree" means a credential issued to students who complete a program consisting of a bachelor's degree plus at least 90 semester hours or 135 quarter hours of graduate credit or equivalent.
- (t) "Enrollment" refers to those students who have completed the institution's application forms, submitted a financial deposit where required, and have actually attended one or more sessions of classes, or, in the case of home study programs, received one or more lessons.

- (u) "Educational service" means an individual or business established to provide services such as, but not limited to, a testing service, test preparation or a business that assists people in gaining academic credit for life experience, non-accredited courses or non-college training.
- (v) "General education courses" are general education core or academic subjects intended to broaden communication/language skills, contribute to the intellectual growth of the student and give balance to the total program beyond the area of vocational or professional concentration,
- (w) "Independent certified public accountant" means a CPA not associated with the institution or its owners, especially in such a way that a conflict of interest or appearance of conflict arises.
- (x) "Institute" means a postsecondary institution offering courses of study and training not usually associated with traditional liberal arts degrees. Appropriate credentials awarded would include applied science degrees, certificates, and diplomas such as the Associate of Applied Science (A.A.S).
- (y) "Institutional director" means the institutional executive designated by the institution to assume responsibility for the conduct of the institution and its agents within these rules and the Act. Further, the institutional director will serve as the official contact for all business conducted between the institution and the Commission and maintain complete authorization files.
- (z) "Long Distance Learning" means a system and process that connects learners with distributed learning resources through delivery systems at a distance such as correspondence, video tape, audio tape, telecommunications, computer resources, computer network system or an electronic delivery system, where there is physical separation of the instructor and student.
- (aa) "Master's degree" means a credential issued to students who complete a program consisting of a bachelor's degree plus at least 30 semester credit hours or 45 quarter credit hours, or equivalent.
- (bb) "Non-exempt institution" means all postsecondary institutions not specifically exempted under provisions of T.C.A. §49-7-2004 of the Act or Section 1540-01-02-.05 of these rules and means all instructional sites which must have separate authorization unless, in the view of the Commission, the instructional locations are in sufficient proximity for facilitation of support services and administration.
- (cc) "Out-of-state", as applied to describe an authorized postsecondary educational institution, means an institution that maintains its primary campus in another state, but has physical presence in Tennessee.
- (dd) "Physical presence" means actual presence within the state of Tennessee for the purpose of conducting activity related to: a postsecondary educational institution; an educational service; dissemination of educational credentials; enrollment; solicitation or advertising. Physical presence as further outlined for purposes of authorization shall include but not be limited to:
 1. An instructional site within the state.
 2. Instruction within or originating from Tennessee designed to impart knowledge with response utilizing teachers, trainers, counselors etc., or computer resources, or computer linking (e.g. internet), or any form of electronic telecommunications;
 3. Dissemination of an educational credential from a location within the

state;

4. An agent, recruiter, institution or business that solicits for enrollment or credits or for the award of an educational credential;
 5. Advertising, promotional material or public solicitation in any form that targets Tennessee residents or uses local advertising markets in the state for institutions seeking, holding or required to hold a certificate of authorization.
- (ee) "Postsecondary education institution" includes, but is not limited to, an academic, vocational, technical, online/distance learning, business, professional, or other school, college, or university, or other organization or person, offering educational credentials, or offering instruction or educational services primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory high school attendance, for attainment of educational, professional, or vocational objectives. ~~means an entity which maintains a place of business within Tennessee, or solicits business in Tennessee, and which offers or maintains a course or courses of instruction or study, or at which place of business such a course or courses of instruction or study are available through field instruction, classroom instruction or by long distance learning or both to a person or persons for the purpose of training or preparing the person for a field of endeavor in a business, trade, technical, service or industrial occupation, for a vocation, or for the award of an educational credential, except as excluded by the provisions of these rules and the Act.~~
- (ff) "Quarter" is a period of instruction into which the academic year may be divided. A quarter must consist of at least 10 weeks.
- (gg) "Quarter credit hour" means a measurement of scholastic attainment earned by receipt of instruction of one classroom lecture hour per week for one quarter or two hours of laboratory experience per week for one quarter, or three hours of intern/externship experience per week or the equivalent number of hours.
- (hh) "Residence course" means a course in which the student comes to an institutional campus or instructional site as opposed to a course where the student stays at home (i.e. Long Distance Learning).
- (ii) "SACS Commission on Colleges" means the Commission of the Southern Association of Colleges and Schools which accredits degree-granting postsecondary institutions.
- (jj) "School" means (1) A unit within a college or university that offers specialized instruction (i.e., a school of engineering). (2) An institution that offers specialized instruction in areas (i.e., driving, modeling, basic travel training) not usually associated with college or university education. Appropriate credentials awarded would include certificates and/or diplomas. Institutions using the name of "school" do not usually offer degrees.
- (kk) "Semester" is a period of instruction into which the academic year may be divided. A semester must consist of at least 15 weeks.
- (ll) "Semester credit hour" means a measurement of scholastic attainment earned by receipt of instruction of one classroom lecture hour per week for one semester or two hours of laboratory experience per week for a semester, or three hours of intern/externship experience per week or the equivalent number of hours.
- (mm) "Solicitation" means inducing or attempting to induce a resident of Tennessee to sign, at any off-campus location, an enrollment agreement to attend a

postsecondary educational institution.

- (nn) "Tuition" shall mean but not be limited to, any money or fee involving the student, actually charged or tracked as a bookkeeping item for instruction / training provided.
- (oo) "Unearned tuition" means at any given time, the total of refunds due former students, all tuition and fees that have or will be collected from students prior to graduation and which would be refundable pursuant to 1540-01-02-.17 of these rules, and any tuition and fees collected in advance from prospective students.
- (pp) "University" means a postsecondary institution that provides facilities for teaching and research, offers traditional undergraduate and graduate degrees at the baccalaureate and higher level, and is organized into largely independent colleges or schools offering undergraduate, graduate, and/or professional programs. Some examples of traditional degrees are: Bachelor of Arts, Bachelor of Science, Bachelor of Fine Arts, Master of Arts, Master of Science, Master of Fine Arts, Master of Business Administration, Doctor of Philosophy, and Doctor of Education.
- (qq) "Vocational" in description of a program or institution means that which is organized primarily for job entry or upgrading of job skills that would result in a new job title or position.

1540-01-02-.05

Exemption.

- (1) T.C.A. § 49-7-2004 of the Act includes general descriptions of institutions and programs that are exempt from the provisions of the Act and these rules. Institutions and programs meeting the specific provisions below shall be considered exempt pursuant to the general exemption descriptions of T.C.A. § 49-7-2004. ~~In addition to institutions exempt by Tennessee Code Annotated, Chapter § 49-7-2004, the following institutions are exempt from the annual reporting and the provisions of these regulations:~~

- (a) ~~any entities offering e~~Education, instruction, or training that ~~are~~is:
 - 1. maintained or given by an employer or group of employers, for employees or for persons they anticipate employing without charge, which shall include taking a payroll deduction or requiring a minimum length of employment, except that the employer/institution may accept funds provided through a state or federal program that provides adequate institutional and/or programmatic review as determined by the Commission staff; or
 - 2. maintained or given by a U.-S. Department of Labor or state recognized labor organization, ~~without charge, (1) to its membership or apprentices;~~ or (2) without charge, except that the department or organization may accept funds provided through a state or federal program that provides adequate institutional and/or programmatic review as determined by the Commission staff; or
 - 3. financed and/or subsidized by public funds, without charge to the students, having a closed enrollment; or
 - 4. given under a contract agreement, having a closed enrollment, at no cost to the student and does not offer ~~degrees or~~ educational credentials ~~such as but not limited to diplomas or special certifications~~ that in the opinion of the Commission are specifically directed toward new or additional vocational, professional or academic goals.

- (b) Programs, seminars, or workshops that are recreational or avocational, including motivational or enrichment programs, as determined by the Commission staff shall be considered exempt from authorization requirements. Upon review by the Commission staff, a provider that presents the instruction in such a way as to suggest a vocational end may be required to become authorized, or clarify through public advertising that the program, seminar, or workshop is in fact recreational or avocational.
- (c) Short-term programs, seminars, or workshops that are solely for professional enhancement as determined by the Commission staff shall be considered exempt from authorization requirements. Education, training or instruction resulting in specialized certifications clearly used to denote technical, professional or vocational proficiency toward an additional vocational goal or new job title must be authorized for operation.
- (d) Intensive review courses designed solely to prepare students for graduate or professional school entrance exams and professional licensure exams. The latter shall include, but not be limited to, intensive review courses for certified public accountancy tests, insurance or securities licensure/registration, the examination for professional practice in psychology, and the bar examination.
- (e) Training designed to prepare students for credit-by-examination tests may be considered exempt from authorization requirements. The exemption is contingent on the entity's agreement to indicate in all promotional materials that the training is for test preparation for credit-by-examination tests and refrain from any misleading representations. Such misleading representations include:
 - 1. suggesting that the training results in receipt of an educational credential, such as a degree;
 - 2. listing anticipated salary amounts; and
 - 3. suggesting that the entity is accredited.
- (f) Eleemosynary institutions, including religious institutions, that:
 - 1. offer instruction or training and do not offer degrees of any type;
 - 2. do not suggest that postsecondary credit may be awarded by another party or transfer in educational credentials from another source; and
 - 3. do not offer diplomas/certificates that in the opinion of the Commission replicate letters of designation or degrees.
- (g) Businesses offering limited computer training in hardware, software, delivery systems or any related technology for clients or customers directly related to a sale of equipment or services are exempt from the provisions of authorization.
- (h) Businesses offering short-term computer training in common software or basic computer hardware that is intended for enrichment or professional enhancement are exempt from the provisions of authorization unless in the opinion of the Commission staff the courses using various software are offered concurrently toward a vocational goal.

- (2) ~~To operate within exemption status,~~ The following guidelines shall be used apply to determinations of exemption:

- (a) Institutions that clearly qualify as exemption under the Act ~~and/or~~ these regulations after the Commission staff review shall be considered exempt from authorization without a vote of the Commission.
 - (b) ~~Institutional~~ Any institution or program exemption is subject to annual Commission staff review ~~and/or revocation any time the activity deviates from the original determination factors for exemption.~~
 - ~~(c) Exemptions secured under this section of the rules are effective for each authorization year beginning on July 1, except as individuals or groups of institutions are notified prior to June 15 preceding any authorization year by a letter from the Executive Director of the Commission which shall state the bases for removal of any exemption.~~
 - ~~(dc) Exemptions~~ Any institution or program exemption can be revoked or amended by the Commission staff at any time that the basis for the exemption changes or no longer exists ~~as they pertain to individual institutions whenever it is determined by the Commission that an institution exempted by the Act or these regulations has not acted in accordance to the purpose of T.C.A. § 49-7-2002, 'Legislative intent'.~~
- (3) To request a determination of exemption, institutions shall submit a descriptive narrative explaining how the institution and/or program(s) qualifies for an exemption. The request shall include a citation to the exemption provision relied on in the Act and/or these rules and documentation supporting the requested exemption such as: ~~Institutions or educational providers seeking an exemption status (or not wanting to pursue authorization) that in the opinion of Commission staff do not clearly qualify under the exemption categories given in the Act and these rules will be required to complete an Exemption Request Form. The form shall include but not be limited to:~~ copies of all institutional materials; brochures; advertising; state charter or business license; and organizational ties and/or contracts with other educational providers ~~and a descriptive narrative of how the organization qualifies for exemption specifically citing the Act and/or rules.~~ Upon receipt of an exemption request, the Commission staff shall make a written determination and provide a date by which an aggrieved institution may submit a request for further review by the Executive Director. Such date shall not be earlier than ten (10) business days after the date of the letter.
- ~~(a) Based upon the submitted material Commission staff shall make a written determination of institutional status. If the institution is aggrieved by that determination, the party may appeal in the manner provided by Rule 1540-01-02-.02(2)(b) and T.C.A. § 49-7-2010(b).~~
- (4) If the institution is aggrieved by a determination concerning exemption status, the institution may seek review as provided for in Rule 1540-01-02-.02(2)(b) and T.C.A. § 49-7-2010(b). Any request for review shall be in writing, signed, list each instance where the Commission staff erred, and provide a detailed explanation of each alleged error, including references to specific statutes or rules. Requests for review shall be received through hand delivery, mail, electronic mail or facsimile. A request may be denied if it is not received in a timely manner as set forth in paragraph (3).

1540-01-02-.07 Institutional Applications.

- (1) Application deadline:
 - (a) Incomplete submissions as given below in Authorization - What Constitutes a Complete Application, or applications submitted after the established deadline may be deferred to the next quarterly meeting at the discretion of staff.

(b) Institutions that voluntarily or involuntarily defer an application before the Committee will have two additional Committee/Commission meetings to complete, correct and/or submit the application by that established deadline date. Failure to complete the application process in the established time extension will require a new application and loss of all previously paid fees.

1. Exceptions must be requested in writing and granted by the Executive Director.

(2) Authorization - What Constitutes a Complete Application:

(a) Prior to operation, which includes advertising, recruitment and solicitation, institutions seeking or required to hold an authorization must submit on forms provided by the Commission, a completed application which includes at least the following:

1. a title or name of the institution in compliance with these rules;
2. a copy of the Tennessee state charter as filed with the Secretary of State (incorporated) or local business license (sole proprietorship);
3. ownership and/or controlling officers;
4. address and general description of facilities;
5. list of instructional equipment for each program (owned or leased);
6. qualifications for instructional staff and supervisors;
7. designation of an institutional director for each site responsible for authorization contracts and maintenance of records and all other duties as described under Personnel and Instructor Qualifications (1540-01-02-.16);
8. definition of any administrative structure above the director with the signature of the official that will notify the Commission if the director is replaced;
9. a check or money order payable to the State Treasurer for Tennessee for such fees as prescribed under these rules;
10. institutional surety bond as described by rule 1540-01-02-.07 or as prescribed by T.C.A. §49-7-2013;
11. a copy of the enrollment contract or agreement described in these regulations;
12. a copy of the Enrollment Disclosure Standards (1540-01-02-.13) checklist if not incorporated within the enrollment agreement (contract);
13. information pertaining to institutional facilities ownership, length of any lease and time in present quarters. Information must include total square feet, available floor space for conducting programs, and subtotals for classrooms, offices, and library space (with number of volumes held). Instructional equipment (specify owned or leased) must be listed and described. Current verification of fire and sanitation inspections of educational facilities (and student housing owned by institution) must be filed as described in 1540-01-02-.07 of these rules;

14. a draft or copy of the institutional catalog (see 1540-01-02-.11);
 15. a complete description of the proposed educational programs in compliance with the Act and these rules;
 16. a complete syllabus for each course proposed that demonstrates sufficient content and depth for the proposed level of the program and credential offered;
 17. any specific requirements as outlined under degree granting and/or non degree granting sections of these regulations;
 18. if participating in federal student financial aid programs, a copy of the most recent audits or program reviews of such programs by any applicable non-profit, state or federal agencies, including, but not limited to, any student guarantee agency and the United States Department of Education;
 19. evidence of institutional financial stability as follows:
 - (i) sufficient finances to establish and conduct proposed operation;
 - (ii) audited financial statements consistent with generally accepted accounting principles and signed by a certified public accountant not associated with the institution or its owners;
 20. the balance sheet in the financial statement must reflect owner's (proprietorship, partnership, corporation, other, etc.) assets and liabilities.
- (3) Each application for a certificate of authorization or change of ownership must be signed by the applicant and signature(s) must correspond with required names on surety bonds. If the applicant is a partnership, all partners must sign. If the applicant is a corporation, it must be signed and certified by the president and secretary; all officers of the corporation must be listed.
 - (4) A separate application for authorization, which is site specific, must be made for each location located outside of reasonable walking distance from the main site. The Commission staff may make reasonable exceptions for narrow purpose, highly structured programs at multiple locations where, in view of the Commission, administrative requirements are limited and precise.
 - (5) The applicant institutional director must sign and date, on forms provided by the Commission, the director's intention to:
 - (a) conduct the institution in accordance with the Act and rules established by the Commission;
 - (b) advertise or solicit using institutional employees familiar with these rules;
 - (c) advise the Commission within a reasonable time in advance if the controlling officers change or the school ceases operation;
 - (d) notify the Commission of staff changes by forwarding staff information forms for new staff and informational letter for staff terminations;
 - (e) advise the Commission of any application to operate in another state (Tennessee institutions only);

- (f) sign significant operational documents (such as those vouching for accuracy of staff information, moral character, program revisions, etc.); and
 - (g) forward, if participating in federal financial aid programs, a copy of each audit of such programs by applicable state and federal agencies, applicable non-profit, state or federal agencies, including, but not limited to, the Tennessee Student Assistance Corporation and the United States Department of Education.
- (6) **Bond Requirements ~~for Institutions:~~**
- (a) Institutions must, on forms provided by the Commission, secure for student indemnification purposes, from a surety company qualified and authorized to do business in Tennessee, a continuous surety bond in the amount of:
 - 1. ten thousand dollars (\$10,000) for in-state institutions, out-of-state public institutions and all institutions providing primarily religious instruction, and
 - 2. twenty thousand dollars (\$20,000) for all other institutions, including out-of-state private institutions.
 - (b) Out-of-state institutions must, on forms provided by the Commission, secure a surety bond for agents in the amount of five thousand dollars (\$5,000) per agent from a surety company qualified and authorized to do business in Tennessee with the institution as principal.
 - (c) Bonds provided by institutions must be site specific.
 - (d) An irrevocable letter of credit secured by a certificate of deposit or a cash deposit with a bank may be accepted in lieu of the bond pending approval of the Commission staff. Such deposits are subject to the same terms and conditions provided for in the surety bond requirement under this regulation.
 - ~~(a) Institutions not exempted from surety bond provisions, must on forms provided by the Commission, secure for student indemnification purposes, from an insurance company licensed in Tennessee, a surety bond for the penal sum of \$10,000 for in-state institution and \$20,000 for out-of-state education institution, including branch campuses as specified in T.C.A. 49-7-2013, except as follows:~~
 - 1. ~~In-state institutions with substantially less unearned tuition or student exposure than \$10,000 may post a surety bond equal to 125% of the maximum unearned tuition or student exposure rounded upward to the nearest thousand dollars (prior written administrative agreement by the Commission staff is required).~~
 - ~~(7) Out of state institutions must, on forms provided by the Commission, secure a surety bond for agents in the penal sum of \$5,000 per agent from a surety company authorized to do business in Tennessee with the applicant institution as principal. Such applications must be accompanied by verification by the issuing agency that the individual seeking a permit is covered by a \$5,000 surety bond.~~
 - ~~(8) Bonds provided by institutions under Section 1540-01-02 .07(7) must be accompanied by the name, office address, and phone number of the issuing insurance company representative and the bond must be site specific.~~
 - ~~(9) Bonds provided by institutions under Section 1540-01-02 .07(7) must be identified on the top half of the first page by the name and the address of the institution. Bonds and verification of bonds should be forwarded to the Commission by institutional directors, and not directly from issuing companies.~~

~~(10) Certificates of deposit or a cash deposit with a bank may be accepted in lieu of the bond with approval of the Commission staff. Such deposits are subject to the same terms and conditions provided for in the surety bond requirement under this regulation.~~

(447) Fire and Sanitation Inspections:

- (a) Applicant institutions must secure, from appropriate local agencies, documentation that fire and sanitation codes are met by the proposed instructional facilities. If such inspections are unavailable, the institution must present a copy of a recent letter from the local inspection agency indicating that such inspections are unavailable.
- (b) Tennessee institutions seeking initial authorization and renewal must maintain documentation in their authorization records that a fire and sanitation inspection has been successfully passed during the past twelve months and, further, the institution must notify the Commission of the most recent inspection dates as part of the renewal application. If such inspections are unavailable, the institution must present a copy of a recent letter from the local inspection agency indicating that such inspections are unavailable.
- (c) Out-of-state institutions must forward to the Commission a copy of fire and sanitation inspection reports and these reports must be made at least every twelve months.
- (d) Commission staff may seek supplemental fire and/or sanitation reports from appropriate local or state agencies.

(428) New Ownership / Change in Ownership:

- (a) The following constitutes new ownership:
 - 1. in the case of ownership by an individual, when more than 50% of the institution has been sold or transferred;
 - 2. in the case of ownership by a partnership or a corporation, when more than 50% of the institution or of the owning partnership or corporation has been sold or transferred;
 - 3. when the board of directors, officers, shareholders, or similar governing body has been changed to such an extent as to significantly alter the management and control of the institution.
- (b) A person or persons purchasing an institution authorized to operate shall comply with all the requirements for securing an initial, new authorization including new program applications for each program. In addition, a copy of the sales contract(s), bill(s) of sale, deed(s), and all other instruments necessary to transfer ownership of the institution shall be submitted to the Commission.
- (c) In the event of a change of ownership, a new owner or governing body must notify the Commission within 10 days after the change in ownership and request from the Executive Director conditional authorization to operate until temporary authorization can be acquired under standard established procedure by recommendation of the Committee for Postsecondary Educational Institutions and affirmative vote of the Commission.
- (d) The sale or transfer of ownership interest after the death of an owner of an institution to either a family member or a current stockholder of the corporation is not considered a change in ownership, and the executive director may determine that other transfers should also be excluded from these requirements.

(139) New Program or Change in Program:

- (a) Vocational program names and objectives must generally coincide with or be equated with the *Dictionary of Occupational Titles* published by the U.S. Department of Labor and/or the *Classification of Instructional Programs* published by the U.S. Office of Education, National Center for Education Statistics.
- (b) New institutions proposing to offer programs similar to those conducted by Tennessee institutions under the Tennessee desegregation plan must submit a description of the anticipated effect of the proposal on the racial composition of higher education institutions in Tennessee.
- (c) New institutions must submit a rationale with supporting data to justify initiation of programs proposed.
- (d) Authorized institutions must submit to the Commission a supplementary application if additional programs are proposed during any authorization year and the program must be authorized prior to operation, which includes advertising or solicitation. Applications must be received by the quarterly deadline established by Commission staff to be included on the ensuing Committee and Commission agenda.
- (e) Ongoing institutions that make changes to an existing program(s) previously approved by the Commission must file a New Program Application if program changes exceed 25% in one calendar year, or if in the opinion of staff a significant change has occurred. Changes of less than 25% should be reported by letter as a file item to the Commission detailing changes made. All changes must be reflected in the institutional catalog.
- (f) Institutions shall not arbitrarily add a course or courses to an existing program in which a student would incur additional time and expense beyond the catalog requirements at the time of enrollment, unless the addition is in response to: demonstrated educational necessity; a reasonable program completion period had elapsed; state approval agencies; recognized accrediting agencies or for requirements of professional certifications or licenses. Under approval conditions, the institution shall provide written notification to the Commission and give adequate notice to all students affected prior to any change.

(1410) New Location / Change of Address:

- (a) An application from an authorized institution to reflect a new location shall be filed and include all documents designated by the Executive Director as being necessary with the appropriate fee. Documents shall include but not necessarily limited to: (1) evidence of satisfactory health inspection, (2) evidence of satisfactory fire inspection, (3) all physical material and building requirements given under Initial Authorization. Approval may be issued after the new facilities have been inspected and the application is complete. If a move is beyond 10 miles and a student is prevented from completing the training at the new location as determined by the Executive Director, a full refund of all moneys paid and a release from all obligations will be given to the student or loan holder.

1540-01-02-.08

Regulations For Specific School Types.

- (1) General:

- (a) Institutions offering programs of legal interest to other state agencies must, if directed by the Commission, provide information necessary for the dual review of the program. (For example, any institution proposing a teacher education program for the purpose of teacher licensure must also be reviewed by the State Board of Education).
- (b) Authorized institutions that promote, advertise or use prepared materials of any entity that offers vocational / professional certifications (that are not part of the school's authorized educational credential) or certification exams, (e.g. national certifying exam for Phlebotomy) must demonstrate to the Commission clear benefit to the students prior to usage. The Commission upon review may rule to:
 - 1. allow promotion and usage because of benefits to the student;
 - 2. allow promotion and usage but with clear disclosure to the students with language such as, 'this certification is voluntary and is not required for employment in the state of Tennessee' or 'this certification is voluntary and is not necessarily used as a standard of recognition for employment within the industry;
 - 3. deny usage. (see Prohibitive Acts 1540-01-02-.18).
- (c) Unauthorized institutions that promote, advertise or use prepared materials of any entity that offers vocational/professional certifications may be required to become authorized for such activity.
- (d) Institutions must adhere to all copyright laws and observe intellectual property rights in conducting the school.
 - 1. Using video tapes or other forms of telecommunication as a large portion of the contact hours in a program or on a per class basis for the purpose of granting educational credit, must have implied consent by purchase or the written consent of that instructor and/or the institution that produced the educational material, prior to incorporating them into the curriculum.

(2) Non Degree Granting Institutions:

- (a) Non-degree programs which are designed primarily for job entry or upgrading of skills must be described in clock (contact) hours.
- (b) Non-degree programs typically prepare individuals for employment and do not require courses beyond those specific to the job or its field with program length sufficient to effect outcomes.
 - 1. Institutions must provide a minimum program length that adequately prepares students for entry level employment.
 - 2. Program lengths that exceed standard or currently acceptable times or program periods established by regulations and/or statues must justify expansion of training in terms of exceptional student benefits. Such programs may also be required to review curriculum to evaluate consolidation of classes and course material.

(3) Degree Granting Institutions:

- ~~(a) — New institutions seeking authorization to offer degrees in the state of Tennessee or new program applications for a degree program must submit the application by the deadline date established by Commission staff, which shall be 45 to 60 days~~

~~prior to the quarterly meeting of the Committee on Postsecondary Educational Institutions.~~

- (ba) All degrees offered must be approved by name and designation by the Commission. No institution may offer traditional liberal arts degrees or professional degree designations such as those given in the definitions under "college" and "university" unless previously approved by a recognized regional accrediting body.
1. An exception may be approved by the Executive Director upon recommendation of Commission staff.
- (eb) Authorization to offer any degree in the state will require either institutional accreditation as defined in these regulations or authority to grant degrees by affirmative vote of the Commission. Accredited institutions shall be deemed during initial authorization to have met the minimum requirements to offer degrees.
- (ec) Non accredited institutions seeking authority to grant degrees in the state must meet in addition to the requirements in these regulations for temporary or regular authorization, the additional fee as given in these regulations and demonstrate compliance with, but not limited to the following standards:
1. the operation shall incorporate instructional procedures, texts and materials appropriate to the purpose, curriculum and standards of postsecondary degree granting institutions offering similar programs in the state;
 2. 25% of the total program must be in general education courses and should be indicated separately in the curriculum presented;
 3. a syllabus for each course offered;
 4. library resources and holdings that shall contain up-to-date titles, be available and accessible to all enrolled students and commensurate with the proposed degree level;
 5. demonstration that the degree and the program has merit and value academically, professionally or vocationally in Tennessee;
 6. master and doctorate level degrees must demonstrate in the curriculum and outcomes increasing levels of critical, analytical and interpretive thinking, use of primary documents or resources and independent research skills.
- (ed) Undergraduate degree programs must include at least twenty-five percent of the program in general education courses unless the institution can demonstrate program accreditation requirements which are lesser or for a non accredited institution offering or proposing an associate degree level, demonstrate to the Commission that because of the occupational/technical nature of the program that a student would not benefit in the job from general education courses and demonstrate the need to use that 25% of the program for job skills courses. All general education courses must be taught by holders of baccalaureate degrees with at least twenty-five percent of the general education staff with earned master's degrees or equivalent.
- (fe) Graduate degree programs, in addition to staffing and study time requirements in these rules, must provide experienced research staff to direct graduate research papers, provide a program of sufficient length and arrangement to facilitate

student to student and student to staff exchange of ideas, provide appropriately credentialed staff in collateral areas, and provide access to a wide range of current reference materials in the subject field.

(gf) Degree program admission policies must be at least the following:

1. undergraduate degrees must require a high school diploma or equivalency, and
2. graduate degrees must require at least a baccalaureate degree from an institution judged to be appropriate by the Commission.

(4) Long Distance Learning:

- (a) Required authorization of long distance learning institutions shall be reviewed based upon Commission staff evaluation of physical presence. Computer networks or other electronic delivery systems or other forms of long distance learning that might have institutional components in multiple locations outside of this state will be reviewed based upon origination of but not limited to any of the following from Tennessee: instruction, institutional administration or issuance of an educational credential.
1. No ruling by the Commission regarding authorization or exemption of a long distance learning provider will be interpreted to limit review by any other state agency concerning issues of consumer protection and disclosure.
- (b) All authorized long distance learning institutions must provide a printed catalog, enrollment disclosure statement and a contract as required in these regulations. Institutions that enroll students by means such as computer network or telecommunications must provide evidence that the student has acknowledged receipt of the required information.
- (c) Home study or long distance learning institutions must meet directly and indirectly all requirements of the Act and these regulations and must seek authorization for a specific location, assign specific administrative responsibilities at each separately authorized site to a director for adequate and appropriate staffing to serve the stated purpose and to make reports as directed by these rules, and as requested by the Commission staff.
- (d) Long distance learning courses or programs must consist of at least the following:
1. a preliminary lesson or set of instructions on how to study by the home study method, or adequate study instructions per assignment;
 2. current and accurate text or lesson materials; and
 3. instructional service or individualized feedback on each unit assignment which must be based on examination questions or problem assignments which thoroughly stress the important phases of the subject presented.
 4. demonstration that instruction in each course including general education courses is presented by a qualified instructor(s), and that required student evaluation or feedback for each course or lesson is also by a instructor qualified in that specific course or subject matter area.

5. evidence that adequate library or research resources are available to all students that may enroll appropriate to the type and level of the educational program and credential offered.
 6. educational goals and overall program goals are achievable through long distance learning and that graduates of distance education exhibit skills and knowledge equivalent to resident programs of a similar nature.
- (5) Bartending Schools:
- (a) Pursuant to TCA §49-7-115, all schools involved in training in the areas of management, operation, procedures or practice of dispensing alcoholic beverages or bartending shall include instruction in the problems of alcohol abuse and the effect of alcohol consumption on highway safety.
- (6) Truck Driving (CDL) Schools:
- (a) Authorized truck driving schools may advertise in the 'help wanted' section of the newspaper classifieds provided that the advertisement adheres to all other regulations given in 1540-01-02-.20 and within the advertisement it clearly indicates with specific language that this is a "school advertisement", "advertisement for training" or a "training opportunity with [school's name]".
 - (b) Advertisements may refer to truck lines or carriers by name with the written permission of that company and use language such as "training agreement with", "training contract with" or "exclusive training for [carrier's name] in Tennessee". If a school mentions or alludes to multiple training agreements with carriers, the advertisement must give a specific number and have prior approval from Commission staff. All claims related to carriers must be documented and on file at the school.
- (7) Modeling Schools:
- (a) Modeling schools that also operate a placement or talent agency must maintain clear separation in function and advertising the agency from the school.
 - (b) Talent seminars, interviews or 'talent searches' may not be used to enroll individuals in modeling schools or training.
 - (c) Schools that operate as a 'finishing school', exclusively for personal deportment or for enrichment may not advertise or conduct courses that implies or suggests vocational modeling or related goals.

~~(8) Computer Training:~~

- ~~(a) Businesses offering limited computer training in hardware, software, delivery systems or any related technology for clients or customers (closed enrollment) directly related to a sale of equipment or services are exempt from the provisions of authorization.~~
- ~~(b) Businesses offering short term computer training in common software or basic computer hardware that is intended for enrichment or professional enhancement are exempt from the provisions of authorization unless in the opinion of the Commission courses using various software are offered concurrently toward a vocational goal. (e.g. word processing software offered toward secretarial goals).~~
- ~~(c) Businesses offering specialized certifications clearly used to denote technical, professional or vocational proficiency toward an additional vocational goal or new job title must be authorized for operation of that training in the state.~~

(98) Teacher Training (K-12) or Licensing or Recertification:

- (a) The Tennessee State Board of Education or the Commission may request a dual review of any institution or business with physical presence in Tennessee offering courses related to but not limited to teacher (K-12) licensing, recertification or career ladder. For accredited institutions with teacher education programs using long distance learning (but using targeted direct mail advertising), the Commission may grant a waiver for authorization if State Board of Education or a local public school district has accepted, endorsed or approved for graduate credit transfer any portion of the program. Such a waiver shall not be granted for any institution outside of the provisions stated above and may be individually retracted if in the opinion of the Commission the advertising is misleading regarding outcomes or credits earned.

~~(10) Seminars / Workshops:~~

- ~~(a) Seminars or workshops of short duration that are motivational, enrichment, recreational, avocational or solely for professional enhancement as determined by Commission staff shall be considered exempt from authorization requirements.~~
- ~~(b) Upon review by Commission staff a seminar/workshop provider regardless of length that presented the instruction in such a way to suggest a vocational end may be required to become authorized in the state, or clarify through public advertising that the seminar/workshop is in fact enrichment or recreational.~~

1540-01-02-.11 Institutional Catalog.

- (1) Each institution must publish a catalog or brochure (a draft copy may be provided for original application) which must include at least the following information;
 - (a) the name and address of the institution;
 - (b) identifying data, such as catalog number and publication date;
 - (c) table of contents;
 - (d) names of owners and officers, including any governing boards, and faculty with credentials for position;
 - (e) the institutional calendar, including holidays, enrollment periods and the beginning and ending dates of terms, courses, or programs;
 - (f) the institutional enrollment procedures and entrance requirements, including late enrollment, if permitted;
 - (g) the institutional attendance policy including minimum attendance requirements, and the circumstances under which a student will be interrupted for unsatisfactory attendance and the conditions under which a student may be readmitted;
 - (h) the institutional policy covering satisfactory progress with an explanation of any grading system used and a description of any probation policy and a description of the institutional system for making progress reports to students;
 - (i) the institutional policy regarding student conduct, including causes for dismissal and conditions for readmission;

- (j) a description of each program offered including objectives, costs, length, program components or course requirements, or in the case of correspondence instruction, the number of lessons;
- (k) a description of the placement assistance available and, if none, so state;
- (l) a description of the facilities and equipment used for educational programs and the address of training site;
- (m) the policy concerning credit granted for previous education, training, and experience and, if none, so state;
- (n) the refund and cancellation policy which must describe the procedure for determining the official date of termination;
- (o) in catalogs (except for out-of-state degree-granting institutions which choose to make no reference to the Commission) which describe educational programs conducted in Tennessee and with enrollment contracts used by programs outside of Tennessee, a statement provided within the first four pages of the catalog and on the signature page of enrollment contracts, which must read as follows:

The (name of institution) is authorized by the Tennessee Higher Education Commission. This authorization must be renewed each year and is based on an evaluation by minimum standards concerning quality of education, ethical business practices, health and safety, and fiscal responsibility;

- (p) a description of the student grievance procedure, a listing of the title, address, and telephone number of the institutional employee(s) designated to receive student complaints. If the institution used a mediation clause in its enrollment agreement, the catalog must describe the steps required of the student and/or the institution to initiate the mediation process. The address and telephone number of the licensure staff of the Commission must be in the catalog for grievances not settled at the institutional level;
- (q) specific information pertaining to transferability of credit earned to another institution, with language sufficient to describe limitations on transfer of credit. Institutions have a responsibility to advise potential enrollees that transfer of credit is controlled by the receiving institution and that accreditation does not guarantee transferability. Suggested language is as follows:

"(name of institution) is a special purpose institution. That purpose is (fill in mission statement). This purpose does not include preparing students for further college study. Students should be aware that transfer of credit is always the responsibility of the receiving institution. Whether or not credits transfer is solely up to the receiving institution. Any student interested in transferring credit hours should check with the receiving institution directly to determine to what extent, if any, credit hours can be transferred."

(r) the cash discount policy, if offered to students.

- (2) Use of supplemental pages must be done in a way as to ascertain that supplemental pages become an effective part of the catalog and must show an effective date and be presented to students prior to enrollment or payment of fees;
- (3) Catalogs should be written in a way and at a level which enables prospective enrollees to make informed decisions; and

- (4) Lesser information requirements may be included in the institutional catalog or brochure when the applicant can satisfactorily demonstrate to the Commission that some of the above are not applicable.
- (5) Full time students should have a reasonable expectation to complete programs as printed in the institutional catalog at the time of enrollment.

1540-01-02-.13 Enrollment Agreements and Disclosure Standards.

- (1) Accredited institutions that provide and administer a Title IV financial assistance program and grants will follow federal disclosure guidelines. Such institutions will not be required to duplicate any state disclosure item if that disclosure is part of federal or accreditation standards.
- (2) Institutions prior to enrolling an individual shall require the prospective student to sign and date a form to be placed in the student file, which is either part of the enrollment contract or a pre-enrollment check list verifying that the student:
 - (a) toured the institution;
 - (b) received an institutional catalog;
 - (c) was given the time and opportunity to review the institutional policies in the catalog;
 - (d) knows the length of the program for full time and part time students in academic terms and actual calendar time;
 - (e) has been informed of the total tuition and fee cost of the program;
 - (f) has been informed of the estimated cost of books and any required equipment purchases such as a stenography machine, computer, specialized tools, art supplies etc.;
 - (g) has been given a copy of the institutional cancellation and refund policy;
 - (h) understands what 'transferability of credits' means and the specific limitations (if any) should the institution have articulation agreements;
 - (i) knows of their rights in a grievance situation including contacting the Tennessee Higher Education Commission by including on the form a statement in the following format:
 - 1. A statement: "I realize that any grievances not resolved on the institutional level may be forwarded to the Tennessee Higher Education Commission, Nashville, TN 37243-0830, (615) 741-5293."; and
 - (j) has received and understands the institution's cash discount policy (applicable only to those institutions that have a cash discount policy).
- (3) Also included in the enrollment contract or pre-enrollment checklist, shall be the most recent withdrawal, completion and in-field placement data as calculated by the Commission by including:
 - (a) The following statement: "For the program entitled, (program name), I have been informed that, for the July (year)/June (year) period, the withdrawal rate is (percent)%, the completion rate is (percent)%, and the in-field placement rate is (percent)%. Detailed statistical data for this program may be viewed by going to

www.tn.gov/thec and clicking on the Authorized Institution Data button." or

~~(b) A copy of the report created for the institution by the Commission staff and a statement that "the report can be viewed by going to www.tn.gov/thec and clicking on the Authorized Institution Data button.", shall be documentation that the student received graduation placement data exactly as presented to the Commission during the last reauthorization cycle in the following format:-~~

~~(a) A statement: "For the program entitled _____, I have been informed that the current withdrawal rate is __%, or in the past 12 months ___ students enrolled in this program and ___ completed this program."~~

~~(b) A statement: "For the program entitled _____, I have been informed that for the students who graduated, the job placement rate is __%, or in the past 12 months ___ were placed in their field of study out of ___ students who graduated from this program."~~

- (4) Liberal arts schools or professional schools that typically do not report vocational placement data may request a waiver of 1540-01-02-.13(3) above.
- (5) An enrollment contract shall include but not be limited to:
 - (a) full and correct name and location of the institution;
 - (b) name, address and social security number of the student;
 - (c) date training is to begin and program length;
 - (d) full-time or part-time status of the student;
 - (e) projected date of graduation/completion as a full-time or part-time student;
 - (f) program title;
 - (g) total cost of the program, including itemized separate costs for tuition, fees, books and any required equipment purchases;
 - (h) cancellation and refund policy;
 - (i) verification that the student has received an exact signed copy of the agreement.
- (6) Institutions shall contractually guarantee total cost of tuition for 1200 contact hours or one calendar year from the time of enrollment for full and part time student.
- (7) Programs less than 1200 clock (contact) hours must have a an enrollment contract with a set total tuition.
- (8) Programs longer than 1200 clock (contact) hours that increase tuition cost after the initial 1200 hours or one year period, must provide counseling related to the tuition increase.
- (9) Tuition increases that in the opinion of the Commission are excessive, unreasonable and exceeds initial disclosure to the student may result in an in depth audit of the institution at the school's expense to assure the Commission of financial stability.

1540-01-02-.14

Financial Standards.

- (1) Institutions administering Title IV financial assistance programs will maintain all required guidelines and standards.

- (2) The Commission and its staff may share information with the Tennessee Student Assistance Corporation and other state and federal agencies as appropriate.
- (3) The institution shall maintain financial and business practices in line with common business procedures utilizing standard accounting practices.
- (4) The institution shall maintain and be prepared to demonstrate financial resources adequate to meet the following:
 - (a) facility maintenance and overhead;
 - (b) staff and faculty payroll;
 - (c) books, supplies and / or equipment utilized by students;
 - (d) general operating costs including printing and advertising;
- (5) Institutions shall be able to demonstrate annual financial planning through a budget. New degree granting program schools must establish financial planning that reflects at least a three year plan which includes anticipated income and expenses.
- (6) All authorized institutions must file each year the most recent audited financial statement, certified by an independent certified public accountant for the most recent institutional fiscal year subject to the following:-
 - (a) ~~For multi-campus institutions, or for i~~ Institutions owned by ~~one the same~~ parent company may submit, an audited consolidated corporate financial statement ~~shall be routinely required~~. The staff, Committee, or Commission, however, may request additional campus or institution specific information where needed to protect the public interest. ~~The audited income statement must be compiled for each institution, or group of institutions owned by the same company, authorized to operate under the Act;-~~
 - (b) ~~T~~he balance sheet must reflect owner's (proprietorship, partnership, corporation, or other) assets and liabilities. ~~In the preparation of these statements, it should be noted that goodwill is not generally considered a current asset unless it is being amortized;-~~
 - (c) ~~R~~elated parties must be disclosed, including related party footnotes, debt agreements with owners, and supplemental footnotes on separate campuses or branches are expected.
 - (d) It should be noted whether or not tuition revenue is recognized up front or on a pro rata basis. ~~Current financial statements on each site separately authorized under the Act must be filed annually.-~~
 - (e) Within ~~five~~ three years from initial temporary authorization, neither the ratio of current fund revenues to current fund expenditures nor the ratio of current assets to liabilities, both site specific and corporate, where applicable, shall be less than 1:1, without convincing explanation.
 - (f) Institutions that have annual gross tuition revenue of one million dollars (\$1,000,000) or less may request a waiver, by the established deadline, of the audit contemplated by this section and provide the most recent financial information in a format acceptable to on forms provided by the Commission staff.
- ~~(7) The institution must submit an operating statement and balance sheet to the Commission within four months of the end of the institutional fiscal year. In addition, if a regular or~~

~~certified audit is available, it should be submitted within four months of the end of the institutional fiscal year as well.~~

- (87) At any time, the Commission may require a certified audit of the institution when there are questions about the institution's financial stability.
- (8) All institutions seeking authorization must maintain a business account with a financial institution that is federally insured in said institution's name.

1540-01-02-.16 Personnel and Instructor Qualifications.

- (1) Institutions must provide and maintain qualified faculty and staff in order to fulfill the mission of the institution and all obligations to the students. As further described below, personnel qualifications must be submitted to the Commission staff on a School Personnel Application no later than ten (10) days after the hire date.
 - (a) Unaccredited institutions must submit to the Commission staff School Personnel Applications for all instructors and administrative personnel as that term is defined in this rule.
 - (b) Institutions accredited by an accrediting body recognized by the U.S. Department of Education must submit to the Commission staff School Personnel Applications for all administrative personnel as that term is defined in this rule. For each instructor, an accredited institution shall maintain on-site documentation that demonstrates the minimum qualifications and must submit such documentation and a School Personnel Application at any time upon request from the Commission staff.
- (2) Administrative personnel and instructors shall meet all qualifications listed in this rule. Evidence of education, experience, or training (including official transcripts) for each personnel must be maintained on-site at the location. Institutions must submit a copy of this evidence at any time upon request from the Commission staff.
- (23) The method of administration and procedure for staff selection must be defined in a way that each employee has specific duties and responsibilities.
- (34) Administrative personnel generally encompasses individuals that oversee areas as outlined in operational and administrative standards. This includes by function, but is not limited to titles of an institutional director; financial aid administrator; director of admissions; director of education; business officer or manager; director of student services (including counseling and placement) and the registrar. Support and clerical staff is not included as administrative personnel, but shall be included for reporting purposes on re-authorization forms annually.
- (45) Administrative personnel at authorized institutions must be graduates of an accredited college or university or have sufficient background and training in his/her area of responsibility.
- (56) Each institution must designate one person as the institutional director, who is responsible for the institution's program, the organization of classes, maintenance of the institutional facilities, maintenance of proper administrative records, signing documents pertaining to authorization and all other administrative matters related to authorization.
- (67) Institutional owners or the controlling board must ensure that each authorized site has a institutional director on that location for at least 50% of the operational time each week the school has students present unless other provisions have been approved by the Commission staff.

- (78) The institutional director implicitly accepts knowledge of and responsibility for compliance with the Act and these regulations including but not limited to advertising, records, contracts, required benchmarks, annual deadlines and fee payments.
- (89) The institutional director at authorized institutions must be a graduate of an accredited college or university with at least one year experience in administration, institutional management, or the total years of administration/institutional management experience/higher education shall equal at least five years.
- (910) Directors of authorized institutions must maintain on site a separate current copy file of materials filed with the Commission as part of their current authorization which includes the application, documentation of appropriate bonding, financial reports, agent permit documentation, and fire and safety reports.
- (1011) If the institution employs a director of education, that director shall meet the same requirements as an instructor as specified in these rules and shall also have either one year supervisory experience or a relevant post-bachelor's degree.
- (112) Instructors:
- (a) Instructional staff for all institutions must be selected at a minimum on the basis of ~~credentials demonstrably higher, on the basis of experience and training, than the level to be taught~~ these rules.
 - (b) Instructors in a trades related or specific skill areas must have documented proficiency and practical applied experience in that trade or skill.
 - (c) An instructor must hold the appropriate certificate, license, or rating if the subject is a trade requiring certificate, license, or rating.
 - (d) An instructor must be qualified by education and experience/background ~~demonstrably higher than the level to be taught~~ and must meet the following qualifications as minimum requirements:
 1. Minimum for doctorate level:
 - (i) Hold a doctorate degree from a college or university judged to be appropriate by the Commission and either:
 - (I) a doctorate degree with a major or concentration in the subject area to be taught; or
 - (II) a doctorate not in the subject area but with a minimum of one year of practical experience within the last five years in the subject area to be taught and completion of nine semester hours or 12 quarter hours of doctoral level courses in the subject.
 2. Minimum for masters level:
 - (i) Hold a masters or higher degree from a college or university judged to be appropriate by the Commission and either:
 - (I) a masters or higher degree with a major or concentration in the subject area to be taught; or
 - (II) a masters or higher degree not in the subject area but with a minimum of one year of demonstrated practical

experience within the last five years in the subject area to be taught and completion of nine semester hours or 12 quarter hours in graduate level courses in the subject.

3. Minimum for a baccalaureate level:

- (i) Hold a baccalaureate or higher degree from a college or university judged to be appropriate by the Commission and either:
 - (I) a baccalaureate or higher degree with a major or concentration in the subject area to be taught; or
 - (II) a baccalaureate or higher degree not in the subject area but with a minimum of one year of demonstrated practical experience within the last five years in the subject area to be taught and completion of nine semester hours or 12 quarter hours in the subject. Additional years of documented experience in the subject area may be substituted for semester / quarter hour requirements.

4. Minimum for an associate level:

- (i) Meet the minimum requirements for doctorate, masters or baccalaureate level; or
- (ii) Hold an associate degree from a postsecondary institution judged to be appropriate by the Commission and either:
 - (I) an associate degree with a concentration in the subject to be taught and (1) one year of practical experience; or
 - (II) an associate degree not in the subject area but with a minimum of two (2) years of practical experience within the last five (5) years in the subject area to be taught and satisfactory completion in a postsecondary educational institution of nine (9) semester hours or twelve (12) quarter credit hours in the subject area to be taught. Additional years of documented experience in the subject area may be substituted for semester / quarter hour requirements.

5. Minimum for diploma and certificate level:

- (i) Meet the minimum requirements for doctorate, masters or baccalaureate or associate level; or
- (ii) Hold a high school diploma or GED and a certificate of completion from a postsecondary institution judged to be appropriate by the Commission in a relevant subject area and a minimum of three (3) years of practical experience within the last seven (7) years in the subject area to be taught. Additional years of documented experience in the subject area may be substituted for the postsecondary educational requirements.

~~(12) — Evidence of qualifiable education, experience, or training (including official transcripts) for each instructor must be maintained on-site at the location.~~

- (13) The Executive Director may approve a variance from these specific qualifications in paragraph (12) with sufficient justification and an assurance that the program quality will not be lessened. In such a situation the institutional director must submit written justification and documentation with the ~~personnel form~~ School Personnel Application submission. In addition the instructor must be institutionally evaluated at the close of the first instructional period for effectiveness and quality. This evaluation shall be made available to the Commission staff upon request.
- (14) Instructors shall be evaluated at least annually by students, as well as the director or chief academic/instructional officer, and the institution shall have on file at the campus evidence of such evaluations.
- (15) ~~Agents and Recruiters:~~
- (a) ~~Institutional a~~Agents as defined by the Act and ~~these regulations~~ Rule 1540-01-02-03 must submit an Agent Permit aApplication, ~~on forms as~~ provided by the Commission staff, and must receive approval ~~have authorization~~ and an agent permit from the Commission staff ~~and secure the appropriate bond~~ prior to any solicitation. The ~~applicant application~~ must be accompanied by the following:
1. ~~new applicants must forward~~ recommendations by two (2) reputable persons certifying that the applicant is of good character and reputation;
 2. a check payable to the State Treasurer of Tennessee as required under these regulations;
 3. a surety bond ~~of \$5,000 per agent of an out-of-state institution or as specified in~~ Rule 1540-01-02-.07 ~~of these rules;~~ and
 4. certification by the institutional director that the applicant will be directed to act in accordance with these regulations.
- (b) Agent permits must be renewed every year. The expiration date of a permit is one (1) year from the date of issue or immediately upon termination of employment whichever occurs first.
- (c) Agents must have separate permits to represent separate institutions unless the institutions have common ownership such that the institutions present a common name to the public and have the same mission. Mutual agreement by institutions is required. ~~Agents must have separate permits to represent separate institutions unless they are commonly held. Mutual agreement by institutions is required.~~
- (d) All agents must verify by signature that they have read and are familiar with rules on advertising and solicitation and must verify intent to follow rules as set forth in Fair Consumer Practices.
- (e) Institutional directors, not marketing offices, are responsible for actions of agents.
- (f) The agent shall be under the control of the institution, and the institution is responsible for any representations or misrepresentations, expressed or implied, made by the agent.
- (g) Any student solicited or enrolled by a non-licensed agent is entitled to a refund of all moneys paid and a release of all obligations by the institution. Any contract signed by a prospective student as a result of solicitation or enrollment by a non-licensed agent ~~shall be may be~~ null and void and unenforceable at the option of the student. In cases where the institution is willing to honor the contract and the student wishes the contract enforced, it can be. However, in cases where the

contract has been fully executed between the institution and the student, the student would not be entitled to a refund solely because he or she was solicited by a non-licensed agent.

- (h) An agent is prohibited from inappropriate activities in procuring enrollees including, but not limited to the following:
 - 1. administering the admission test;
 - 2. advising students about financial aid other than informing the student of the general availability of financial assistance;
 - 3. giving false, misleading, or deceptive information about any aspect of the institution's operation, job placement, or salary potential;
 - 4. representing that a program has sponsorship, approval, characteristics, uses, benefits, or qualities which it does not have;
 - 5. soliciting enrollments in a program which has not been approved by the Commission.
- (i) An agent must display the current permit to all prospective students and other interested parties.

1540-01-02-.19

Fair Consumer Practices and Student Complaints.

- (1) All institutions authorized by the Commission and their representatives shall be required to operate in accordance with fair consumer practices to ensure current and prospective students that nothing is hidden and verbal and written representations by the school are accurate, such that students can make appropriate decisions concerning their investment of time and money.
- (2) Fair consumer practices means honesty, fairness and disclosure to students in the areas of: recruitment, admissions, contractual agreements, student financial assistance, obligations to repay student loans, placement assistance and job placement rates, advertising, refund policies, the meaning and recognition of different types of accreditation, the transferability of the institution's credits to other postsecondary schools and also includes misrepresentation concerning competitor schools.
 - (a) Information regarding fair consumer practices shall be included in the institution's usual publications such as the catalog and school brochures and must always be provided by institutional recruiters and agents.
 - (b) Accredited institutions may apply accreditation standards of fair consumer practices.
- (3) Findings by Commission staff and/or ongoing complaints by current or prospective students that show a pattern of misinformation, misrepresentation, lack of disclosure or discrepancies between verbal and written information, intimidation or coercion may require corrective public announcements or in the opinion of the Commission significant deviation from fair consumer practices may result in penal fines and/or conditional authorization or revocation of agent or institutional authorization.
- (4) Institutions authorized under these rules must report to the Commission in writing within 30 working days any unresolved written complaints about their operation of which they are knowledgeable (including media accounts of complaints). Such complaints shall be resolved or determined to be irresolvable by the institution within 30 working days of the receipt of the written complaint at the Commission offices. Complaints shall be

considered as a factor in the decision when authorization to operate or continue in operation is sought.

- (5) Institutions may provide a discount for cash payments provided:
 - (a) the institution has a written policy in the catalog that includes the definition of cash and details the qualifications for receiving and the amount of a cash discount; and
 - (b) the student verifies receipt and understanding of the policy in the pre-enrollment checklist.
- (6) An institution may award a scholarship, tuition waiver, or other similar award provided:
 - (a) the criteria for receiving the award are clearly defined in writing;
 - (b) the institution has a form and procedure to verify eligibility; and
 - (c) the amount of the award is a flat dollar amount or subject to calculation using a defined formula or scale.

1540-01-02-.26 Return of Regulatory Fees

- (1) Following the year-end closing, the Commission shall return to authorized institutions as described herein any reserve balance as of the end of the fiscal year that is greater than two million dollars (\$2,000,000).
 - (a) No moneys shall be returned if the amount due an institution is less than twenty-five dollars (\$25.00).
 - (b) The percentage of the excess due an institution is calculated by determining the percentage paid of the total reauthorization fees collected during the fiscal year.
 - (c) Institutions that did not pay a reauthorization fee during the fiscal year shall not receive any share of the excess.
 - (d) Institutions that close or that have had their authorization to operate revoked prior to the end of the fiscal year shall forfeit any share of the excess.
- (2) At the request of an institution a refund will be made as follows:
 - (a) If an institution withdraws a pending application within three (3) working days from receipt or prior to the start of Commission staff's review, then all fees assessed shall be refunded.
 - (b) If an institution withdraws a pending application more than three (3) working days from receipt and once Commission staff review begins, the Commission may retain fifty percent (50%) of the assessed fees.
 - (c) Once Commission staff's review of a pending application is complete or a site visit has been conducted, the Commission may retain one hundred percent (100%) of the assessed fees.
 - (d) Institutions that fail to complete the application process described in Rule 1540-01-02-.07(1)(b) shall forfeit all fees paid.
 - (e) Any other fee collected is nonrefundable once the Commission staff has

performed the associated review or work related to that fee.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Mr. Charles W. Bone	X				
Mr. Randy Boyd	X				
Mr. Evan Cope, Vice-Chair	X				
Mr. Robert Fisher	Non-Voting Member	Non-Voting Member	Non-Voting Member		
Mr. Tre Hargett				X	
Ms. Sharon L. Hayes	X				
Mr. Adam Jarvis	X				
Mr. Cato Johnson, Chair	X				
Ms. Pam Koban	X				
Mr. Jon Kinsey, Vice-Chair				X	
Mr. David H. Lillard, Jr.				X	
Dr. Gary Nixon	Non-Voting Member	Non-Voting Member	Non-Voting Member		
Mr. AC Wharton, Jr.				X	
Mr. Justin P. Wilson				X	
Mr. Keith Wilson	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Higher Education Commission on 04/24/2014, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 02/03/2014

Rulemaking Hearing(s) Conducted on: (add more dates). 03/27/2014

Date: 08/11/2014

Signature: *Richard G. Rhoda*

Name of Officer: Dr. Richard G. Rhoda

Title of Officer: Executive Director



Subscribed and sworn to before me on: 08-11-2014

Notary Public Signature: *Corsina Dickson-Wiley*

My commission expires on: 08-23-2014

All rulemaking hearing 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.

RE Cooper Jr

Robert E. Cooper, Jr.
Attorney General and Reporter

8-26-14

Date

Department of State Use Only

Filed with the Department of State on: 9-2-2014

Effective on: 12-1-2014

Tre Hargett

Tre Hargett
Secretary of State

RECEIVED

~~2014 AUG 33 AM 10:17~~

OFFICE OF
SECRETARY OF STATE



RECEIVED

2014 SEP -2 AM 10:18

OFFICE OF
SECRETARY OF STATE

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Health

BOARD: Tennessee Medical Laboratory Board

SUBJECT: Training Programs for Medical Laboratory Personnel;
General Rules Governing Medical Laboratories

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 68-29-105

EFFECTIVE DATES: January 1, 2015 through June 30, 2015

FISCAL IMPACT: None

STAFF RULE ABSTRACT: The rule replaces the Public Health Clinic Laboratory Practitioner Program with the Special Analyst Program, corrects a typographical error, deletes obsolete references, updates anachronistic references, requires medical laboratory training programs to create advisory committees, and make various additional technical revisions to the rules concerning training programs for medical laboratory personnel and medical laboratories.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

The Notice for Rulemaking Hearing, as filed with the Secretary of State's Office on August 22, 2013, contained amendments for Chapters 1200-06-01, 1200-06-02, and 1200-06-03. The amendments for Chapter 1200-06-01 [General Rules Governing Medical Laboratory Personnel] were withdrawn from the Office of the Attorney General on August 28, 2014.

The Board received no written comments with regards to Chapters 1200-06-02 and 1200-06-03.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 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.

(If applicable, insert Regulatory Flexibility Addendum here)

REGULATORY FLEXIBILITY ANALYSIS

- (1) The extent to which the rule or rule may overlap, duplicate, or conflict with other federal, state, and local governmental rules.**

The proposed rules do not overlap, duplicate, or conflict with other federal, state, or local government rules.

- (2) Clarity, conciseness, and lack of ambiguity in the rule or rules.**

The proposed rules exhibit clarity, conciseness, and lack of ambiguity.

- (3) The establishment of flexible compliance and/or reporting requirements for small businesses.**

The proposed rules are not written with special consideration for the flexible compliance and/or reporting requirements because the Tennessee Medical Laboratory Board has, as its primary mission, the protection of the health, safety and welfare of Tennesseans.

- (4) The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.**

The compliance requirements throughout the proposed rules are as user-friendly as possible while still allowing the Board to achieve its mandated mission. There is sufficient notice between the rulemaking hearing and the final promulgation of rules to allow those affected by the rules to come into compliance.

- (5) The consolidation or simplification of compliance or reporting requirements for small businesses.**

Compliance requirements are simplified.

- (6) The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.**

The performance standards required in the proposed rules are basic and do not necessitate the establishment of design or operational standards.

- (7) The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.**

There are no unnecessary entry barriers or other effects in the proposed rules that would stifle entrepreneurial activity or curb innovation.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: Tennessee Medical Laboratory Board

Rulemaking hearing date: 10/17/2013

- 1. Type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:**

Training programs for medical laboratory personnel and licensed medical laboratories will be affected by these proposed rule amendments. These training programs would bear the costs of and/or directly benefit from the proposed rule.

- 2. Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:**

There is no reporting, recordkeeping and other administrative costs required for compliance with this proposed rule amendment.

- 3. Statement of the probable effect on impacted small businesses and consumers:**

Small businesses should not be adversely impacted by the proposed rule amendments, nor should consumers.

- 4. Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:**

There are no less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule.

- 5. Comparison of the proposed rule with any federal or state counterparts:**

Federal: None.

State: None.

- 6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**

These rule amendments may not provide exemptions for small businesses as the rule amendments are needed to protect the health, safety and welfare of Tennesseans.

Impact on Local Governments

Pursuant to T.C.A. § 4-5-228(a), "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected financial impact on local governments."

(Insert statement here)

The proposed rule amendments should not have a financial impact on local governments.

1

**Department of State
Division of Publications**
312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 10-01-14
Rule ID(s): 5807-5808
File Date: 10/3/14
Effective Date: 1/1/2015

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission: Department of Health
Division: Tennessee Medical Laboratory Board
Contact Person: Mollie Gass
Assistant General Counsel
Address: 665 Mainstream Drive, Nashville, Tennessee
Zip: 37243
Phone: (615) 741-1611
Email: Mollie.Gass@tn.gov

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
1200-06-02	Training Programs for Medical Laboratory Personnel
Rule Number	Rule Title
1200-06-02-.01	General Requirements for All Programs
1200-06-02-.02	Faculty Requirements for Medical Laboratory Training Programs
1200-06-02-.03	The Medical Laboratory Technician Associate Degree Program Minimum Requirements
1200-06-02-.06	Contents of Applications for Admission to Training Programs
1200-06-02-.07	Curriculum Requirement for a Program for Training of Public Health Clinic Laboratory Practitioners

Chapter Number	Chapter Title
1200-06-03	General Rules Governing Medical Laboratories
Rule Number	Rule Title
1200-06-03-.13	Personnel Policies
1200-06-03-.16	Alternate Site Testing

**RULES
OF
THE TENNESSEE MEDICAL LABORATORY BOARD
DIVISION OF HEALTH RELATED BOARDS**

RECEIVED
2014 OCT -3 PM 4:20
OFFICE OF
SECRETARY OF STATE

**CHAPTER 1200-06-02
TRAINING PROGRAMS FOR MEDICAL LABORATORY PERSONNEL**

TABLE OF CONTENTS

1200-06-02-.01	General Requirements for All Programs	1200-06-02-.05	The Medical Laboratory Technologist Program Minimum Requirements
1200-06-02-.02	Faculty Requirements for Medical Laboratory Training Programs	1200-06-02-.06	Contents of Applications for Admission to Training Program
1200-06-02-.03	The Medical Laboratory Technician Associate Degree Program Minimum Requirements	1200-06-02-.07	Curriculum Requirement for a Program for Training of Public Health Clinic Laboratory Practitioners
1200-06-02-.04	The Medical Laboratory Technologist Specialty Program Minimum Requirements	1200-06-02-.08	Advertising

1200-06-02-.01 GENERAL REQUIREMENTS FOR ALL PROGRAMS.

(1) The Board shall approve the training programs which meet the requirements of one of the four (4) following general types:

- (a) The Medical Laboratory Technologist Program
- (b) The Medical Laboratory Technician - Associate Degree Program
- (c) The Medical Laboratory Technologist Specialties Program

~~(d) The Public Health Clinic Laboratory Practitioner Program (only available to Local Health Departments operated by the State for training practitioners in each clinic laboratory.)~~

(d) The Special Analyst Program

(2) All Programs for the training of Medical Laboratory Personnel to Apply for Approval.

- (a) The owner and/or the director of a training program for medical laboratory personnel shall make application for approval to operate that program on forms provided by the Board at least six (6) months prior to anticipated first day of instruction.
- (b) Each school shall be subject to on-site inspection by representatives of the Board and/or complete such paper surveys as requested.
- (c) A scheduled on-site inspection to validate the initial application shall be conducted by representatives of the Board.

~~(d) The Board shall be notified immediately of any changes made in the operation of the training program such as a change of ownership, location, accreditation status, directorship, and/or instructors. A new certificate of approval will be issued in the event of change in either ownership or directorship of the training program. A change in ownership shall also include an exchange of stock in an incorporated school.~~

(d) The Board shall be notified within thirty (30) days of any changes made in the operation of the training program such as a change of ownership, location, accreditation status,

directorship, instructors and/or program closure. A new certificate of approval will be issued in the event of change in either ownership or directorship of the training program. A change in ownership shall also include an exchange of stock in an incorporated school.

(3) Fees Amount

(a) Initial Training Program Application Fee	\$200.00
Annual Registration (Renewal) Fee	\$100.00
State Regulatory Fee	\$ 5.00

~~(b) Initial application fee for a Public Health Clinic Laboratory Practitioner Program \$100.00~~

~~(b)(e)~~ The Certificate of Approval shall be for one (1) year and shall expire on December 31st of any given year.

(4) Minimum Standards for Facilities, Equipment, and Materials for all Training Programs for Medical Laboratory Personnel.

~~(a) The Training Program must insure that adequate space, light, and modern operable equipment is available in the teaching laboratory and medical laboratory(ies) clinical rotation sites. All equipment used in the training program shall be subject to inspection and approval by the Board.~~

(a) The Training Program must insure that adequate space, light, and modern operable equipment is available in the teaching laboratory and medical laboratory's clinical rotation sites. All equipment used in the training program shall be subject to inspection and approval by the Board.

(b) Each training program for medical laboratory personnel shall have adequate classroom, laboratory, office, storage, and sanitary facilities which shall be subject to inspection and approval by the Board.

(c) A designated student laboratory area shall be available for teaching basic techniques, instrumentation and problem solving for procedures not available in the clinical facility(ies).

(d) Each training program facility for medical laboratory personnel must provide written documentation of compliance with local and state fire codes to the Board upon request.

(e) Written fire and safety procedures shall be made available to each student. Pertinent fire safety procedures shall be displayed in conspicuous places in the training program facility.

(f) A library containing up-to-date texts, references, and scientific periodicals pertinent to laboratory medicine as well as the latest editions of books and journals on laboratory technology shall be accessible to the Students. Texts required to be purchased by students must not be a substitute library [Older reference texts of value may be retained. Up-to-date is defined as published within the last five (5) years].

~~(g) Demonstration materials and multimedia instructional material shall be available as Rather provided under other sections of these regulations.~~

(g) Demonstration materials and multimedia instructional material shall be available as provided under other sections of these regulations.

(Rule 1200-06-02-.01, continued)

- (h) An outline of the instruction provided, including a structured clinical laboratory practicum, shall be filed with the Board. When major revisions/changes are made in the curriculum, a new outline shall be submitted to the Board.
- (i) A description of evaluation procedures for both student and program shall be submitted to the Board upon making application for approval of the Training Program. These evaluations shall be maintained for future inspection by the Board or its designee. Provision must be included for periodic review of the effectiveness of the program by members of the faculty and/or other appropriate groups. Student evaluation procedures must include mechanisms to measure cognitive knowledge, psychomotor and affective behavior.
- (j) Student recruitment, admission and matriculation must be nondiscriminatory with respect to color, creed, race, sex, age, handicap(s), and national origin.
- (k) Satisfactory records must be kept and shall be available for inspection by the Board. These shall include but not be limited to:
 1. A list of instructors, by category, in the training program and clinical laboratory facilities. This list shall be submitted with initial application and thereafter upon request;
 2. Current examinations given to students;
 3. Scores on licensure examinations;
 - ~~4. Records of students, including:

 - ~~(i) A complete application form;~~
 - ~~(ii) Transcript of academic credit;~~
 - ~~(iii) Written evidence the student can reasonably be expected to perform the medical laboratory work for which he/she is trained which must include a recent complete physical examination performed by a licensed medical practitioner prior to beginning clinical rotation;~~
 - ~~(iv) Record of attendance, including excused and unexcused absences; and~~
 - ~~(v) Evaluation by instructors based on appropriate written, practical, and oral examinations covering all types of structured learning experiences (clinical and classroom) related to the medical laboratory.~~~~
 4. Records of students, including:

 - (i) A complete application form;
 - (ii) Transcript of academic credit;
 - (iii) Written evidence the student can reasonably be expected to perform the medical laboratory work for which he/she is trained which must include a recent complete physical examination performed by a licensed physician or nurse practitioner prior to beginning clinical rotation;
 - (iv) Record of attendance, including excused and unexcused absences;

(Rule 1200-06-02-.01, continued)

2. The medical laboratory training program Director and/or Education Coordinator must assume responsibility for arranging the approved clinical laboratory experience (practicum) for the student with an affiliated facility(ies). It shall be a violation of these regulations to grant a diploma to any student who has not completed an approved clinical laboratory experience (practicum).
 3. Trainee applications shall be submitted for each student prior to the beginning of the approved clinical laboratory experience (practicum). The Board will then issue a trainee permit to the applicant provided they are in an approved facility. No student shall perform laboratory tests without a valid trainee permit.
 4. If there is a change in the clinical rotation site at which the student will gain the clinical laboratory experience (practicum), the Board shall be notified before the student is placed in the new facility.
- (6) The Use of Students as Substitutes for Licensed Medical Laboratory Personnel. No training program substituting students (trainees) for licensed medical laboratory personnel shall be approved. Using students (trainees) to perform laboratory procedures without adequate supervision shall result in withdrawal of training program approval and shall subject the training program to disciplinary action as provided for in the Tennessee Medical Laboratory Act.
- ~~(7) Copies of the Law and Regulations to be given to the students. A copy of the Tennessee Medical Laboratory Act and the regulations promulgated thereunder shall be given to each student. The Board shall provide the training program with copies of these documents upon request.~~
- (7) Copies of the Law and Regulations to be made available to the students. A copy of the Tennessee Medical Laboratory Act and the regulations promulgated thereunder shall be made available to each student in either an electronic format or hard copy format.
- (8) Training Programs for Medical Laboratory Technologists and Technicians to be separate. Training Programs for the training of medical technologists and technicians shall be separate and distinct, and students in each class should have separate instruction in the classroom and in the clinical facility(ies).
- (9) Penalty for making misrepresentations to prospective students. Any owner, director, personnel, or agent of a school for the training of medical laboratory personnel who misrepresents facts concerning the facility(ies), student training, or any other facet of the school to prospective students shall be subject to withdrawal of approval of said school. This shall include but not be limited to:
- (a) Announcements and advertising must accurately reflect the program offered.
 - (b) Student recruitment and academic policies shall be non-discriminatory with respect to race, color, creed, sex, age, handicap(s), and national origin.
 - (c) Academic credit and costs to the student shall be accurately stated, published and made known to all applicants.
 - (d) Policies and procedures for student withdrawal and refunds of tuition and fees shall be published and made known to all applicants upon admission-
 - (e) If more than one level of medical laboratory educational program is offered at one institution, e.g., Medical Technology and Medical Laboratory Technician, the institution

(Rule 1200-06-02-.01, continued)

must demonstrate that each program is being conducted to assure appropriate instruction for the students at the different educational levels.

~~(f) The program must culminate in either a baccalaureate or an associate degree. The granting of the degree must not be contingent upon the student's passing any type of external certification or licensure examination.~~

(f) The program must culminate in an associate degree or higher. The granting of the degree must not be contingent upon the student's passing any type of external certification or licensure examination.

(g) In the event that the program is discontinued or restructured, the program should provide a plan for the protection of its students accepted or enrolled in the program.

(10) Curricular Structure. The applied courses must be taught in a clinically equipped teaching laboratory on the college campus, in an affiliated clinical facility, or in both facilities sufficient for developing basic skills, understanding principles, and mastering the procedures.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-29-105, and 68-29-110. **Administrative History:** Original rule filed October 26, 1979; effective December 10, 1979. Amendment filed June 30, 1987; effective August 14, 1987. Amendment filed July 13, 1990; effective August 27, 1990. Amendment filed February 21, 1991; effective April 7, 1991. Repeal and new rule filed January 7, 1997; effective March 23, 1997.

1200-06-02-.02 FACULTY REQUIREMENTS FOR MEDICAL LABORATORY TRAINING PROGRAMS.

(1) Medical Director/Advisor

(a) The following programs shall have a medical director/advisor:

1. The Medical Laboratory Technologist Program
2. The Medical Laboratory Technician Program - Associate Degree
3. The Medical Laboratory Technologist Specialty Training Program
4. The Special Analyst Program

(b) Qualifications:

~~1. The medical director/advisor shall be a physician who is certified in clinical pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or who possesses qualifications which are equivalent to those required for such certification (Board eligible).~~

1. The medical director/advisor shall be a physician who is certified in clinical pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or who possesses qualifications which are equivalent to those required for such certification (Board eligible) and shall be licensed to practice medicine in Tennessee.

~~2. The medical director/advisor shall be licensed to practice medicine in Tennessee.~~

Formatted: Indent: Left: 0", First line: 0"

(Rule 1200-06-02-.02, continued)

2. The medical director/advisor of the Program for Training Medical Laboratory Specialties shall meet one of the minimum qualifications of Medical Laboratory Director, as set forth in Rule 1200-06-01-.20. The program he/she directs must be related to his/her training. Special analyst training programs must comply with this rule.

~~(c) The director of the Program for Training Medical Laboratory Specialties shall meet one of the minimum qualifications of Medical Laboratory Director, as set forth in Rule 1200-06-01-.20 of the regulations governing the Tennessee Medical Laboratory Act. The program he or she directs must be related to his/her training.~~

(2) Program Director/Education Coordinator. Each Program shall have either a Program Director or Education Coordinator. In the case of a program for the training of medical laboratory specialties, the director may serve as program director.

(a) Program Director.

~~1. A program director is defined as the responsible licensed technologist based in a university, junior college, or hospital program who meets the following criteria:~~

1. A program director is defined as the responsible licensed technologist based in a university, community college, or hospital program who meets the following criteria:

(i) Has a faculty appointment either in the approved academic institution or an affiliated institution.

(ii) Has documented evidence of continuing education in technical and educational methodologies to provide adequate and appropriate training in the areas of curriculum design and teaching techniques for medical laboratory personnel.

(iii) Has the major responsibility for directing the educational program.

~~(iv) Is at least a licensed technologist with a baccalaureate degree. A master's degree or higher is recommended.~~

(iv) Is a licensed technologist with a master's degree or doctoral degree.

(v) Has at least three (3) years experience in a clinical laboratory, including teaching experience acceptable to the Board in a clinical laboratory under the supervision of a licensed physician who meets the qualifications of Medical Laboratory Director as set forth in Rule 1200-06-01-.20 promulgated pursuant to Tennessee Medical Laboratory Act.

(vi) Is free from service responsibilities to accomplish his/her teaching, educational, and administrative responsibilities with the medical or specialty director of the program.

~~2. Duties of the program director. In consultation with the medical or specialty director, education coordinator, and faculty, the program director is responsible for overall direction of the program.~~

2. In consultation with the medical director for the specialty, the education coordinator, and the faculty, the program director is responsible for overall direction of the program.

(Rule 1200-06-02-.02, continued)

(b) Education Coordinator.

1. Education Coordinator is defined as the responsible licensed technologist serving as liaison between the program administration and other institutions involved in the clinical experience.
2. The education coordinator shall be at least a licensed technologist and have a baccalaureate degree plus three (3) years of experience in a clinical laboratory
3. The education coordinator must be sufficiently free from service responsibilities to accomplish teaching, educational, and administrative responsibilities.
4. The education coordinator will share responsibilities with the program director for the organization and operation of the program, including classroom and laboratory instruction.

(c) Instructor (Classroom and Clinical) Credentials:

~~1. All instructors of medical laboratory subjects shall be licensed medical laboratory personnel or have met the education requirements of not less than those required in these Rules for a medical laboratory technologist. Credentials for qualification must be submitted on forms supplied by the Board. The Board may query instructors during the on-site inspection. Such information gained from an instructor may be used in the determination, approval, or denial of the training program's application if there is a doubt about his knowledge of a subject. The Board will require all unlicensed instructors to take and pass the State Licensure Examination at the technologist level in the specialty(ies) taught.~~

1. All instructors of medical laboratory subjects shall be licensed medical laboratory personnel or have met the education requirements of not less than those required in these Rules for a medical laboratory technologist. Credentials for qualification must be submitted on forms supplied by the Board. The Board may query instructors during the on-site inspection. Such information gained from an instructor may be used in the determination, approval, or denial of the training program's application if there is a doubt about his/her knowledge of a subject.

2. Instructor Student Ratio: In the clinical laboratory training facility(ies), the number of licensed qualified personnel must be adequate to meet both service and teaching responsibilities. It shall be the responsibility of the medical and program directors to insure that the number of instructors is adequate to provide appropriate instruction in all areas of the program. When students are present in the laboratory, a licensed technologist shall be present and shall be responsible for supervising their education.

(i) For classroom didactic instruction, there must be a student-faculty ratio of no more than 30: 1.

(ii) Student laboratories must have a student-instructor ratio of no more than 10: 1.

(iii) Clinical laboratory experience (internship) must not exceed a ratio of two students to one (2: 1) qualified instructor in any rotation area.

(iv) Student experiences at different clinical sites must be comparable to enable all students to achieve entry level competencies.

(Rule 1200-06-02-.02, continued)

(d) Advisory Committee

- (1) There must be an advisory committee composed of individual(s) from the community of interest (i.e. pathologists, other physicians, scientific consultants, academic professionals, administrators, practicing clinical laboratory scientists/medical technologist, practicing clinical laboratory technicians/medical laboratory technicians and other professionals) who have knowledge of clinical laboratory science education.
- (2) Responsibilities: The advisory committee of the program shall have input into any aspect of the program/curriculum with regard to its current relevancy and effectiveness.
- (3) The medical or specialty director/advisor shall share with the program director and/or education coordinator the responsibility for the organization and operation of the program including classroom and laboratory instruction. The medical or specialty director should be available for orientation and available as a student advisor for clinical problems as needed. The medical or specialty director shall give a minimum of one (1) lecture to each class of students.
- (4) The division of responsibility and authority between the medical or specialty director and program director or education coordinator within each institution shall be clearly established in writing.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-29-10, and 68-29-110. **Administrative History:** Original rule filed October 26, 1979; effective December 10, 1979. Repeal and new rule filed January 7, 1997; effective March 23, 1997.

1200-06-02-.03 THE MEDICAL LABORATORY TECHNICIAN ASSOCIATE DEGREE PROGRAM MINIMUM REQUIREMENTS.

- (1) Minimum Institutional Requirements:
 - ~~(a) Programs for the Medical Laboratory Technician-Associate Degree Program shall be conducted by accredited junior or community colleges, technical institutes, or universities and colleges offering an associate degree.~~
 - (a) Programs for the Medical Laboratory Technician-Associate Degree Program shall be conducted by accredited community colleges, technical institutes, or universities and colleges offering an associate degree.
 - (b) The Medical Laboratory Technician - Associate Degree Program must result in the granting of an associate degree.
 - (c) Where part of the instruction is provided by an educational institution and part is provided in a hospital or other laboratory facility(ies), approval shall be given to the educational institution's program- The parent educational institution may affiliate with several laboratories, and shall be responsible for coordinating instruction, maintaining standards, and evaluating student progress.
- (2) Minimum Prerequisites for Admission of Students:
 - (a) Applicants for medical laboratory technician-associate degree programs must meet the admission requirements established by the sponsoring educational institution.

(Rule 1200-06-02-.03, continued)

Arrangements shall be available whereby student credits can be accepted from other medical laboratory programs; or,

- (b) Students may be accepted with advanced standing by one of the institutions mentioned in subparagraph (1)(a) (above) on the basis of transfer credits or equivalent examinations but not on the basis of experience alone. Documentation of such arrangements shall also be a part of the student's record.
- (3) Minimum Curriculum Requirements and Standards:
- (a) The medical laboratory technician-associate degree program is a total educational program; hence, the general educational and clinical laboratory segments shall be integrated to the greatest extent possible.
 - (b) Occupational competence in the medical laboratory shall be the prime objective of the total program and curriculum shall be planned to achieve this objective.
 - (c) The program shall be a structured educational curriculum comprised of general education, laboratory sciences (including clinical laboratory) and related subjects.
 - (d) The student's training must be limited to medical laboratory procedures and related subjects. No other subjects covering unrelated fields of study, such as x-ray, can be taught during this period of time.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-29-105, and 68-29-110. **Administrative History:** Original rule filed October 26, 1979; effective December 10, 1979. Repeal and new rule filed January 7, 1997; effective March 23, 1997.

1200-06-02-.04 THE MEDICAL LABORATORY TECHNOLOGIST SPECIALTY PROGRAM MINIMUM REQUIREMENTS.

- (1) Minimum Institutional Requirements:
- (a) A specialty program may be conducted in one of the following ways:
 - 1. An integrated program in an accredited college or university that will culminate in at least a baccalaureate degree in one of the medical laboratory specialties.
 - 2. A one year program for students (trainees) who already possess a baccalaureate degree in a chemical, physical or biological science. The program shall consist of appropriate didactic classroom instruction. The remainder of the year shall be spent in gaining meaningful clinical laboratory experience in the applicable specialty.
 - (b) Specialty programs may be conducted by hospitals or other institutions approved in advance by the Board.
 - (c) The program shall consist of a minimum of six (6) months of clinical laboratory experience in an approved clinical facility.
- (2) Minimum prerequisites for admission of students: The prerequisites for all specialty programs shall be those approved in advance by the Board.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-29-105, and 68-29-110. **Administrative History:** Original rule filed October 26, 1979; effective December 10, 1979. Repeal and new rule filed January 7, 1997; effective March 23, 1997.

(rule 1200-06-02-.05, continued)

Authority: T.C.A. §§4-5-202, 4-5-204, 68-29-105 and 68-29-110. **Administrative History:** Original rule filed October 26, 1979; effective December 10, 1979. Repeal and new rule filed January 7, 1997; effective March 23, 1997

1200-06-02-.06 CONTENTS OF APPLICATIONS FOR ADMISSION TO TRAINING PROGRAMS

(1) The applicant to each program for the training of medical laboratory personnel shall submit the following information:

(a) Personal history data:

1. Name, permanent address, local address, telephone number, parent's or guardian's name (address and telephone number if appropriate);
2. Date of birth, place of birth, citizenship status, and marital status;
3. Employment record;
4. Military service record (form DD214); and
5. Social Security Number;

(b) A transcript of college credits where indicated; and

~~(c) Evidence of good health which shall consist of a record of medical history and a complete physical examination certified by a physician as defined in the Tennessee Medical Laboratory Act. Included in the medical record shall be the results of a recent tuberculin test and also the results of a roentgenogram examination of the chest if the tuberculin test is found positive.~~

(c) Evidence of good health which shall consist of a record of medical history and a complete physical examination certified by a licensed physician or nurse practitioner.

(2) All records of students shall be kept on file for a minimum of ten (10) years.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-29-105, and 68-29-110. **Administrative History:** Original rule filed October 26, 1979; effective December 10, 1979. Repeal and new rule filed January 7, 1997; effective March 23, 1997.

~~**1200-06-02-.07 CURRICULUM REQUIREMENT FOR A PROGRAM FOR TRAINING OF PUBLIC HEALTH CLINIC LABORATORY PRACTITIONERS.**~~

~~(1) A Public Health Clinic Laboratory Practitioner must complete Public Health Clinic Laboratory Practitioner Training Program consisting of a general laboratory practice core. The procedures will be standardized across the state to ensure continuity and conformity. Proof of training in the following areas will be maintained in the Practitioner's file on site:~~

~~(a) Laboratory Procedures;~~

~~(b) Quality Control;~~

~~(c) Instrumentation;~~

~~(d) Preventive Maintenance;~~

(rule 1200-06-02-.07, continued)

- ~~(e) — Laboratory Safety;~~
 - ~~(f) — Mathematics;~~
 - ~~(g) — Medical Terminology; and~~
 - ~~(h) — Phlebotomy~~
- ~~(2) — After completion of the appropriate training, the Public Health Clinic Laboratory Practitioner must competently:~~
- ~~(a) — Prepare and/or instruct a patient correctly for collection of laboratory specimens;~~
 - ~~(b) — Obtain specimens from patients, including specimens to be sent to referral laboratories, and process them according to acceptable procedures for the given test methodology;~~
 - ~~(c) — Record appropriate information that will correctly identify the patient and test performed, or referred, according to acceptable standards;~~
 - ~~(d) — Perform tests designated in Rule 1200-06-01-.25(4);~~
 - ~~(e) — Explain and perform quality control procedures appropriate for a Public Health Clinic Laboratory Practitioner. If quality control results are outside established limits, the Public Health Clinic Laboratory Practitioner must document that the appropriate corrective action has been taken before any test result is reported;~~
 - ~~(f) — Document quality control and instrument preventive maintenance according to acceptable standards;~~
 - ~~(g) — Demonstrate satisfactory performance on unknown sample(s);~~
 - ~~(h) — Follow safe laboratory practices to prevent infection and/or exposure to self and others; and~~
 - ~~(i) — Implement an appropriate inventory control system.~~
- ~~(3) — All Training will be performed by qualified instructors under the direction of the Training Section of the Tennessee Department of Health, Laboratory Services, 630 Hart Lane, Nashville, TN 37247-0801.~~

~~**Authority:** T.C.A. §§4-5-202, 4-5-204, 68-29-105, and 68-29-110. **Administrative History:** Original rule filed October 26, 1979; effective December 10, 1979. Repeal and new rule filed January 7, 1997; effective March 23, 1997.~~

1200-06-02-.07 Medical Laboratory Special Analyst Program Minimum Requirements

(1) Special Analyst Programs

(a) Molecular Diagnostics Training Program

1. Medical Director

- (i) The medical director shall be a physician who is certified in clinical pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or who possesses qualifications which are equivalent to those required for such certification (Board eligible).

(rule 1200-06-02-.07, continued)

- (ii) The medical director shall be licensed to practice medicine in Tennessee.
- (iii) The medical director shall meet one of the minimum qualifications of Medical Laboratory Director, as set forth in Rule 1200-06-01-.20. The program he or she directs must be related to his or her training.

2. Program Director

- (i) The program must have a qualified program director.
- (ii) The program director must be a medical laboratory professional who:
 - (I) has earned a master's or doctoral degree;
 - (II) holds nationally recognized certification. (The certification examination must be accredited and require a bachelor's degree for eligibility.) If the program director is not certified in the same discipline as the program, a qualified professional who holds nationally recognized certification in the program discipline must be appointed as Education Coordinator;
 - (III) regularly engages in continuing professional education as documented by the certification maintenance program or other sources;
 - (IV) has three years of teaching experience; and
 - (V) has knowledge of education methods and administration as well as current NAACLS accreditation procedures and certification procedures.
- (iii) The program director must:
 - (I) be responsible for the organization, administration, instruction, evaluation, continuous quality improvement, curriculum planning and development, directing other program faculty/staff, and general effectiveness of the program;
 - (II) provide evidence that he or she participates in the budget preparation process;
 - (III) be responsible for maintaining NAACLS accreditation of the program; and
 - (IV) have regular and consistent contact with students, faculty, and program personnel.

3. Education Coordinator (when required)

- (i) The Education Coordinator must be a medical laboratory professional who:
 - (I) has at least a baccalaureate degree and three years of experience in the program discipline;

(rule 1200-06-02-.07, continued)

- (II) holds nationally recognized certification in the program discipline, e.g., MB(ASCP)CM;
 - (III) has completed thirty-six hours of professional continuing education within the past three years;
 - (IV) has three years of experience in medical laboratory science education; and
 - (V) has knowledge of education methods and administration as well as current NAACLS accreditation procedures and certification procedures.
- (ii) The Education Coordinator must provide supervision and coordination of the instructional faculty in the academic and clinical phases of the education program.
- ~~(i) The Education Coordinator must be a medical laboratory professional who:~~
- ~~(I) has at least a baccalaureate degree and three years of experience in the program discipline;~~
 - ~~(II) holds nationally recognized certification in the program discipline, e.g., MB(ASCP)CM; and~~
 - ~~(III) has knowledge of NAACLS accreditation and current certification procedures.~~
- ~~(ii) The Education Coordinator must provide supervision and coordination of the instructional faculty in the academic and clinical phases of the education program, and~~
- ~~(I) complete thirty-six hours of professional continuing education within the past three years;~~
 - ~~(II) has three years of experience in medical laboratory science education; and~~
 - ~~(III) has knowledge of NAACLS accreditation and current certification procedures.~~
4. On-site Program Coordinator (when required, one at each participating entity in a consortium or joint venture)
- (i) The on-site program coordinator must:
 - (I) have an academic degree appropriate to the program level;
 - (II) hold an appropriate nationally recognized certification required of a program director; and
 - (III) have at least one year of experience in medical laboratory science education.
 - (ii) The on-site program coordinator, when required, is responsible for:

(rule 1200-06-02-.07, continued)

- (I) coordinating teaching and clinical education;
- (II) evaluating program effectiveness; and
- (III) maintaining appropriate communications with the program director.

5. Didactic Instructor

- (i) The program must have qualified faculty/instructors who hold appointments within the educational program (e.g., certified professionals in their respective or related fields). The program must ensure and document ongoing professional development of the program faculty/instructors.
- (ii) Faculty/instructors designated by the program must:
 - (I) demonstrate adequate knowledge and proficiency in their content areas and
 - (II) demonstrate the ability to teach effectively at the appropriate level.
- (iii) The responsibilities of the faculty/instructors must include:
 - (I) participation in teaching courses;
 - (II) evaluation of student achievement;
 - (III) development of curriculum, policy and procedures; and
 - (IV) assessment of program outcomes.

6. Clinical Coordinator

- (i) At least one clinical coordinator must be designated at each clinical site affiliated with the program to provide clinical experience to students.
- (ii) The Clinical Coordinator must:
 - (I) be a medical laboratory professional who holds nationally recognized certification and professional licensure in the program discipline;
 - (II) demonstrate proficiency in and adequate knowledge of the program discipline;
 - (III) have at least one year experience as a practicing professional in the program discipline; and
 - (IV) demonstrate ability to teach clinical skills/content effectively at the appropriate level.
- (iii) The Clinical Coordinator must be responsible for:

(rule 1200-06-02-.07, continued)

- (I) coordinating and ensuring effectiveness of clinical instruction at the site;
- (II) evaluating effectiveness of clinical instruction;
- (III) monitoring and evaluating students' clinical performance; and
- (IV) maintaining effective communication with the program director.

7. Advisory Committee

- (i) There must be an advisory committee composed of individuals from the community of interest (e.g. practicing professionals, academic professionals, scientific consultants, administrators, pathologists and other physicians, and public members) who have knowledge of clinical laboratory science education.
- (ii) The advisory committee of the program shall have input into the program/curriculum to maintain current relevancy and effectiveness.

8. Instructional Areas

- (i) Prerequisite courses in biology including genetics, chemistry and mathematics that provide the foundation for course work required in the laboratory science program.
- (ii) The curriculum must address pre-analytical, analytical and post-analytical components of diagnostic molecular laboratory services covering diagnostic molecular tests used to detect or diagnose acquired (infectious and non-infectious) diseases and genetic predisposition or disorders. This includes principles and methodologies, performance of assays, problem-solving, troubleshooting techniques, interpretation and evaluation of clinical procedures and results, statistical approaches to data evaluation, principles and practices of quality assurance/quality improvement, and continuous assessment of laboratory services.
- (iii) The program curriculum must include the following scientific content:
 - (I) Organic and/or biochemistry, genetics, cell biology, microbiology, immunology, and diagnostic molecular biology;
 - (II) Principles, methodologies, and applications of molecular microbiology (infectious diseases), molecular pathology (hematology/oncology), and molecular genetics. Techniques of molecular science must include current techniques in each of the following areas: separation and detection, amplification, and sequence analysis;
 - (III) Clinical significance of laboratory procedures in diagnosis and treatment;
 - (IV) Application of safety and governmental regulations and standards as applied to diagnostic molecular science;
 - (V) Principles and practices of professional conduct and the significance of continuing professional development;

(rule 1200-06-02-.07, continued)

- (VI) Communications sufficient to serve the needs of patients, the public and members of the health care team;
- (VII) Principles and practices of administration, supervision, and quality management as applied to diagnostic molecular science;
- (VIII) Evaluation of laboratory information systems;
- (IX) Educational methodologies and terminology sufficient to train/educate users and providers of laboratory services; and
- (X) Principles and practices of applied study design, implementation and dissemination of results.

9. Institutional Requirements

- (i) A specialty program may be conducted in one of the following ways:
 - (I) An integrated program in an accredited college or university that will culminate in at least a baccalaureate degree in one of the medical laboratory specialties.
 - (II) A one year program for students (trainees) who already possess a baccalaureate degree in a chemical, physical or biological science. The program shall consist of appropriate didactic classroom instruction. The remainder of the year shall be spent in gaining meaningful clinical laboratory experience in the applicable specialty.

(b) Cytogenetic Technology Training Program

1. Medical Director

- (i) The medical director shall be a physician who is certified in clinical pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or who possesses qualifications which are equivalent to those required for such certification (Board eligible).
- (ii) The medical director shall be licensed to practice medicine in Tennessee.
- (iii) The medical director shall meet one of the minimum qualifications of Medical Laboratory Director, as set forth in Rule 1200-06-01-.20. The program he or she directs must be related to his or her training.

2. Program Director

- (i) The program director must be a medical laboratory professional who:
 - (I) has an earned master's or doctoral degree;
 - (II) maintains current certification or licensure in cytogenetic technology, medical genetics, or another human genetics area;

(rule 1200-06-02-.07, continued)

- (III) regularly engages in continuing professional education as documented by the certification maintenance program or other sources;
 - (IV) has three years of teaching experience; and
 - (V) has knowledge of education methods and administration as well as current NAACLS accreditation procedures and certification procedures.
 - (ii) The program director must:
 - (I) be responsible for the organization, administration, instruction, evaluation, continuous quality improvement, curriculum planning and development, directing other program faculty/staff, and general effectiveness of the program;
 - (II) provide evidence that he or she participates in the budget preparation process;
 - (III) be responsible for maintaining NAACLS accreditation of the program. Training programs licensed prior to June 1, 2014 are not required to obtain or maintain NAACLS accreditation;
 - (IV) have regular and consistent contact with students, faculty, and program personnel.
- 3. On-site Program Coordinator (required for consortia or multi-location only; one at each participating site)
 - (i) The on-site program coordinator must:
 - (I) have an academic degree appropriate to the program level;
 - (II) hold an appropriate nationally recognized certification required of a program director; and
 - (III) have at least one year of experience in medical laboratory science education.
 - (ii) The on-site program coordinator, when required, is responsible for:
 - (I) coordinating teaching and clinical education;
 - (II) evaluating program effectiveness; and
 - (III) maintaining appropriate communications with the program director.
- 4. Didactic Instructor
 - (i) The program must have qualified faculty/instructors who hold appointments within the educational program (e.g., certified professionals in their respective or related fields). The program must ensure and document ongoing professional development of the program faculty/instructors.

(rule 1200-06-02-.07, continued)

- (ii) Faculty/instructors designated by the program must:
 - (I) demonstrate adequate knowledge and proficiency in their content areas and
 - (II) demonstrate the ability to teach effectively at the appropriate level.
- (iii) The responsibilities of the faculty/instructors must include:
 - (I) participation in teaching courses;
 - (II) evaluation of student achievement;
 - (III) development of curriculum, policy and procedures; and
 - (IV) assessment of program outcomes.

5. Clinical Coordinator

- (i) At least one clinical coordinator must be designated at each clinical site affiliated with the program to provide clinical experience to students.
- (ii) The Clinical Coordinator must:
 - (I) be a medical laboratory professional who holds nationally recognized certification and professional licensure in the program discipline;
 - (II) demonstrate proficiency in and adequate knowledge of the program discipline;
 - (III) have at least one year experience as a practicing professional in the program discipline; and
 - (IV) demonstrate ability to teach clinical skills/content effectively at the appropriate level.
- (iii) The Clinical Coordinator must be responsible for:
 - (I) coordinating and ensuring effectiveness of clinical instruction at the site;
 - (II) evaluating effectiveness of clinical instruction;
 - (III) monitoring and evaluating students' clinical performance; and
 - (IV) maintaining effective communication with the program director.

6. Advisory Committee

- (i) There must be an advisory committee composed of individuals from the community of interest (e.g. practicing professionals, academic professionals, scientific consultants, administrators, pathologists and

(rule 1200-06-02-.07, continued)

other physicians, and public members) who have knowledge of clinical laboratory science education.

- (ii) The advisory committee of the program shall have input into the program/curriculum to maintain current relevancy and effectiveness.

7. Instructional Areas

- (i) Prerequisite content in biology, chemistry and mathematics that provides the foundation for course work required in the laboratory science program.
- (ii) The program curriculum must include the following scientific content:
 - (I) Specimen Preparation (sample acquisition, transport/storage, preparation, culture, harvest, slide preparation, and staining);
 - (II) Molecular Cytogenetic Testing (utilize appropriate techniques for preparation and analysis of molecular cytogenetic specimens);
 - (III) Chromosome Analysis and Imaging (selection, analysis, and description of suitable metaphase or interphase cells using microscopy and imaging);
 - (IV) Laboratory Operations (general laboratory skills, guidelines/government regulations, safety, quality assurance/control and professional standards and conduct);
 - (V) Principles of interpersonal and interdisciplinary communication and team-building skills and the significance of continuing professional development;
 - (VI) Principles and practices of administration and supervision;
 - (VII) Educational methodologies and terminology sufficient to train/educate users and providers of laboratory services sufficient for future clinical faculty); and
 - (VIII) Principles and practices of applied study design, implementation and dissemination of results.

8. Institutional Requirements

- (i) A specialty program may be conducted in one of the following ways:
 - (I) An integrated program in an accredited college or university that will culminate in at least a baccalaureate degree in one of the medical laboratory specialties.
 - (II) A one year program for students (trainees) who already possess a baccalaureate degree in a chemical, physical or biological science. The program shall consist of appropriate didactic classroom instruction. The remainder of the year shall be spent in gaining meaningful clinical laboratory experience in the applicable specialty.

(rule 1200-06-02-.07, continued)

1200-06-02-.08 ADVERTISING.

- (1) **Policy Statement.** The lack of sophistication on the part of many of the public concerning medical laboratory personnel training programs, the importance of the interests affected by the choosing of a medical laboratory personnel training program and the foreseeable consequences of unrestricted advertising by medical laboratory personnel training programs which is recognized to pose special possibilities for deception, require that special care be taken by medical laboratory personnel training programs to avoid misleading the public. Medical laboratory personnel training programs must be mindful that the benefits of advertising depend upon its reliability and accuracy. Since advertising by medical laboratory personnel training programs is calculated and not spontaneous, reasonable regulation designed to foster compliance with appropriate standards serves the public interest without impeding the flow of useful, meaningful, and relevant information to the public.
- (2) **Definitions**
 - (a) **Advertisement.** Informational communication to the public in any manner designed to attract public attention to medical laboratory personnel training programs that are approved to educate in Tennessee.
 - (b) **Licensee -** Any medical laboratory personnel training programs holding a Certificate of Approval to educate in the State of Tennessee. Where applicable this shall include partnerships and/or corporations.
 - (c) **Material Fact -** Any fact which an ordinary reasonable and prudent person would need to know or rely upon in order to make an informed decision concerning the choice of medical laboratory personnel training programs to serve his or her particular needs.
- (3) **Advertising Tuition Fees and Services**
 - (a) **Fixed Tuition Fees -** Fixed tuition fees may be advertised.
 - (b) **Discount Tuition Fees.** Discount tuition fees may be advertised if:
 1. The discount tuition fee is in fact lower than the licensee's customary or usual tuition fee; and
 2. The licensee provides the same quality and components of education at the discounted tuition fee that are normally provided at the regular, non-discounted tuition fee.
 - (c) **Related Services and Additional Fees.** Related services which may be required in conjunction with the advertised services for which additional fees will be charged must be identified as such in any advertisement.
 - (b) **Time Period of Advertised Fees.**
 1. Advertised fees shall be honored for those seeking the advertised services during the entire time period stated in the advertisement whether or not the services are actually rendered or completed within that time.
 2. If no time period is stated in the advertisement of fees, the advertised fee shall be honored for thirty (30) days from the last date of publication or until the next

(Rule 1200-06-03-.11, continued)

- (3) Waste must be packaged in a manner that will protect waste handlers and the public from possible injury and disease that may result from exposure to the waste. Such packaging must provide for containment of the waste from the point of generation up to the point of proper treatment or disposal. Packaging must be selected and utilized for the type of waste the packaging will contain, how the waste will be treated and disposed, and how it will be handled and transported, prior to treatment and disposal.
 - (a) Contaminated sharps must be directly placed in leakproof, rigid, and puncture-resistant containers which must then be tightly sealed.
 - (b) Whether disposable or reusable, all containers, bags, and boxes used for containment and disposal of infectious waste must be conspicuously identified. Packages containing infectious waste which pose additional hazards (e.g., chemical, radiological) must also be conspicuously identified to clearly indicate those additional hazards.
 - (c) Reusable containers for infectious waste must be thoroughly sanitized each time they are emptied, unless the surfaces of the containers have been completely protected from contamination by disposable liners or other devices removed with the waste.
 - (d) Opaque packaging must be used for pathological waste.
- (4) After packaging, waste must be handled and transported by methods ensuring containment and preservation of the integrity of the packaging, including the use of secondary containment where necessary. Plastic bags of infectious waste must be transported by hand.
- (5) After packaging, waste must be handled and transported by methods ensuring containment and preserving the integrity of the packaging, including the use of secondary containment where necessary.
 - (a) Waste must not be compacted or ground (i.e., in a mechanical grinder) prior to treatment, except that pathological waste may be ground prior to disposal.
 - (b) Plastic bags of infectious waste must be transported by hand.

Authority: T.C.A. §§ 4-5-202, 4-5-204, and 68-29-105. **Administrative History:** Original rule filed October 26, 1979; effective December 10, 1979. Repeal filed May 3, 1995; effective July 17, 1995. New rule filed January 7, 1997; effective March 23, 1997. Amendment filed March 22, 2001; effective June 5, 2001. Repeal and new rule filed June 18, 2002; effective September 1, 2002.

1200-06-03-.12 REPORTABLE DISEASES.

The director of a medical laboratory shall submit reports and/or cultures of microorganisms of reportable diseases established by the Commissioner of Health to the Department in accordance with Tenn. Comp. R. & Regs. Chapter 1200-14-01.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-29-105, and 68-29-107. **Administrative History:** Original rule filed October 26, 1979; effective December 10, 1979. Repeal filed May 3, 1995; effective July 17, 1995. New rule filed January 7, 1997; effective March 23, 1997. Repeal and new rule filed June 18, 2002; effective September 1, 2002. Amendment filed September 17, 2003; effective December 1, 2003. Amendment filed February 15, 2006; effective May 1, 2006. Amendment filed July 10, 2006; effective September 23, 2006. Amendment filed August 19, 2010; effective November 17, 2010; however on October 26, 2010 a 10-day stay was filed by the Government Operations Committee; new effective date October 27, 2010.

1200-06-03-.13 PERSONNEL POLICIES. ~~Personnel policies, practices, and procedures that adequately support sound laboratory practice shall be available in written form. A current record shall be~~

(Rule 1200-06-03-.13, continued)

~~maintained on each employee and shall include evidence of current licensure, and a resume of training and experience, competency assessment, annual safety training and annual review of policies and procedures. Employee health records may be maintained in a separate file.~~

Personnel policies, practices, and procedures that adequately support sound laboratory practice shall be available in written form. A current record shall be maintained on each employee and shall include evidence of current licensure, and a resume of training and experience, competency assessment, annual safety training and annual review of policies and procedures, as it pertains to the individual's job responsibilities. Employee health records may be maintained in a separate file.

Authority: T.C.A. §§4-5-202, 4-5-204, and 68-29-105. **Administrative History:** Original rule filed October 26, 1979; effective December 10, 1979. Amendment filed December 14, 1981; effective January 28, 1982. Amendment filed April 25, 1985; effective May 25, 1985. Amendment filed July 13, 1990; effective August 27, 1990. Amendment filed February 26, 1991; effective April 12, 1991. Repeal filed May 3, 1995; effective July 17, 1995. New rule filed January 7, 1997; effective March 23, 1997. Amendment filed April 29, 2002; effective July 13, 2002. Repeal and new rule filed June 18, 2002; effective September 1, 2002.

1200-06-03-.14 PERSONNEL REQUIREMENTS FOR A MEDICAL LABORATORY.

- (1) Condition: All laboratories regulated under T.C.A. 68, Chapter 29 shall meet the personnel standards in Chapter 1200-06-01.
- (2) Condition: Each laboratory shall designate a medical laboratory director, general supervisor and testing personnel who meet the qualifications of each level and fulfill the listed responsibilities for each level. If so qualified, one (1) individual may serve in more than one (1) position.
- (3) Condition: All individuals qualified to perform laboratory tests, including the medical laboratory director, shall possess a current license issued by the Department. Each individual shall be licensed at the highest level for which he qualified and functions. Laboratory procedures shall only be performed by appropriately licensed individuals, or personnel with a current trainee permit.
- (4) Standard: An adequate number of qualified testing personnel shall be provided for the volume and diversity of procedures and tests performed, as determined by the Department by on site survey.
- (5) A medical laboratory director may direct no more than three (3) laboratories unless authorized by the Board.
- (6) The medical laboratory director shall make periodic on-site visits at a minimum of once per month.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-29-105, 68-29-114, and 68-29-118. **Administrative History:** Original rule filed October 26, 1979; effective December 10, 1979. Repeal filed May 3, 1995; effective July 17, 1995. New rule filed January 7, 1997; effective March 23, 1997. Repeal and new rule filed June 18, 2002; effective September 1, 2002.

1200-06-03-.15 SPECIAL REGULATIONS FOR ASTC, BLOOD DONOR CENTERS, AND PLASMAPHERESIS CENTERS.

- (1) An exception to the requirements of 1200-06-03-.14 concerning direction and supervision may be made for a licensed Ambulatory Surgical Treatment Center (ASTC) providing the following are met:

(Rule 1200-06-03-.15, continued)

birth date and social security number of the donor and the name and address of the Center.

- (h) Any inquiries and/or complaints referred to the Department in regard to donor selection, bleeding products, etc. will be referred to the U.S. Food and Drug Administration for investigation.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-29-104, and 68-29-105. **Administrative History:** Original rule filed October 26, 1979; effective December 10, 1979. Amendment filed December 14, 1981; effective January 28, 1982. Amendment filed September 30, 1987; effective November 14, 1987. Repeal and new rule filed January 7, 1997; effective March 23, 1997. Amendment filed February 14, 2000; effective April 29, 2000. Amendment filed December 1, 2000; effective February 14, 2001. Repeal and new rule filed June 18, 2002; effective September 1, 2002. Amendment filed August 25, 2003; effective November 8, 2003. Amendments filed May 16, 2005; effective July 30, 2005.

1200-06-03-.16 ALTERNATE SITE TESTING.

(1) Point of Care Laboratory Testing.

- (a) Definition: "Point of Care" laboratory testing is laboratory testing performed by health care personnel/professionals not licensed by the Medical Laboratory Act, T.C.A. §§ 68-29-101, et seq., and is performed outside the duly licensed laboratory and under the auspices of a laboratory required to be licensed by the Department, pursuant to the Medical Laboratory Act.
- (b) All point of care laboratory testing must be approved by the Board in accordance with the following guidelines.
 1. For those tests determined by the Board to be appropriate for safe and accurate performance in a point of care setting (see waived test list) written notification shall be submitted on forms provided by the Board to the Administrative Office of the Board.
 2. For all other tests not covered under part 1 of this subparagraph (above), a facility must petition, and appear before the Board and satisfy the Board that approval for point of care testing is appropriate. A facility that has received approval from the Board for instrument/method to be used by identified personnel and/or department(s) for point of care testing of an analyte does not have to appear before the Board again to add analytes to the approved instrument/method and may add them by submitting written notification to the Board's administrative office. It is only when the facility wants to change or add personnel or department(s) to the previously approve instrument/method that another hearing before the Board is required.
 3. Requests to perform non-waived point of care tests must be submitted in writing and must include at least:
 - (i) Statement of medical need for performance outside a laboratory setting.
 - (ii) Analyte and methodology.
 - (iii) Personnel authority and responsibility.
 - (iv) Quality assurance protocols.
 - (v) Maintenance of records.

(Rule 1200-06-03-.16, continued)

- (vi) Performance and improvement protocols.
- (c) The performance of point of care laboratory testing must comply with the following minimum guidelines:
1. Documentation must show that the method used for testing has been approved by the Medical Laboratory Director.
 2. Documentation must show that an adequate training protocol, demonstration of competency, and annual in-service with demonstration of competency for each person performing the testing, has been approved by the Medical Laboratory Director.
 3. Records shall be retained for at least two (2) years, which show that manufacturer recommendations regarding the performance of quality control were met. Quality control records shall be reviewed by a person with appropriate authority according to an established performance improvement program.
 4. Results of point of care laboratory testing must be recorded in an appropriate clinical record and include the identity of the patient, date and time of specimen collection, units of measurement, test location and identity of the analyst performing the test. Such records must be readily retrievable for inspection.
 5. The Medical Laboratory Director, once having established critical values, shall have the discretion to determine if, consistent with good patient care, there is a need for verification by the clinical laboratory when values fall above or below the established critical values.
 6. Written policies and procedures, as approved by the Medical Laboratory Director, shall be available in the laboratory and at all locations where point of care laboratory testing is performed. Such procedures shall be appropriate to the personnel and location performing the testing.
- (d) Approval to perform point of care laboratory testing may be granted annually provided all minimum guidelines are met. The criteria for withdrawal of approval to perform such testing shall include but not be limited to:
1. Performance of testing by unauthorized personnel.
 2. Failure to comply with the above stated guidelines
 3. Unsatisfactory performance on two (2) consecutive or two (2) of three (3) consecutive proficiency test surveys.
 4. Failure to comply with other State or Federal guidelines.
 5. Deficiencies without an acceptable plan of correction cited by the Tennessee Medical Laboratory Board surveyors upon and on-site inspection of the laboratory.
- (2) Physician's Office Laboratories - Physician Office Laboratories (POLs) are exempt from licensure requirements of the Medical Laboratory Act

~~(a) To be eligible for this exemption, the following conditions must be met:~~

(Rule 1200-06-03-.16, continued)

- ~~1. The laboratory collects, accepts and tests only specimens from the private and personal patients of the physician who owns the practice or from the private and personal patients of any physician who is a member of a medical/physician group practice that owns and operates the laboratory regardless of the distance of any member physician's practice location from the group practice's laboratory or the number of specimens collected, accepted and/or tested; and~~
- ~~2. The laboratory must be operated by the physician who owns the practice or through his own employees. In a medical/physician group practice, one (1) of the group's physicians must be designated to operate the laboratory. The designated physician is responsible for actual supervision and direct responsibility for the performance of the laboratory and its personnel which includes, but is not limited to, actual supervision and direct responsibility for quality assurance, quality control, and test management; and~~
- ~~3. The tests performed in the laboratory are used only for diagnosis and/or treatment of patients of the individual or group practice and are maintained in the practice's medical records for the patients for whom the test were performed.~~

(a) To be eligible for this exemption, the following conditions must be met:

1. The laboratory collects, accepts, and tests only specimens from the private and personal patients of the physician who operates the practice or from the private and personal patients of any physician who is a member of a medical/physician group practice that operates the laboratory regardless of the distance of any member physician's practice location from the group practice's laboratory or the number of specimens collected, accepted, and/or tested; and
2. The laboratory must be operated by the physician or through the employees of the physician. In a medical/physician group practice, one (1) of the group's physicians must be designated to operate the laboratory. The designated physician is responsible for actual supervision and direct responsibility for the performance of the laboratory and its personnel which includes, but is not limited to, actual supervision and direct responsibility for quality assurance, quality control, and test management; and
3. The tests performed in the laboratory are used only for diagnosis and/or treatment of patients of the individual or group practice and are maintained in the practice's medical records for the patients for whom the tests were performed.

(b) In the case of a medical/physician group practice, proof of affiliation with the group practice must be maintained at all offices in which the laboratory is not physically located and produced upon request by an authorized agent of the Department.

(c) Industrial or company physician practices, student health services and other arrangements in which a licensed physician is responsible for the continuing care of a group of patients on an ongoing basis will be designated to be POLs.

(3) Screening Programs – Screening programs are offerings of specified medical laboratory tests to the general public, the purpose of which is educational rather than for diagnosis of disease, and the results of which are immediately available on the site of the program to the person being tested except for those tests which for methodological reasons must be submitted to a medical laboratory in which case they shall be sent to a Tennessee licensed medical laboratory.

(Rule 1200-06-03-.16, continued)

- (a) Screening programs conducted by for-profit hospitals or nonprofit organizations are exempt from the licensure requirements of the Medical Laboratory Act, pursuant to T.C.A. § 68-29-104(6), when the following conditions are met:
- (b) The screening program must be under the direct supervision of a physician licensed in Tennessee. Direct supervision means that a physician will be responsible for quality assurance of the testing performed and review of the results of such testing. The physician is not required to be on site for the screening program event.
- (c) The results of the screening program testing must be submitted to the personal physician of the individual being screened or reviewed by the physician responsible for the screening program. During the screening process, the individual being screened must be afforded reasonable privacy and, when required, on-site confidential counseling about the results of the testing.
- (d) A written notification to conduct a screening program must be submitted to the Administrative Office for the Medical Laboratory Board, indicating compliance with these rules and providing the following information:
 - 1. Location of testing.
 - 2. Date of testing.
 - 3. Type of tests to be performed and methodology to be used.
 - 4. Name of the licensed physician supervising the screening.
 - 5. Name and address of the for-profit hospital or nonprofit organization conducting the screening.
 - 6. Statement indicating that the testing staff has appropriate training and competency to conduct the testing.
 - 7. Assurance that the for-profit hospital or nonprofit organization is in compliance with Rule 1200-06-03-.11 regarding the handling of infectious and hazardous waste.
- (e) A copy of the written notification submitted to the Administrative office must be retained by the for-profit hospital or nonprofit organization conducting the screening program and must be available for inspection at the site of the screening program.
- (f) Notification of screening is not required when the for-profit hospital or nonprofit organization is a licensed medical laboratory, provided the laboratory has complied with Rules 1200-06-03-.17 regarding the performance of waived testing and 1200-06-03-.16 regarding point of care testing.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-29-104, and 68-29-105. **Administrative History:** Original rule filed February 14, 2000; effective April 29, 2000. Amendment filed December 1, 2000; effective February 14, 2001. Repeal and new rule filed June 18, 2002; effective September 1, 2002. Amendment filed May 23, 2003; effective August 6, 2003. Amendment filed February 15, 2006; effective May 1, 2006. Amendment filed March 14, 2006; effective May 28, 2006. Amendment filed July 10, 2006; effective September 23, 2006. Amendment filed December 27, 2006; effective March 12, 2007.

1200-06-03-.17 WAIVED TESTING.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Royce E. Joyner, M.D.	x				
Annie R. Washington, MT	x				
Patti Walton	x				
Stephanie Dolsen	x				
Reginna Bartlett	x				
Pamela S. Bullock, MD	x				
Gloria L. Jenkins				x	
Kathy Kenwright	x				
Cheryl K. Arnott, CT	x				
Jerry Miller, MD				x	
Vacant					
Vacant					
Vacant					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Medical Laboratory Board (board/commission/ other authority) on 10/17/2013 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/22/13 (mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). 10/17/13 (mm/dd/yy)

Date: 9/4/14

Signature: Mollie Gass

Name of Officer: Mollie Gass

Assistant General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 9-4-14

Notary Public Signature: Suzanne Mechkowski

My commission expires on: APRIL 19, 2017



All rulemaking hearing 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.

Robert E. Cooper, Jr.

Attorney General and Reporter

9-30-14

Date

Department of State Use Only

Filed with the Department of State on: 10/3/14

Effective on: 1/1/15

Tre Hargett

Tre Hargett
Secretary of State

RECEIVED
2014 OCT -3 PM 4: 19
OFFICE OF
SECRETARY OF STATE

G.O.C. STAFF RULE ABSTRACT

BOARD: State Board of Education

SUBJECT: Minimum Requirements for the Approval of Public Schools
- Graduation Requirement

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 49-1-302,
49-6-6001(g)

EFFECTIVE DATES: January 11, 2015 through June 30, 2015

FISCAL IMPACT: None

STAFF RULE ABSTRACT: The rule satisfies the Board's statutory responsibility to adopt an occupational diploma for students with disabilities together with appropriate standards and benchmarks of attendance, academic achievement, and job readiness skills for the occupational diploma.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 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.

Not applicable.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule will have no impact on local governments.

2

Department of State
Division of Publications
312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 10-06-14
Rule ID(s): 5813
File Date: 10/13/14
Effective Date: 11/1/15

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.

Agency/Board/Commission:	State Board of Education
Division:	
Contact Person:	Dannelle F. Walker
Address:	1 st Floor, Andrew Johnson Tower 710 James Robertson Parkway Nashville, TN
Zip:	37243
Phone:	615-253-5707
Email:	Dannelle.Walker@tn.gov

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
0520-01-03	Minimum Requirements for the Approval of Public Schools
Rule Number	Rule Title
0520-01-03-.06	Graduation, Requirement D

Chapter Number	Chapter Title
Rule Number	Rule Title

Minimum Requirements for the Approval of Public Schools
0520-01-03

(1) Graduation Requirements - Effective with the ninth (9th) grade class of 2009-2010 and thereafter.

(a) High School Diploma and Special Education Diploma.

1. The high school diploma will be awarded to students who (1) earn the specified twenty-two (22) units of credit, and (2) have satisfactory records of attendance and conduct.
2. A special education diploma may be awarded at the end of their fourth year of high school to students with disabilities who have (1) not met the requirements for a high school diploma, (2) have satisfactorily completed an individualized education program, and (3) have satisfactory records of attendance and conduct. Students who obtain the special education diploma may continue to work towards the high school diploma through the end of the school year in which they turn twenty-two (22) years old.
3. An occupational diploma may be awarded at the end of their fourth year of high school to students with disabilities who:
 - (i) Have not met the requirements for a high school diploma;
 - (ii) Have satisfactorily completed an individualized education program;
 - (iii) Have satisfactory records of attendance and conduct; and
 - (iv) Have completed the occupational diploma Skills, Knowledge, and Experience Mastery Assessment (SKEMA) created by the Department of Education and have completed two (2) years of paid or non-paid work experience.

The determination that an occupational diploma is the goal for a student with a disability will be made at the conclusion of the student's tenth (10th) grade year or two (2) academic years prior to the expected graduation date. Students who obtain the occupational diploma may continue to work towards the high school diploma through the end of the school year in which they turn twenty-two (22) years old.

* 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)
Chancey	X				
Edwards	X				
Hartgrove	X				
Johnson	X				
Pearre	X				
Roberts	X				
Rolston	X				
Sloyan	X				
Tucker	X				
Student Member	X				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee State Board of Education on 07/25/2014, and is in compliance with the provisions of T.C.A. § 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: 9-4-14

Signature: Gary Nixon

Name of Officer: Dr. Gary L. Nixon

Title of Officer: Executive Director



MY COMMISSION EXPIRES:
January 9, 2016

Subscribed and sworn to before me on: 9/12/14

Notary Public Signature: Phyllis E. Childress

My commission expires on: _____

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.

Robert E. Cooper, Jr.
Robert E. Cooper, Jr.
Attorney General and Reporter
9-23-14
Date

Department of State Use Only

Filed with the Department of State on: _____

10/13/14

Effective on: _____

1/11/15

Tre Hargett

Tre Hargett
Secretary of State

RECEIVED
2014 OCT 13 PM 12:48
DEPARTMENT OF STATE

G.O.C. STAFF RULE ABSTRACT

BOARD: State Board of Education

SUBJECT: Leave for Teachers

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 49-1-302, 49-3-312

EFFECTIVE DATES: January 11, 2015 through June 30, 2015

FISCAL IMPACT: None

STAFF RULE ABSTRACT: According to the Board, the rule change is necessary to make the rules reflect that LEAs no longer participate in the state leave program for the payment of substitute teachers because the BEP formula generates funds for LEAs to pay for substitute teachers.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 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.

Not applicable.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule will have no impact on local governments.

3

Department of State
Division of Publications
312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: register.information@tn.gov

For Department of State Use Only
Sequence Number: 10-07-14
Rule ID(s): 5814
File Date: 10/13/14
Effective Date: 1/1/15

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.

Agency/Board/Commission:	State Board of Education
Division:	
Contact Person:	Dannelle F. Walker
Address:	1st Floor, Andrew Johnson Tower 710 James Robertson Parkway Nashville, TN
Zip:	37243
Phone:	615-253-5707
Email:	Dannelle.Walker@tn.gov

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
0520-01-02	Administrative Rules and Regulations
Rule Number	Rule Title
0520-01-02-.04	Leave for Teachers

Chapter Number	Chapter Title
Rule Number	Rule Title

Administrative Rules and Regulations
0520-01-02

- (1) The term "teacher" shall mean any person employed by a local board of education in a position which requires a license issued by the State Department of Education. The term "teacher" shall not apply to a substitute teacher.
- (2) Sick Leave. "Sick leave" shall mean leave of absence because of illness of a teacher from natural causes or accident, quarantine, or illness or death of a member of the immediate family of a teacher, including the teacher's wife or husband, parents, grandparents, children, grandchildren, brothers, sisters, mother-in-law, father-in-law, daughter-in-law, son-in-law, brother-in-law, and sister-in-law. Upon written request of the teacher accompanied by a statement from her physician verifying pregnancy, any teacher who goes on maternity leave shall be allowed to use all or a portion of her accumulated sick leave for maternity leave purposes during the period of her physical disability only, as determined by a physician.
- (3) Personal and Professional Leave. A teacher may take two days of personal and professional leave per school year in accordance with policies of the local board of education.
- (4) Career Ladder Evaluator Professional Leave.
 - (d) Leave may be granted by a local school system to certificated employees to conduct evaluations in the Career Ladder certification process, pursuant to law.
 - (e) Such leave shall not be construed to forfeit any rights, benefits or credits earned under the local board of education.
 - (f) Career Ladder evaluators shall be under the supervision of the Career Ladder Division, State Department of Education. Nothing in this rule shall be construed to require the State Department of Education to compensate local boards of education for teachers employed as substitutes for teachers on such Career Ladder evaluator professional leave.
- (5) Personal Injury Leave.
 - (d) When a school system determines that a teacher's absence from assigned duties was required as a result of personal physical injuries caused by a physical assault or other violent criminal act committed against the teacher while on duty, the school system shall grant personal injury leave for those days of absence.
 - (e) Each local school system shall develop policies and procedures for determining eligibility for and implementing personal injury leave consistent with these rules. The policies and procedures may include provisions such as timely notification of the incident and injuries sustained, a requirement that medical attention be sought immediately, submission of a doctor's statement verifying the nature, extent and duration of the disability, option by the school system of a third party opinion, and guidelines for a process to make periodic redeterminations of eligibility if the absence exceeds a given time frame.
 - (f) Nothing in Rule 0520-01-02-.04(5) shall preclude a teacher at his or her option from directing that an absence which would otherwise qualify for personal injury leave under paragraph five (5) be charged to accumulated sick leave or personal leave instead of personal injury leave.
- (6) Substitute teachers are those persons employed to replace teachers on sick, professional, or personal leave or to fill temporary vacancies (this exists until a licensed teacher is available and employed). Substitutes are employed and paid in the following manner:
 - (d) A person without a teacher's license or permit may serve as a substitute for the first 20 consecutive days of absence of a regular teacher on approved leave.

- (e) After 20 consecutive days of approved leave, a person serving as the substitute must be licensed and hold the appropriate endorsement for the assignment or must be a retired teacher and have held the appropriate endorsement.
 - (f) After the regular teacher's accumulated leave is exhausted, the replacement teacher must be licensed and hold the appropriate endorsement for the assignment or be a retired teacher and have held the appropriate endorsement and must be paid based on the replacement teacher's training and experience record in accordance with the state and local salary schedules.
- (7) The total accumulated sick leave shall mean the total number of sick leave days which have been earned but not yet used. A teacher in need of sick leave shall be allowed to use unearned sick leave up to the amount of days which such teacher may accumulate during the remainder of the current school year.
- (8) Each local board of education shall participate in the state leave program. Local boards of education shall provide the required local contribution from public school funds for payment of substitute teachers. Teachers shall not pay any part of the state required local contribution.
- ~~(9) All local boards of education shall participate in the state leave program for the payment of substitute teachers. Each local board of education shall claim and be reimbursed from state funds, the amount to which it is entitled under the provisions of T.C.A. Section 49-3-312 and Section 49-5-701 for those days which are used. The local board of education shall submit a claim for reimbursement to the State Commissioner of Education by June 10th of each year. This claim shall include the number of days (and the amount paid per day) on which a substitute teacher taught for a regular teacher who had sufficient leave days accumulated.~~

* 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)
Chancey	X				
Edwards	X				
Hartgrove	X				
Johnson	X				
Pearre	X				
Roberts	X				
Rolston	X				
Sloyan	X				
Tucker	X				
Student Member	X				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee State Board of Education on 07/25/2014, and is in compliance with the provisions of T.C.A. § 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: 9-4-14

Signature: Gary Nixon

Name of Officer: Dr. Gary L. Nixon

Title of Officer: Executive Director



MY COMMISSION EXPIRES: January 9, 2016

Subscribed and sworn to before me on: 9/12/14

Notary Public Signature: Phyllis E. Childress

My commission expires on: _____

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.

Robert E. Cooper, Jr.
 Robert E. Cooper, Jr.
 Attorney General and Reporter

9-23-14
 Date

Department of State Use Only

Filed with the Department of State on: 10/13/14

Effective on: 1/11/15

Tre Hargett
Tre Hargett
Secretary of State

RECEIVED
2014 OCT 13 PM 12:46
OFFICE OF
SECRETARY OF STATE

G.O.C. STAFF RULE ABSTRACT

AGENCY: Alcoholic Beverage Commission

SUBJECT: Rules of Procedure for Hearing Contested Cases

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 57-1-213

EFFECTIVE DATE: January 12, 2015 through June 30, 2015

FISCAL IMPACT: It is estimated that the implementation of the rule will result in an increase in state revenue of \$12,600 and a decrease in state expenditures of \$1,875.

STAFF RULE ABSTRACT: The rule establishes a new procedure that applies to petitions for a contested case hearing to appeal initial orders of revocation, suspension or a civil penalty imposed on a licensee or permittee by a Tennessee Alcoholic Beverage Commission hearing officer or an administrative law judge. The new procedure requires that costs of the hearing be assessed against a party against whom sanctions are imposed.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no public comments on these rules.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 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.

Economic Impact Statement

1. The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule:

Any small business licensed by the commission would be affected by the proposed rules.

2. The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

There are no significant changes in reporting, recordkeeping, or other administrative costs that will result from the promulgation of the proposed rules, except that 0100-04-.02, pursuant to T.C.A. § 57-1-213, may increase a small business's administrative costs through the assessment of costs to said small business in contested cases.

3. A statement of the probable effect on impacted small businesses and consumers:

The proposed rules were drafted to facilitate the hearing of contested cases, commission review of initial orders, and the petition for and issuance of declaratory orders and to provide clarity to all persons and entities licensed by the commission regarding such cases.

4. A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business:

As these proposed rules present no foreseeable costs to small businesses, except as provided by T.C.A. § 57-1-213, there is no alternative method to propose.

5. A comparison of the proposed rule with any federal or state counterparts:

The proposed rules are written pursuant to T.C.A. §§ 57-1-213, 4-5-223, 4-5-310, and 4-5-314. Except as otherwise specified in the proposed rules, the rules and regulations of the Tennessee Department of State regarding contested cases would apply to contested cases of the commission.

6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule:

An exemption of small businesses would create a disparate and unfair impact on the persons and entities licensed by the commission and would negatively impact the commission by increasing administrative burdens and costs.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The rules are not anticipated to have an impact on local governments.

4

**Department of State
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 10-08-14
Rule ID(s): 5815
File Date: 10/14/14
Effective Date: 1/12/15

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Tennessee Alcoholic Beverage Commission
Division:	
Contact Person:	E. Keith Bell
Address:	Davy Crockett Tower; 500 James Robertson Parkway, 3rd Floor; Nashville, TN 37243
Phone:	615.741.1602
Email:	Keith.Bell@TN.GOV

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
0100-04	Rules of Procedure for Hearing Contested Cases
Rule Number	Rule Title
0100-04-.01	General Procedures for Contested Cases
0100-04-.02	Contested Cases Before Administrative Law Judges of TABC Hearing Officers Sitting Alone
0100-04-.03	Commission Review of Initial Orders
0100-04-.04	Declaratory Orders



'REDLINE' DEPICTION OF RULES AS AMENDED, PER TCA 4-5-226(i)

**RULES
OF
THE TENNESSEE ALCOHOLIC BEVERAGE COMMISSION
CHAPTER 0100-4
RULES OF PROCEDURE FOR HEARING CONTESTED CASES**

For 0100-04-.01 GENERAL PROCEDURES FOR CONTESTED CASES.

(1) Except as otherwise provided herein, all contested cases before the Commission will be conducted in accordance with T.C.A. §§ 4-5-301 et seq., applicable provisions of Title 57 of the Tennessee Code, with these Rules of Procedure for Hearing Contested Cases see, and with the Rules of the Secretary of State, Chapter 1360-1-7.04-01.

(2) Eligibility to appeal. Any person with legal standing, and who meets the requirements of Title 57 of the Tennessee Code as a licensee/permittee may petition the Commission for a contested case hearing to appeal an Initial Order of revocation, suspension or civil penalty imposed upon the licensee/permittee by an Administrative Law Judge or TABC Hearing Officer sitting alone. All other appeals and/or review of actions of the Commission shall be conducted pursuant to the applicable provisions of Title 57 of the Tennessee Code.

Authority: T.C.A. §§ 4-5-217, 4-5-219, 57-1-102

Administrative History: Original rule filed; effective

0100-04-.02 CONTESTED CASES BEFORE ADMINISTRATIVE LAW JUDGES OR TABC HEARING OFFICERS SITTING ALONE.

(1) With the exception of declaratory orders referenced below, all petitions for a contested case hearing shall be routinely referred to the Administrative Procedures Division, Department of State for hearing before an Administrative Law Judge sitting alone on behalf of the Commission. However, the Commission retains the right to hear any particular contested case on its own behalf, or before a properly designated TABC Hearing Officer.

(2) In all cases held in accordance with the contested case provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, Part 3 of the Tennessee Code, and in which sanctions of any kind are imposed on any person or entity required to be licensed, permitted, registered or otherwise authorized by the Commission, whether heard by an Administrative Law Judge or a properly designated TABC Hearing Officer sitting alone, or by the full Agency, the petitioner and other parties, with the exception of the Commission, shall bear the actual and reasonable costs associated with the contested case including, but not limited to, Secretary of State Administrative Procedures Division, docketing, filing, judges and other costs, cost for all depositions, court reporters, transcriptions, costs incurred and assessed for the time of the prosecuting attorneys, investigators, expert witnesses, administrative law judges, TABC hearing officer and any other persons involved in the investigation, prosecution and hearing of the action. If an Initial Order of an Administrative Law Judge or properly designated TABC Hearing Officer is to be reviewed by the full Commission, whether such review is requested by the party/licensee/permittee or the TABC staff, the original transcript and one copy of the transcript for each member of the Commission shall be provided to the Commission by the other parties/licensees/permittees which cost shall be borne by said party/licensee/permittee and not by the Commission. Other costs of the proceeding, including the Administrative Law Judge's or TABC Hearing Officer's costs shall be assessed by the Commission against the other party/licensee/permittee in accordance with T.C.A § 57-1-213.

(3) Whenever it is necessary to determine the actual and reasonable costs associated with the contested case, the TABC director, assistant director or staff attorney shall file a sworn affidavit with the Administrative Law Judge or TABC Hearing Officer setting forth an itemized statement of the services rendered, including, but not limited to, the costs associated with the Secretary of State Administrative Procedures Division for docketing, filing, judges and other costs, cost for all depositions, court reporters and transcriptions, costs incurred and assessed for the time of the prosecuting attorneys, investigators, expert witnesses, administrative law judges, TABC hearing officer and such other persons involved in the investigation, prosecution and hearing of the contested case as well as the time rendered for each service. The TABC director, assistant director or staff attorney shall make a suggestion of the fee

to be awarded along with such other statement(s) of other pertinent facts including but not limited to that required by Tenn. Sup. Ct. R. 8, RPC 1.5, applicable case law, and such other information as may be requested by the Administrative Law Judge or TABC Hearing Officer. The Administrative Law Judge or TABC Hearing Officer shall then award the actual and reasonable costs associated with the contested case based on the then prevailing rate imposed by the Secretary of State Administrative Procedures Division and the actual costs for all depositions, court reporters, transcriptions and such other persons, (including prosecutors, investigators, and expert witnesses) involved in the investigation, prosecution and hearing of the contested case.

(4) Unless otherwise agreed by the parties, at the beginning of all contested case hearings, Commission counsel shall provide a summary of what the case is about, and introduce into evidence the application and/or Tennessee Alcoholic Beverage Commission license/permit. In no event shall this provision mean that the Commission is a neutral party in contested cases, or that its counsel represents the interests of any party other than the Tennessee Alcoholic Beverage Commission.

(5) In all cases, whether heard by an Administrative Judge or properly designated TABC Hearing Officer sitting alone, or by the full Commission, the party petitioning for such hearing shall present its case first, unless the parties agree otherwise.

Authority: T.C.A. §§ 4-5-202, 4-5-310, 4-5-314, 57-1-102, 57-1-213, 57-3-214, 57-4-201(a)(4)

Administrative History: Original rule filed; effective

0100-04-.03 COMMISSION REVIEW OF INITIAL ORDERS.

(1) An Initial Order issued by an Administrative Law Judge or TABC Hearing Officer, sitting alone, may be reviewed by the Commission pursuant to T.C.A §§ 4-5-301, et seq., these Rules, and the Rules of the Secretary of State Chapter 1360-04-01. The Commission may, in its discretion, decline to exercise any review of an Initial Order issued by an Administrative Law Judge or TABC Hearing Officer, in which event the Initial Order issued by an Administrative Law Judge or TABC Hearing Officer shall become a Final Order as provided by the Uniform Administrative Procedures Act.

(2) In such a review proceeding, the Commission's review is strictly limited to the record which was developed before the Administrative Law Judge or TABC Hearing Officer. No additional evidence is to be received or considered by the Commission.

(3) Such a review proceeding is in the nature of appellate review. Each party will be given the opportunity to file a brief which should specify what action the party maintains the Commission should take on the Initial Order. The Commission may place reasonable page limitations on such briefs to be determined on a case by case basis depending on the number and complexity of the issues to be reviewed.

(4) In such a review proceeding, each party will normally be limited to oral argument of fifteen (15) minutes in length, including rebuttal.

(5) At the conclusion of the review proceeding the Agency may decide that the Initial Order should be adopted in its entirety, or it may make such modifications to the Initial Order as it deems appropriate. Alternatively, the Agency may take the case under advisement, and subsequently reconvene, after reasonable notice to the parties, to hold its public deliberations and to render a Final Order.

Authority: T.C.A. §§ 4-5-202, 4-5-217, 4-5-310, 4-5-314, 57-1-102

Administrative History: Original rule filed; effective.

0100-04-.04 DECLARATORY ORDERS.

(1) Any affected person may petition the Commission for a declaratory order, as provided in T.C.A. § 4-5-223, as to the interpretation, validity, or applicability of a statute or rule within the primary jurisdiction of the Commission. Such petition shall be filed with the Commission in duplicate, and must specifically identify the statute or rule at issue, and the nature of the ruling sought.

(2) A petition for declaratory order is viewed as primarily involving questions of law and statutory or rule interpretation. The parties should strive to limit the amount of evidence presented, and to stipulate the facts to the fullest extent possible.

(3) In the event the petition for declaratory order arises out of the Commission's action on a specific project or issue, the petition for declaratory order shall be filed within thirty (30) days of the date of the Commission meeting at which the action at issue was taken.

(4) No person may file a petition for declaratory order as to any action or issue which is the subject of a pending or completed contested case proceeding involving the same person.

Authority: T.C.A. §§ 4-5-202, 4-5-217, 4-5-223, 57-1-102

Administrative History:

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Mary McDaniel					<i>Mary McDaniel</i>
John Jones					<i>John a Jones</i>
Bryan Kaegi					<i>Bryan Kaegi</i>

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Alcoholic Beverage Commission on 07/22/14, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 1/04/20013 2013 FKB

Rulemaking Hearing(s) Conducted on: (add more dates) 02/27/2013

Date: 9-23-14

Signature: *S. Keith Bell*

Name of Officer: Keith Bell

Title of Officer: Director of Alcoholic Beverage Commission



Subscribed and sworn to before me on: 9/23/14

Notary Public Signature: *Joyce B. Cathey*

My commission expires on: 7/6/15

All rulemaking hearing 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.

RE Cooper Jr
 Robert E. Cooper, Jr.
 Attorney General and Reporter
9-30-14
 Date

Department of State Use Only

RECEIVED
 2014 OCT 14 PM 2:24
 CLERK OF STATE
 SECRETARY OF STATE

Filed with the Department of State on: 10/14/15

Effective on: 1/12/15
Tre Hargett

Tre Hargett
 Secretary of State

G.O.C. STAFF RULE ABSTRACT

AGENCY: Alcoholic Beverage Commission

SUBJECT: Direct Shipment of Wine by Out of State Entities

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 57-3-217(f)

EFFECTIVE DATE: January 12, 2015 through June 30, 2015

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: The rule specifies the documents and information that direct shippers must include in an application for a direct shipper's license, specifies the due date for the taxes on sales, and informs all applicants of the potential penalties for any violations of state law or the rules.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Copy of response to comments is included with filing.

Responses to Comments

The commission received public hearing comments on this rule as summarized, with commission response below.

Comment: Bill Hubbard, attorney representing Tennessee Farm Winegrowers Association (TFWA), argued that Proposed Rules 0100-10-.01(k) and 0100-10-.01(o), as specified in the Notice of Rulemaking Hearing and as specified below, be deleted due to a lack of statutory authority for such rules. The relevant proposed Rules were as follows:

(k) Acknowledge, in writing, that direct shippers may only ship wine to an address that is located in a jurisdiction that has authorized the sale of alcoholic beverages by local option referendum pursuant to Tenn. Code Ann. § 57-3-106.

(o) Acknowledge, in writing, that applicant/direct shipper does not have any direct or indirect interest in any business holding a manufacturer, distiller, wholesaler, retailer, winery, or liquor-by-the-drink license issued by the Tennessee Alcoholic Beverage Commission.

Agency Response: The commission agreed with Bill Harper that pursuant to the 2011 amendment to TCA 57-3-217(d)(2), Proposed Rule 0100-10-.01(k) should be removed from the proposed rule, and the commission agreed with Bill Harper that pursuant to TCA 57-3-217(a), Proposed Rule 0100-10-.01(o) should be removed from the proposed rule. As such, both Proposed Rule 0100-10-.01(k) and Proposed Rule 0100-10-.01(o) were stricken from the record, and the Proposed Rule 0100-10-.01 was renumbered accordingly.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The rules are not anticipated to have an impact on local governments.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 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.

Exemptions from requirements of T.C.A. § 4-5-401, et seq.: T.C.A. §4-5-404 states that § 4-5-401, et seq. "shall not apply to rules that are adopted on an emergency basis under part 2 of this chapter, that are federally mandated, or that substantially codify existing state or federal law."

New Rule 100-10-.02 substantially codifies T.C.A. §57-3-217(e)(1) and (2), and, therefore, the rule is exempt from the requirements of T.C.A. § 4-5-401, et seq.

New Rule 100-10-.03(a) substantially codifies T.C.A. §57-1-213, and, therefore, the rule is exempt from the requirements of T.C.A. § 4-5-401, et seq.

New Rule 100-10-.03(b) substantially codifies T.C.A. §57-3-217(e)(6), and, therefore, the rule is exempt from the requirements of T.C.A. § 4-5-401, et seq.

New Rule 100-10-.03(c) substantially codifies T.C.A. §57-3-217(g), and, therefore, the rule is exempt from the requirements of T.C.A. § 4-5-401, et seq.

Economic Impact Statement for Proposed Rule 100-10-.01

1. The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule:

Any small business that applies for or receives licensure as a direct shipper would be affected by the proposed rule. Generally, such licensure authorizes the licensee to make sales and delivery of wine by common carrier to the citizens of this state over the age of 21 who have purchased the wine directly from the direct shipper.

2. The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

The projected administrative costs of small businesses with complying with the proposed rule is minimal as the majority of the licensure requirements require the submission of copies of fillings, documents, or permits already filed with or received from other states or agencies; the filling out of a questionnaire, the acknowledgement of various state law requirements, and compliance with state law regarding citizenship.

3. A statement of the probable effect on impacted small businesses and consumers:

The proposed rule was drafted to facilitate the licensure of direct shippers, to clarify the licensure requirements of applicant direct shippers, and to educate applicants of the state law requirements regarding direct shipper licenses.

4. A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business:

The licensure requirements of the proposed rule are necessary to ensure that applicants for a direct shipper license comply with all state law requirements (including the requirements of T.C.A. §§ 57-3-217 and 4-58-103), and there are no less burdensome, intrusive, or costly alternative methods to ensure that such requirements are met.

5. A comparison of the proposed rule with any federal or state counterparts:

The licensure requirements for a direct shipper license pursuant to T.C.A. § 57-3-217 and these proposed rules is comparable to, and not significantly more or less burdensome than, other licensure requirements of the commission or of other state agencies.

6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule:

An exemption of small businesses would create a disparate and unfair impact on the persons and entities licensed by the commission and would negatively impact the duties and responsibilities of the commission.

5

**Department of State
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 10-09-14
Rule ID(s): 5816
File Date: 10/14/14
Effective Date: 1/12/15

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

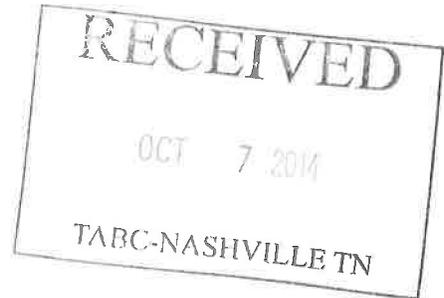
Agency/Board/Commission:	Tennessee Alcoholic Beverage Commission
Division:	
Contact Person:	E. Keith Bell
Address:	Davy Crockett Tower; 500 James Robertson Parkway, 3rd Floor; Nashville, TN 37243
Phone:	615.741.1602
Email:	Keith.Bell@TN.GOV

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
0100-10	Direct Shipment of Wine Into Tennessee by Out of State Entities
Rule Number	Rule Title
0100-10-.01	Applications for Direct Shipper
0100-10-.02	Taxes (When Due)
0100-10-.03	Enforcement of Rules



New Rule

**CHAPTER 0100-10
DIRECT SHIPMENT OF WINE**

TABLE OF CONTENTS

0100-10-.01 Applications for Direct Shipper
0100-10-.02 Taxes (When Due)
0100-10-.03 Enforcement of Rules

0100-10-.01 APPLICATIONS FOR DIRECT SHIPPER.

An application for a direct shipper's license shall be made on forms provided for such purpose by the Commission. In addition to completing and filing such forms, an applicant shall pay a NON-REFUNDABLE application fee of \$300 and an annual license fee of \$150, additionally, the application is to be FILLED OUT COMPLETELY, SIGNED BY THE APPROPRIATE PRINCIPAL, MANAGER, OWNER OR AGENT, NOTARIZED and mailed with proper payment to the Nashville, Tennessee headquarters of the TABC. The applicant shall also provide the Commission with the following information:

- (1) Proof, and a copy, of a federal basic permit pursuant to the Federal Alcohol Administration Act (27 U.S.C. § 201 et seq.).
- (2) Proof that entity making application for direct shipper's license is in the business of manufacturing, bottling or rectifying wine. (Direct shipper's license is not available to wholesalers and/or retailers and/or similar types of "middlemen").
- (3) If the applicant is not a sole proprietor, evidence of the legal form in which the business is to be operated, i.e. Corporation, LLC, LP, etc..
- (4) Evidence and copies of business filings (organizational documents) in applicant's home state, i.e. if a corporation, a copy of the corporate charter, and if an LLC, a copy of the certificate of formation, etc.
- (5) Evidence of applicant's business registration with Tennessee Secretary of State, i.e. registration of foreign name.
- (6) Sworn and notarized execution of applicant's consent to jurisdiction and venue for all actions brought before the Tennessee Alcoholic Beverage Commission, any Tennessee state agency or any courts of the state of Tennessee, such that any and all hearings, appeals and other matters relating to the direct shipper's license of the applicant shall be held in the state of Tennessee.
- (7) Acknowledgment, in writing, that applicant will contract only with common carriers that agree that any delivery of wine made in the state of Tennessee shall be by face-to-face delivery and that deliveries will only be made to individuals who demonstrate themselves to be twenty-one (21) years of age or older, and which said individual shall sign upon receipt of such wine. Copies of all applicant's common carrier contracts are required to be provided to the TABC. Additionally, if a shipping service is used, include the contract between Applicant and the shipping service and a copy of the contract between the shipping service and the common carrier, e.g. Fed Ex/UPS.
- (8) A copy of Applicant's Certificate of Registration for Sales & Use Tax and a copy of the Wholesale Gallonage Tax Letter, issued by the Tennessee Department of Revenue.
- (9) List of Applicant's authorized trade names (these are not required if you have a current Non-Resident Seller's permit issued by the TABC).
- (10) A copy of Applicant's Non-Resident Seller's permit, if one has been issued by the TABC.
- (11) Acknowledgment, in writing, that as a direct shipper not more than a total of nine (9) liters of wine may be shipped to any individual during any calendar month nor more than twenty-seven (27) liters of wine may be shipped to any individual in any calendar year.

- (12) Acknowledgement, in writing, that any shipment of wine by a licensed direct shipper shall be made only in containers which clearly indicate on the exterior of the container, visible to a person at least three feet (3') away, that the container "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY".
- (13) Acknowledgement, in writing, that licensed direct shippers are responsible for remitting all sales taxes due to the State of Tennessee resulting from any sales made pursuant to the Tennessee direct shipper license.
- (14) Acknowledgement, in writing, that licensed direct shippers are responsible for remitting gallonage taxes as imposed by Tenn. Code Ann. § 57-3-302.
- (15) Acknowledgement, in writing, that licensed direct shippers shall provide to the Commission or its designated agent, upon request and under penalty of perjury, a list of any wine shipped to any address within the state of Tennessee, including the addressee.
- (16) Completed questionnaires from each owner, partner or officer.
- (17) Compliance with P.C. 1061, the "SAVE Act", Declaration of Citizenship.

Authority: T.C.A. § 57-3-217

Administrative History: Original rule filed; effective

0100-10-.02 TAXES (WHEN DUE)

The taxes levied on sales made by a direct shipper as authorized by T.C.A. § 57-3-217 and these TABC Rules shall become due and payable on the first day of each month following the month during which the sales occur, and shall become delinquent if not paid on or before the twentieth day of each such following month. For the purpose of ascertaining the amount of tax due, it is the duty of any direct shipper licensed pursuant to this section to transmit to the commissioner of revenue appropriate returns on forms prescribed by the commissioner.

Authority: § 57-3-217

Administrative History: Original rule filed; effective

0100-10-.03 ENFORCEMENT OF RULES

- (1) The TABC may enforce the requirements of T.C.A. § 57-3-217 and these TABC Rules by administrative action, may suspend or revoke a direct shipper's license and may accept an offer in compromise in lieu of suspension.
- (2) A direct shipper that is found to have violated this title, in addition to any fine imposed by the commission, shall reimburse the commission for all costs incurred in connection with the investigation and administrative action, including the out-of-pocket costs and reasonable personnel costs.
- (3) No direct shipper may avoid liability under this section by subcontracting with a third party to perform its obligations required pursuant to this section.
- (4) It is an offense for a person who does not possess a direct shipper's license to ship wine to residents of this state and a violation of this TABC Rule and T.C.A. § 57-3-217 (g)(1) is a Class E felony, punishable by a fine only.

Authority: T.C.A. § 57-3-217

Administrative History: Original rule filed; effective

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Mary McDaniel					<i>Mary McDaniel</i>
John Jones					<i>John a Jones</i>
Bryan Kaegi					<i>Bryan Kaegi</i>

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Alcoholic Beverage Commission on 07/22/14, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 1/04/2004³ 2013^{EXB}

Rulemaking Hearing(s) Conducted on: (add more dates). 02/27/2013

Date: 9-23-14

Signature: *S. Keith Bell*

Name of Officer: Keith Bell

Title of Officer: Director of Alcoholic Beverage Commission



My Commission Expires JULY 6, 2015

Subscribed and sworn to before me on: 9/23/14

Notary Public Signature: *Joyce B. Cathey*

My commission expires on: 7/6/15

All rulemaking hearing 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.

Robert E. Cooper, Jr.
 Robert E. Cooper, Jr.
 Attorney General and Reporter
9-30-14
 Date

Department of State Use Only

RECEIVED
 OCT 14 PM 12:24
 DEPARTMENT OF STATE
 SECRETARY OF STATE

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

Effective on: 1/12/15
Tre Hargett

Tre Hargett
 Secretary of State

G.O.C. STAFF RULE ABSTRACT

AGENCY/BOARD/COMMISSION: Tennessee Commission on Fire Fighting Personnel Standards and Education

SUBJECTS: Performance Standards for Firefighters

STATUTORY AUTHORITY: Tennessee Code Annotated Sections 4-24-107(f), 4-24-203(4) and 4-24-205

EFFECTIVE DATES: January 25, 2015 through June 30, 2015

FISCAL IMPACT: None

STAFF RULE ABSTRACT: This rulemaking updates editions and titles of performance standards for firefighters.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

No public hearing comments (oral or written) were received regarding the rule.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 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.

1. Types and estimated number of small businesses directly affected:

No small businesses will be affected by the rule.

2. Projected reporting, recordkeeping, and other administrative costs:

There is no foreseeable alteration in small business reporting or recordkeeping that will result from the rule.

3. Probable effect on small businesses:

No small businesses will be affected by the rule.

4. Less burdensome, intrusive, or costly alternative methods:

Since the rule will not impact small businesses, a less burdensome, intrusive or costly alternative method has not been identified or recommended for use.

5. Comparison with federal and state counterparts:

There are no federal counterparts to the rule. The State Fire Marshal's Office routinely adopts updated editions of many types of code standards for various professions (building, fire, electrical, fire extinguisher, liquefied petroleum, etc.) through rulemaking.

6. Effect of possible exemption of small businesses:

There are no exemptions for small businesses to the requirements because the rule will not affect small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The rule will likely impact local governments.

7

Department of State
Division of Publications
 312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
 Nashville, TN 37243
 Phone: 615-741-2650
 Email: publications.information@tn.gov

For Department of State Use Only
 Sequence Number: 10-15-14
 Rule ID(s): 5826
 File Date: 10/27/14
 Effective Date: 1/25/15

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Commission on Fire Fighting Personnel Standards and Education
Division:	Department of Commerce and Insurance
Contact Person:	Joseph Underwood
Address:	500 James Robertson Parkway, Davy Crockett Tower 8th Floor, Nashville, TN
Zip:	37243
Phone:	615-741-3899
Email:	Joseph.Underwood@tn.gov

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
0360-06-01	Miscellaneous Certification Standards
Rule Number	Rule Title
0360-06-01-.01	Adoption By Reference

**RULES OF
THE TENNESSEE COMMISSION ON FIRE FIGHTING
PERSONNEL STANDARDS AND EDUCATION**

**CHAPTER 0360-06-01
MISCELLANEOUS CERTIFICATION STANDARDS
TABLE OF CONTENTS**

0360-06-01-.01 Adoption by Reference
0360-06-01-.02 Repealed
0360-06-01-.03 Domestic Violence Training

0360-06-01-.04 Progression
0360-06-01-.05 Reciprocity

0360-06-01-.01 Adoption By Reference

- (1) The Commission adopts by reference the following National Fire Protection Association (NFPA) Standards in their entirety as performance standards unless otherwise provided herein:
- (a) 472 Professional Standard for Competences of Responders to Hazardous Materials/Weapons of Mass Destruction Incidents, 2008 edition 2013 Edition;
 - (b) 1001 Standard for Fire Fighter Professional Qualifications, 2008 edition 2013 Edition;
 - (c) 1002 Standard for Fire Apparatus Driver/Operator Professional Qualifications, 2009 Edition;
 - (d) 1003 Professional Qualifications Standard for Airport Fire Fighters Professional Qualifications, 2010 Edition;
 - (e) 1005 Standard for Professional Qualifications for Marine Fire Fighting for Land-Based Fire Fighters, 2007 edition 2014 Edition;
 - (f) 1006 Standard for Rescue Technicians Technical Rescuer Professional Qualifications, 2008 edition 2013 Edition;
 - (g) 1021 Standard for Fire Officer Professional Qualifications, 2009 Edition;
 - (h) 1031 Standard for Professional Qualifications for Fire Inspector and Plan Examiner, 2009-edition 2014 Edition;
 - (i) 1033 Standard for Professional Qualifications for Fire Investigator, 2009-edition 2014 Edition;
 - (j) 1035 Standard for Professional Qualifications for Public Fire and Life Safety Educator, Public Information Officer, and Juvenile Firesetter Intervention, 2010 Edition;
 - (k) 1041 Standard for Fire Service Instructor Professional Qualifications, 2007-edition 2012 Edition;
 - (l) 1051 Standard for Wildland Firefighter Professional Qualifications, 2007 Edition;
 - (m) 1081 Standard for Industrial Fire Brigade Member Professional Qualifications, 2007-edition 2012 Edition;
 - (n) 1403 Standard on Live Fire Training Evolutions, 2007-edition 2012 Edition;
 - (o) 1500 Standard on Fire Department Occupational Safety and Health Program, 2007-edition 2013 Edition; and
 - (p) 1521 Standard for Fire Department Safety Officer, 2008 Edition.

Authority: T.C.A. §§ 4-24-101, 4-24-106(2), ~~4-24-106(4)~~, 4-24-107, ~~4-24-107(3)~~ and 4-24-110.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Brian Biggs	X				
Frank Cotton				X	
Mark Finucane	X				
Thomas McCormack	X				
Michael Naifeh	X				
Michael Slay	X				
Matthew Sorge	X				
Charles Vance	X				
Gerald Wakefield	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commission on Fire Fighting Personnel Standards and Education (board/commission/ other authority) on 08/07/2014 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 06/16/14

Rulemaking Hearing(s) Conducted on: (add more dates). 08/07/14



Date: 10/1/2014

Signature: [Handwritten Signature]

Name of Officer: Joseph Underwood

Title of Officer: Chief Counsel for Fire Prevention & Law Enforcement

Subscribed and sworn to before me on: October 1, 2014

Notary Public Signature: [Handwritten Signature]

My commission expires on: June 21, 2016

All rulemaking hearing 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.

[Handwritten Signature]
 Herbert H. Slatery III
 Attorney General and Reporter
10/23/2014
 Date

Department of State Use Only

Filed with the Department of State on: 10/27/14

Effective on: 11/25/15

[Handwritten Signature]
 Tre Hargett
 Secretary of State

2014 OCT 27 PM 3:56
 SECRETARY OF STATE

G.O.C. STAFF RULE ABSTRACT

AGENCY: Private Probation Services Council

SUBJECTS: Expedited Process for Registration with Council for Certain Applicants

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 4-3-1304

EFFECTIVE DATES: January 27, 2015 through June 30, 2015

FISCAL IMPACT: None

STAFF RULE ABSTRACT: The rule provides a process for expedited registration for applicants who are certain military service members or spouses of military service members as required by Tennessee Code Annotated, Section 4-3-1304(d)-(f).

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 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.

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule;

The proposed rule is a registration process that will apply to all individual or sole proprietor registration applicants equally, if the individual applicants meet the requirements. Therefore, businesses will not have any costs associated with this rule.

(2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

There are no projected reporting, recordkeeping, or administrative costs for small businesses associated with this rule.

(3) A statement of the probable effect on impacted small businesses and consumers;

This rule has no projected impact on small businesses or consumers.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business;

The rule will ease the burden of applying for a license or registration for those applicants who meet the requirements. There are no less burdensome, intrusive, or costly methods to achieve the purpose of the rule.

(5) A comparison of the proposed rule with any federal or state counterparts; and

There are no federal counterparts to this rule. Public Chapter 122 requires all regulatory boards to adopt rules expediting licenses for military applicants and applicants with spouses in the military. The Boards are adopting rules substantially similar to this proposed rule.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

This rule does not require small businesses to change their operations. Therefore, there is no need for an exemption.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed rules have no projected impact on local governments

**Department of State
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: _____
Rule ID(s): _____
File Date: _____
Effective Date: _____

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 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 ninety (90) days of 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.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Private Probation Services Council
Division:	Department of Commerce and Insurance, Regulatory Boards Division
Contact Person:	Ellery Richardson
Address:	Office of Legal Counsel 500 James Robertson Parkway Davy Crockett Tower, 5 th Floor Nashville, TN 37243
Zip:	37243
Phone:	615-741-8689
Email:	Ellery.richardson@tn.gov

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
1177-01	Tennessee Private Probation Services Council Application, Registration, and Fee Requirements
Rule Number	Rule Title
1177-01-.03	Registration with Council

Substance of Proposed Rules
Chapter 1177-01
Tennessee Private Probation Services Council
Application, Registration, and Fee Requirements

Amendments

Rule 1177-01-.03 [Registration with Council] is amended by adding new paragraphs (5) and (6) so that, as

amended, the rule shall read as follows:

1177-01-.03 – Registration with Council

- (1) No private entity may provide probation services in this state unless it has registered with and is approved by the Council. Every private entity proposing to provide probation services in this state shall submit an application on a form provided by the Council. The application must include all information and documents required by the Council, and must be truthful, accurate and complete. The applying entity must:
 - (a) Demonstrate the reasonable ability of the entity to furnish continuous probation service in compliance with applicable statutes, rules and uniform contract requirements;
 - (b) Describe the extent of services to be rendered by the entity;
 - (c) Demonstrate that staff qualifications meet or exceed applicable statutory and rule requirements;
 - (d) Submit sworn criminal record reports on each employee of, or volunteer for, the entity;
 - (e) Submit written policies and procedures for staff training;
 - (f) Submit proof of insurance and performance bond as required by applicable statutes and rules;
 - (g) Describe staffing levels and provide written standards of supervision, including frequency and type of contacts with probationers;
 - (h) Submit written procedures for handling court-ordered fines, fees, restitution, and community service;
 - (i) Submit a written policy for handling indigent offenders;
 - (j) Submit written procedures and policies to follow to obtain evidence to present to the court to revoke an offender's probation;
 - (k) Describe reporting and record keeping procedures;
 - (l) Describe default and contract termination procedures;
 - (m) Describe procedures for the transfer of supervision of probationers from the entity to another private entity or to a public probation provider;
 - (n) Submit a schedule of the range of all probation fees and charges paid by probationers supervised by the entity, and a listing of all probation fees and charges paid by probationers outside the range;
 - (o) Provide names of employees who will supervise probationers, describe their credentials and their position with the entity.
- (2) The application fee shall be one hundred dollars (\$100.00) which must be submitted at the time of initial application and is not refundable. The renewal fee shall be one hundred dollars (\$100.00).
- (3) Upon approval, the registration fee with the Council shall be one hundred dollars (\$100.00). The private entity shall pay an additional registration fee of one hundred dollars (\$100.00) for each second or subsequent judicial district in which it provides probation supervision in Tennessee.
- (4) The registration shall list all branch offices on the registration. The registrant shall submit the addresses of all branch offices to the Council that open or close within thirty (30) days of the event.

| (5)

- (a) If an applicant for registration is a sole proprietor meeting the qualifications of T.C.A. § 4-3-1304(d), who was registered to provide private probation services in another state but fails to meet some of the requirements for registration in Tennessee, then the Council may issue a temporary permit for a period of six (6) months authorizing the applicant to provide private probation services in this state in order for the applicant to meet the requirements for registration in Tennessee.
- (b) Upon expiration of a temporary permit, a new temporary permit may be issued upon the filing of a new application. However, a second or subsequent permit may not be issued to the same individual except for good cause shown.
- (c) Issuance of a temporary permit is solely at the discretion of the Council. No such permit will be issued to any person who the Council determines could not reasonably meet the requirements for registration in Tennessee within the period of the temporary permit.
- (d) The application fee for a temporary permit shall be one hundred dollars (\$100.00), which is not refundable and must be submitted at the time of the application for the temporary permit. An applicant shall not be required to pay a new application fee for any application for a temporary permit or application for registration within one hundred and eighty (180) days of the expiration of a temporary permit issued by the Council.
- (e) Upon approval, the temporary permit fee shall be fifty dollars (\$50.00). The applicant shall pay an additional temporary permit fee of fifty dollars (\$50.00) for each second or subsequent judicial district in which it provides probation supervision in Tennessee.
- (f) The holder of a temporary permit shall comply with all laws and rules regarding the provision of private probation services in Tennessee. This includes, but is not limited to, complying with the reporting requirements of rule 1177-01-.05 and payment of the quarterly provider fee pursuant to rule 1177-01-.08.
- (g) The Council may suspend or revoke a previously-issued temporary permit if a registration to provide private probation services in another state is suspended, revoked, denied, becomes invalid, or is not renewed at any time while an individual holds a temporary permit.
- (6) If an applicant for registration is a sole proprietor meeting the qualifications of T.C.A. § 4-3-1304(d), who was registered to provide private probation services in another state and substantially meets all requirements for registration in Tennessee, then the Council may issue a registration after receipt of a completed application, payment of all fees, and any other proof the Council may require to show that the applicant substantially meets all requirements for registration in Tennessee.

Authority: T.C.A. §§ 4-3-1304(d), 4-3-1304(e), 4-3-1304(f), 16-3-903, 16-3-909, and 16-3-910.

* 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)
Judge J. Klyne Lauderback	X				
Judge John Hudson	X				
Judge Hugh Harvey	X				
Dena McCollough	X				
Stancil Ford	X				
Veronica Thornton	X				
Judge Chris Craft				X	

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Private Probation Services Council on 06/06/14, and is in compliance with the provisions of T.C.A. § 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 ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 10-9-14

Signature: Ellery Richardson

Name of Officer: Ellery Richardson

Assistant General Counsel,

Title of Officer: Department of Commerce and Insurance



Subscribed and sworn to before me on: 10/9/14

Notary Public Signature: Margaret Williams

My commission expires on: 11/6/17

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.

Herbert H. Stately III
 Herbert H. Stately III
 Attorney General and Reporter

October 16, 2014

Date

Department of State Use Only

Filed with the Department of State on: 10-29-14

Effective on: 1-27-15

Tre Hargett

Tre Hargett
 Secretary of State

RECEIVED
 2014 OCT 29 PM 2:44
 SECRETARY OF STATE

G.O.C. STAFF RULE ABSTRACT

AGENCY: Tennessee Commission for Firefighting Personnel Standards and Education

SUBJECT: Firefighting Personnel Standards and Education

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 4-27-107(3)

EFFECTIVE DATE: January 25, 2015 through June 30, 2015

FISCAL IMPACT: None

STAFF RULE ABSTRACT: According to the Commission, the primary objective of the rule is to offer additional certifications to expand the level of firefighter professionalism, and to streamline the payment procedures for the Firefighter Educational salary supplement.

The rule makes various technical changes to the existing rule concerning such subjects as submission of documents to the Commission's office, defining the new classifications being added to the program, certification of training and education programs, deletes unnecessary and redundant rule sections, examination requirements for the new firefighter classifications, and education incentive pay.

Public Hearing Comments

A public comment was made by Deputy Chief David Dillingham of the Jackson Fire Department regarding Rule 0360-07-01-.05 and whether implementation of videoconference training for members of their department will be affected by the amendment of this rule. The Commission responded that this type of training will still be permitted; however, the new rule will require a minimum of ten questions or one question per hour depending on the length of the course.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 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 rules are not expected to affect small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The rule may have an impact on local governments.

60

Department of State
Division of Publications
312 Rosa L. Parks Avenue, 8th Floor Snodgrass FN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence
Number: 10-14-14
Rule ID(s): 5817-5825
File Date: 10/27/14
Effective Date: 1/25/15

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Tennessee Commission for Firefighting Personnel Standards and Education
Division: Division of Fire Prevention, Department of Commerce and Insurance
Contact Person: Joseph Underwood
Address: 500 James Robertson Parkway
Zip: 37243
Phone: (615) 741-3899
Email: Joseph.Underwood@tn.gov

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
0360-01-01	General
Rule Number	Rule Title
0360-01-01-01	Address

Chapter Number	Chapter Title
0360-01-02	Definitions
Rule Number	Rule Title
0360-01-02-01	Definitions

Chapter Number	Chapter Title
0360-02-01	Certification of Training and Education Programs
Rule Number	Rule Title

0360-02-01-.01	Local Fire Departments
0360-02-01-.02	Vocational Schools and Institutions of Higher Education
0360-02-01-.03	Special Courses and Programs
0360-02-01-.04	Reserved
0360-02-01-.05	Minimum Training

Chapter Number	Chapter Title
0360-02-02	Instructor Certification
Rule Number	Rule Title
0360-02-02-.01	Repealed
0360-02-02-.02	Repealed
0360-02-02-.03	Repealed
0360-02-02-.04	Repealed
0360-02-02-.06	Vocational School and Higher Education Instructor

Chapter Number	Chapter Title
0360-03-01	Classifications for Full-Time and Volunteer Fire Fighters
Rule Number	Rule Title
0360-03-01-.01	Reserved
0360-03-01-.02	Fire Fighter I
0360-03-01-.03	Fire Fighter II
0360-03-01-.04	Fire Fighter I/II Combined
0360-03-01-.05	Fire Department Instructor I
0360-03-01-.06	Fire Department Instructor II
0360-03-01-.07	Fire Department Instructor I/II Combined
0360-03-01-.08	Fire Department Instructor III
0360-03-01-.09	Fire Officer I
0360-03-01-.10	Fire Officer II
0360-03-01-.11	Fire Officer I/II Combined
0360-03-01-.12	Fire Officer III
0360-03-01-.13	Fire Officer IV
0360-03-01-.14	Hazardous Materials Awareness Certification
0360-03-01-.15	Hazardous Materials Operations Certification
0360-03-01-.16	Airport Firefighter
0360-03-01-.17	Wildland Firefighter I
0360-03-01-.18	Wildland Firefighter II
0360-03-01-.19	Fire and Life Safety Educator I
0360-03-01-.20	Fire and Life Safety Educator II
0360-03-01-.21	Fire Safety Compliance Officer I
0360-03-01-.22	Fire Safety Compliance Officer II
0360-03-01-.23	Fire Apparatus Operator
0360-03-01-.24	Pumper Driver/Operator
0360-03-01-.25	Aerial Apparatus Driver/Operator
0360-03-01-.26	Safety Officer
0360-03-01-.27	Incident Safety Officer I
0360-03-01-.28	Health & Safety Officer I
0360-03-01-.29	Reserved
0360-03-01-.30	Technical Rescuer
0360-03-01-.31	Rope Rescuer
0360-03-01-.32	Confined Space Rescuer
0360-03-01-.33	Trench Rescuer
0360-03-01-.34	Structural Collapse Rescuer

0360-03-01-.35	Vehicle Rescuer
0360-03-01-.36	Surface Water Rescuer
0360-03-01-.37	Swiftwater Rescuer I
0360-03-01-.38	Swiftwater Rescuer II
0360-03-01-.39	Dive Rescuer
0360-03-01-.40	Ice Rescuer
0360-03-01-.41	Surf Rescuer
0360-03-01-.42	Wilderness Rescuer
0360-03-01-.43	Mine and Tunnel Rescuer
0360-03-01-.44	Cave Rescuer
0360-03-01-.45	Machinery Rescuer
0360-03-01-.46	Exterior Industrial Fire Brigade Member
0360-03-01-.47	Interior Structural Fire Brigade Member
0360-03-01-.48	Fire Inspector I
0360-03-01-.49	Fire Investigator I

Chapter Number	Chapter Title
0360-04-01	Examinations
Rule Number	Rule Title
0360-04-01-.01	General
0360-04-01-.02	Applications
0360-04-01-.03	Character of Examinations
0360-04-01-.04	Grading
0360-04-01-.05	Retesting
0360-04-01-.06	Examination Form
0360-04-01-.07	Reserved
0360-04-01-.08	Written Examinations
0360-04-01-.09	Practical Examinations

Chapter Number	Chapter Title
0360-05-01	Revocation of Certification
Rule Number	Rule Title
0360-05-01-.02	Separation from Active Fire Service

Chapter Number	Chapter Title
0360-06-01	Miscellaneous Certification Standards
Rule Number	Rule Title
0360-06-01-.04	Progression
0360-06-01-.05	Reciprocity

Chapter Number	Chapter Title
0360-07-01	Educational Pay Incentive
Rule Number	Rule Title
0360-07-01-.01	Minimum Employment Standards-Definitions
0360-07-01-.02	Firefighter- Definition
0360-07-01-.03	Reserved
0360-07-01-.04	Entry-Level Personnel
0360-07-01-.05	Requirements for In-Service Training Programs
0360-07-01-.06	Payment Procedures
0360-07-01-.07	Waiver

0360-07-01-.08	Audit
0360-07-01-.09	Disciplinary matters
0360-07-01-.10	Prosecution of False Claims for Educational Incentive Pay
0360-07-01-.11	Reserved
0360-07-01-.12	Reserved
0360-07-01-.13	Reserved
0360-07-01-.14	Reserved
0360-07-01-.15	Reserved
0360-07-01-.16	Reserved
0360-07-01-.17	Reserved
0360-07-01-.18	Reserved

**RULES
OF
THE TENNESSEE COMMISSION ON FIRE FIGHTING
PERSONNEL STANDARDS AND EDUCATION**

**CHAPTER 0360-01-01
GENERAL**

TABLE OF CONTENTS

0360-01-01-.01 Address
0360-01-01-.02 Meetings

0360-01-01-.03 Mission Statement
0360-01-01-.04 Appeals Process

0360-01-01-.01 ADDRESS. Whenever some document is required to be submitted to or filed with the Commission, mailing by first class mail to the ~~office of the~~ Commission ~~office in Nashville, Tennessee~~ shall suffice.

Authority: T.C.A. § 4-24-107.

**RULES
OF
THE TENNESSEE COMMISSION ON FIRE FIGHTING
PERSONNEL STANDARDS AND EDUCATION**

**CHAPTER 0360-01-02
DEFINITIONS**

TABLE OF CONTENTS

0360-01-02-.01 Definitions

0360-01-02-.01 DEFINITIONS.

- (1) "Closed examination" shall mean an examination which is administered to the firefighters of a single fire department.
- (2)(+) **"Commission" shall mean the Tennessee Commission on Fire Fighting Personnel Standards and Education. "Commission" may also refer to a person designated by the Commission for a particular purpose.**
- (3) "Commission office" shall mean the office of the Director and staff of the Tennessee Commission on Fire Fighting Personnel Standards and Education. "Commission office" may also refer to persons defined as "Commission Representatives."
- (4) "Commission Representative" shall mean a person authorized by the Commission to act on its behalf. This may include, but is not limited to, the Commission director, Commission coordinators, and field representatives.
- (5) "A Non Fire Fighter Recruit" shall mean an individual who is not a member of a participating fire department, but seeks training pursuant to T. C. A. § 4-24-107(7).
- (6) "TC" shall mean the Training Committee composed of a minimum of three (3) members with equal representation from the Department officers and employees.
- (7) "Trainee" shall mean a member of a department who is engaged in learning the craft of Fire Fighter II.
- (5)(2) **"Department" shall mean the agency that provides fire protection service to a district and agrees to abide by standards adopted by the Commission. a department of a municipality, county, or political subdivision, or an organization, agency, or entity that offers its services, for or without pay, for the purpose of suppressing fires, performing rescue services, or for other emergency response purposes. Excluded from this definition are law enforcement agencies, emergency medical agencies licensed by the Tennessee emergency medical services board, and rescue squads that do not provide fire protection.**
- (6) "Firefighter" shall mean any person hired or accepted as a full-time, part-time or volunteer firefighter, by a department recognized under the Fire Department Recognition Act, T.C.A. § 68-102-301, et seq., and who has satisfied the minimum training requirements of T.C.A. § 4-24-112.
- (7)(3) **"IFSAC" shall mean the International Fire Service Accreditation Congress.**
- (8)(4) **"NFPA" shall mean the National Fire Protection Association.**

(9) "Performance examination" shall mean a skill evaluation used to assess a candidate's ability to perform a particular job performance requirement, requisite skill, or objective of a standard for the purpose of certification.

(10) "Pro Board" shall mean the National Board on Fire Service Professional Qualifications.

(11) "Training Coordinator" shall mean a person at the department who acts as a point of contact for receipt of Commission-related information.

(12) "Written examination" shall mean an assessment administered on paper or on a computer that is used to measure a candidate's knowledge of a particular job performance requirement, requisite knowledge, or objective of a standard for the purpose of certification.

Authority: T.C.A §§ 4-24-101 and 4-24-107 ~~4-24-107(3)~~.

**RULES
OF
THE TENNESSEE COMMISSION ON FIRE FIGHTING
PERSONNEL STANDARDS AND EDUCATION**

**CHAPTER 0360-02-01
CERTIFICATION OF TRAINING AND EDUCATION PROGRAMS**

TABLE OF CONTENTS

0360-02-01-.01	Local Fire Departments	0360-02-01-.03	Special Courses and Programs
0360-02-01-.02	Vocational Schools and Institutions of Higher Education	0360-02-01-.04	Repealed Reserved
		0360-02-01-.05	Minimum Training

0360-02-01-.01 LOCAL FIRE DEPARTMENTS.

- (1) ~~Fire Departments recognized under the Fire Department Recognition Act, T.C.A. § 68-102-301 et seq. may participate~~ participating in any eligible the Commission programs will be approved by the Commission upon receipt of a properly signed application in a form provided by the Commission. Recognition shall be deemed participation in Firefighting programs.
- (2) Any firefighter who is a member of a recognized department is automatically eligible for any Commission program for which he or she has satisfied the prerequisites.
- ~~(2) The fire department must commit that its training programs meet or exceed the standards set forth in these rules and regulations.~~
- ~~(3) All phases of the department training programs must meet or exceed the performance standards set forth in these rules and regulations.~~
- ~~(4) Each participating fire department must have at least one person with an interim or permanent instructor certification.~~
- (3)~~(5)~~ If a course or program has not been properly submitted and certified by the Commission, persons completing such course or program will not receive credit from the Commission for having taken the course or program.

Authority: T.C.A. §§ 4-24-106 and 4-24-107.

0360-02-01-.02 VOCATIONAL SCHOOLS AND INSTITUTIONS OF HIGHER EDUCATION.

- (1) If an institution wishes to have its courses certified, it must submit written descriptions of said courses to the Commission for consideration. All courses in fire training leading to certification must meet or exceed the applicable NFPA standard(s) and be consistent with the rules and regulations of the Commission.
- (2) In order to receive course approval certification, the course content must be submitted, in writing, to the Commission at least ~~thirty (30)~~ sixty (60) days prior to consideration by the Commission. The submission must include specific citations to the portions of the NFPA standard(s) that correlate with the course content.

~~(3) Courses in fire training must meet or exceed the applicable NFPA standard(s), include correlation to those standards, and be consistent with the rules and regulations of the Commission.~~

~~(3)(4)~~ Advanced courses and seminars in fire service, fire engineering or other advanced fire related training must be submitted to the Commission in sufficient detail to show adequacy of course content on the subject.

~~(5)(4)~~ Any institution desiring to have a program (consisting of one or more courses or seminars) certified approved must:

(a) submit a detailed description of the program at least ~~thirty (30)~~ sixty (60) days prior to consideration by the Commission; and

(b) have each course or seminar certified by the Commission as set forth above; ~~and~~

~~(c) show that at least 80% of the advanced courses and seminars set forth in 0360-02-01-.04 are included in the subject matter of proposed certified programs.~~

~~(5)(6)~~ If a course or program has been properly submitted and certified by the Commission, persons completing such course or program will be given credit toward individual certification. Completion of unapproved courses or programs will not result in such credit.

Authority: T.C.A. §§ 4-24-101, 4-24-106, ~~4-24-106(2)~~, 4-24-107 and ~~4-24-107(3)~~.

0360-02-01-.03 SPECIAL COURSES AND PROGRAMS.

(1) Any entity or organization not otherwise covered by these rules and regulations which offers special courses, programs, or seminars in fire related subjects may request approval of such offerings. Approval will be considered, giving due weight to course content and qualifications of instructors.

(2) When coursework is submitted toward a level of certification, a correlation sheet showing how the coursework meets the appropriate NFPA standard must be attached. Coursework cannot substitute for the practical examination for levels of certification accredited by IFSAC or any other national fire service accreditation body.

Authority: T.C.A. §§ 4-24-101, 4-24-106, ~~4-24-106(2)~~, 4-24-107 and ~~4-24-107(3)~~.

0360-02-01-.04 ~~REPEALED.~~ RESERVED.

Authority: T.C.A. §§ 4-24-101, 4-24-106, 4-24-106(2), 4-24-107 and 4-24-107(3).

0360-02-01-.05 MINIMUM TRAINING.

(1) (a) In order for the Commission to determine if a training is equivalent to a required training offered by the Tennessee Fire Service and Codes Enforcement Academy, ~~a fire department~~ all training programs seeking such determination of equivalency must submit:

1. an outline of the training to be used; and either

2. a correlation of the program to the applicable NFPA standards; and/or

3. a correlation of the program to the class offered by the Tennessee Fire Service and Codes Enforcement Academy.

~~(b) A Commission-approved recruit training program shall be considered equivalent to the training courses offered by the Tennessee Fire Service and Codes Enforcement Academy.~~

(b) A fire department may use a previously approved training program on file with the Commission on approval of the Commission as long as the program meets or exceeds the current Commission-adopted NFPA standard and is approved by the Commission.

(2) To sit for certification testing, each individual Each Fire Department must submit proof of completion of each requirement for each fire fighter to the Commission. This requirement can be met by submitting: documentation of proof of completion of the prerequisites for the appropriate level of certification.

~~(a) a copy of the fire fighter's certificate of completion issued by the Tennessee Fire Service and Codes Enforcement Academy; or~~

~~(b) a letter certifying completion of the requirement on departmental letterhead and signed by the instructor and the fire chief.~~

(a) An applicant must have satisfied the requirements of T.C.A. § 4-24-112 to challenge a certification test.

(b) Certificates of course completion do not constitute certification.

(c) Certification as Fire Fighter I shall be considered proof of a fire fighter's completion of a minimum sixteen (16) hours of initial training and basic and live fire training requirement.

Authority: T.C.A. §§ 4-24-101, 4-24-107(3) and 4-24-112.

**RULES
OF
THE TENNESSEE COMMISSION ON FIRE FIGHTING
PERSONNEL STANDARDS AND EDUCATION**

**CHAPTER 0360-02-02
INSTRUCTOR CERTIFICATION**

TABLE OF CONTENTS

0360-02-02-01	Repealed Interim Fire Department Instructor	0360-02-02-04	Repealed Fire Department Instructor-III
0360-02-02-02	Repealed Fire Department Instructor-I	0360-02-02-05	Repealed
0360-02-02-03	Repealed Fire Department Instructor-II	0360-02-02-06	Vocational School and Higher Education Instructor

0360-02-02-01 REPEALED INTERIM FIRE DEPARTMENT INSTRUCTOR.

- ~~(1) — An individual from a participating fire department may apply to be classified by the Commission as an Interim Instructor. This Interim Instructor classification shall be valid for a period of three (3) years and cannot be renewed.~~
- ~~(2) — Qualifications. To qualify for Interim Instructor classification, an applicant must show to the satisfaction of the Commission that he/she:
 - ~~(a) — is a member of a participating fire department; and~~
 - ~~(b) — is recommended in writing by the TC, approved by a majority vote; and~~
 - ~~(c) — has served for a minimum period of three (3) years as a fire fighter in a department; and~~
 - ~~(d) — presently has, or will have full or part time training responsibilities in the department; and~~
 - ~~(e) — agrees to conduct training and examinations, maintain records, and submit reports as prescribed by the Commission.~~~~
- ~~(3) — The applicant must take the Journeyman Fire Fighter/Fire Fighter II examination within twelve (12) months of receiving his/her Interim Instructor Classification, and if unsuccessful, take it at least two (2) times each calendar year until a passing score is achieved, or if he/she so chooses, he/she may start at the Fire Fighter I level but must progress through the Journeyman Fire Fighter/Fire Fighter II level within a period of three (3) years.~~

Authority: T.C.A. §§ 4-24-106 and 4-24-107.

0360-02-02-02 REPEALED FIRE DEPARTMENT INSTRUCTOR I.

- ~~(1) — Qualifications. An applicant for Instructor I may be certified by the Commission provided the applicant can meet the following requirements and show to the satisfaction of the Commission that he/she:
 - ~~(a) — is a member of the participating fire department; and~~
 - ~~(b) — is recommended in writing by the TC, approved by a majority vote; and~~~~

- ~~(c) — is certified as a Journeyman Fire Fighter/Fire Fighter II pursuant to Rule 0360-03-01-.03; and~~
- ~~(d) — has served for a minimum period of three (3) years as a fire fighter in a department; and~~
- ~~(e) — has satisfactorily passed the examination(s) given by the Commission; and~~
- ~~(f) — agrees to conduct training and examinations, maintain records, and submit reports in a manner prescribed by the Commission.~~

Authority: T.C.A. §§ 4-24-106 and 4-24-107.

0360-02-02-.03 REPEALED FIRE DEPARTMENT INSTRUCTOR II.

- ~~(1) — Qualifications. An applicant for Instructor II may be certified by the Commission provided the applicant can meet the following requirements and show to the satisfaction of the Commission that he/she:~~
 - ~~(a) — is recommended in writing by the TC, approved by a majority vote; and~~
 - ~~(b) — has successfully completed all of the requirements of the Instructor I as prescribed in these rules and regulations; and~~
 - ~~(c) — has satisfactorily passed the examination(s) given by the Commission; and~~
 - ~~(d) — agrees to conduct training and examinations, maintain records, and submit reports as prescribed by the Commission.~~

Authority: T.C.A. §§ 4-24-101, 4-24-106, 4-24-106(1), 4-24-107 and 4-24-107(3).

0360-02-02-.04 REPEALED FIRE DEPARTMENT INSTRUCTOR III.

- ~~(1) — Qualifications. An applicant for Instructor III may be certified by the Commission provided the applicant can meet the following requirements and show to the satisfaction of the Commission that he/she:~~
 - ~~(a) — is recommended in writing by the TC, approved by a majority vote; and~~
 - ~~(b) — has successfully completed all of the requirements of Instructor II as prescribed in these rules and regulations; and~~
 - ~~(c) — satisfactorily passed the examination(s) given by the Commission; and~~
 - ~~(d) — agrees to conduct training and examination(s), maintain records, and submit reports as prescribed by the Commission.~~

Authority: T.C.A. §§ 4-24-101, 4-24-106, 4-24-106(1), 4-24-107 and 4-24-107(3).

0360-02-02-.05 REPEALED.

Authority: T.C.A. §§ 4-24-106 and 4-24-107.

0360-02-02-.06 VOCATIONAL SCHOOL AND HIGHER EDUCATION INSTRUCTOR.

- (1) An applicant may be certified by the Commission as an instructor in a vocational school or institution of higher education, provided he/she can show to the satisfaction of the Commission that he/she has a sufficient combination of education and experience to qualify him/her to teach the subject matter. In the alternative, the applicant can qualify for certification by passing the Fire Department Instructor I examination or the equivalent credentials appropriate for the vocational school or institution of higher education.
- ~~(2) The applicant agrees to conduct training and examinations, maintain records, and submit reports as prescribed by the Commission.~~
- (2)(3) The applicant provides information sufficient for the Commission to determine that applicant will utilize ~~their~~ his/her certification at a specialized vocational school or institution of higher learning.
- ~~(4) The certification shall list the names of the Commission approved courses that may be taught.~~
- ~~(5) This certification expires three (3) years from the date it was issued, but may be renewed.~~

Authority: T.C.A. §§ 4-24-101, 4-24-106, ~~4-24-106(1)~~, 4-24-107 and ~~4-24-107(3)~~.

**RULES
OF
THE TENNESSEE COMMISSION ON FIRE FIGHTING
PERSONNEL STANDARDS AND EDUCATION**

**CHAPTER 0360-03-01
CLASSIFICATIONS FOR FULL-TIME AND VOLUNTEER FIRE FIGHTERS**

TABLE OF CONTENTS

0360-03-01-.01	Recruit Fire Fighter Reserved		
0360-03-01-.02	Fire Fighter I		
0360-03-01-.03	Fire Fighter II		
0360-03-01-.04	Repealed Fire Fighter I/II Combined	0360-03-01-.27	Aerial Apparatus Driver/Operator Incident
		Safety Officer I	
0360-03-01-.05	Fire Department Instructor I	0360-03-01-.28	Safety Officer Health & Safety Officer I
0360-03-01-.06	Fire Department Instructor II	0360-03-01-.29	Vehicle and Machinery Rescue Reserved
0360-03-01-.07	Fire Department Instructor III- Fire Department	0360-03-01-.30	Exterior Industrial Fire Brigade Member
Instructor I/II Combined		Technical Rescuer	
		0360-03-01-.31	Interior Structural Fire Brigade Member
		Rope Rescuer	
0360-03-01-.08	Repealed Fire Department Instructor III	0360-03-01-.32	Non Fire Fighter Recruit Confined Space
0360-03-01-.09	Fire Officer I	Rescuer	
		0360-03-01-.33	Trench Rescuer
0360-03-01-.10	Fire Officer II	0360-03-01-.34	Structural Collapse Rescuer
0360-03-01-.11	Fire Officer III Fire Officer I/II Combined	0360-03-01-.35	Vehicle Rescue
0360-03-01-.12	Fire Officer IV Fire Officer III	0360-03-01-.36	Surface Water Rescuer
0360-03-01-.13	Repealed Fire Officer IV	0360-03-01-.37	Swiftwater Rescuer I
0360-03-01-.14	Repealed Hazardous Materials Awareness	0306-03-01-.38	Swiftwater Rescuer II
Certification		0306-03-01-.39	Dive Rescuer
0360-03-01-.15	Repealed Hazardous Materials Operations	0360-03-01-.40	Ice Rescuer
Certification			
0360-03-01-.16	Hazardous Materials Awareness Airport	0360-03-01-.41	Surf Rescuer
Firefighter		0360-03-01-.42	Wilderness Rescuer
0360-03-01-.17	Hazardous Materials Operations Wildland		
Firefighter I		0360-03-01-.43	Mine and Tunnel Rescuer
0360-03-01-.18	Airport Firefighter Wildland Firefighter II	0360-03-01-.44	Cave Rescuer
0360-03-01-.19	Wildland Firefighter I Fire and Life Safety	0360-03-01-.45	Machinery Rescuer
Educator I		0360-03-01-.46	Exterior Industrial Fire Brigade Member
0360-03-01-.20	Wildland Firefighter II Fire and Life Safety	0360-03-01-.47	Interior Structural Fire Brigade Member
Educator II		0360-03-01-.48	Fire Inspector I
0360-03-01-.21	Fire and Life Safety Educator I Fire Safety	0360-03-01-.49	Fire Investigator I
Compliance Officer I			
0360-03-01-.22	Fire and Life Safety Educator II Fire Safety		
Compliance Officer II			
0360-03-01-.23	Fire Safety Compliance Officer I Fire		
Apparatus Operator			
0360-03-01-.24	Fire Safety Compliance Officer II Pumper		
Driver/Operator			
0360-03-01-.25	Fire Apparatus Operator Aerial Apparatus		
Driver/Operator			
0360-03-01-.26	Pumper Driver/Operator Safety Officer		

~~0360-03-01-.01 RECRUIT FIRE FIGHTER-RESERVED.~~

- ~~(1) A Recruit Fire Fighter is an individual recruited by a participating fire department after the date such department enters into the Commission's programs.~~
- ~~(2) A Recruit Fire Fighter shall serve a probationary period to demonstrate the willingness and ability to perform the duties demanded of a fire fighter at fires and other scenes of emergency, as well as the willingness and ability to perform the routine duties in the station and elsewhere as assigned. The length of the probationary period shall be determined by the local department.~~

- ~~(3) A Recruit Fire Fighter shall serve at least twelve (12) months in this classification or complete two hundred forty (240) hours of formal entry level training correlated to NFPA 472 and 1001 and containing a minimum of two (2) hours training in the area of investigating sudden unexpected infant death which has the prior approval of the Commission before qualifying to become a Fire Fighter I.~~

Authority: T.C.A. §§ 4-24-101, 4-24-106, 4-24-106(4), 4-24-107, 4-24-107(3) and 68-1-1102.

0360-03-01-.02 FIRE FIGHTER I.

- ~~(1) A Fire Fighter I must successfully complete all of the requirements of Recruit Fire Fighter or Non Fire Fighter Recruit as prescribed in these rules.~~
- ~~(1)(2) A Fire Fighter I must meet the entrance requirements of NFPA 472, NFPA 1001, and T.C.A. § 4-24-112.~~
- ~~(3) A Fire Fighter I must satisfactorily complete Hazardous Materials Awareness and Hazardous Materials Operations as prescribed in these rules.~~
- ~~(4) A Fire Fighter I must successfully complete a minimum sixteen (16) hours of initial training and basic and live fire training developed by the Tennessee Fire Service and Codes Enforcement Academy, or an equivalent course approved by the Commission.~~
- ~~(2)(5) A Fire Fighter I must satisfactorily pass the examination(s) for Fire Fighter I as promulgated by the Commission.~~
- ~~(3)(6) A Fire Fighter I must successfully obtain CPR certification through an entity recognized by the Commission. A copy of the CPR card must be attached to the "Application for Written Examination."~~
- ~~(4)(7) A Fire Fighter I must successfully complete a Commission approved domestic violence course, a minimum of two (2) hours in length, within the previous three (3) years of the written test date.~~
- ~~(5)(8) A Fire Fighter I must submit proof with their his/her application of successfully completing NIMS IS-700: An Introduction and ICS-100: Introduction to ICS training or the equivalent of each.~~
- ~~(9)(6) A Fire Fighter I shall serve at least twelve (12) months in the classification before qualifying to become a Fire Fighter II. However, an An individual having previously been cCertified by the Commission as a Fire Fighter II at a recognized level and whose cCertifications are current but wishes to re-challenge the Fire Fighter I and Fire Fighter II levels a level in order to obtain an IFSAC Seal on their his/her cCertifications does not have to wait twelve (12) months before attempting to re-qualify as Fire Fighter II at that level.~~

Authority: T.C.A. §§ 4-24-101, 4-24-106, ~~4-24-106(4)~~, 4-24-107, ~~4-24-107(3)~~ and 4-24-111.

0360-03-01-.03 FIRE FIGHTER II.

- (1) A Fire Fighter II must successfully complete all of the requirements of Fire Fighter I as prescribed in these rules.
- (2) A Fire Fighter II must satisfactorily pass the examination(s) for Fire Fighter II as promulgated by the Commission.

- (3) A Fire Fighter II must successfully obtain CPR certification through an entity recognized by the Commission. A copy of the CPR card must be attached to the "Application for Written Examination."
- (4) A Fire Fighter II must successfully complete a Commission-approved domestic violence course, a minimum of two (2) hours in length, within the previous three (3) years of the written test date.
- (5) A Fire Fighter II ~~must shall~~ submit proof with ~~their~~ his/her application of successfully completing NIMS IS-700: An Introduction, ICS-100: Introduction to ICS training, and ICS-200: ICS for Single Resources and Initial Action Incidents training or the equivalent of each. A fire fighter who has been certified by the Commission as a Fire Fighter I need not show proof of completing NIMS IS-700: An Introduction and ICS-100: Introduction to ICS training or the equivalent to each.

Authority: T.C.A. §§ 4-24-101, 4-24-106, ~~4-24-106(4)~~, 4-24-107, ~~4-24-107(3)~~ and 4-24-111.

0360-03-01-.04 ~~REPEALED, FIRE FIGHTER I/II COMBINED.~~

- (1) A Fire Fighter I/II Combined must meet the entrance requirements of NFPA 472, NFPA 1001, and T.C.A. § 4-24-112.
- (2) A Fire Fighter I/II Combined must satisfactorily pass the examination(s) for Fire Fighter I/II Combined as promulgated by the Commission.
- (3) A Fire Fighter I/II Combined must successfully obtain CPR certification through an entity recognized by the Commission. A copy of the CPR card must be attached to the "Application for Written Examination."
- (4) A Fire Fighter I/II Combined must successfully complete a Commission-approved domestic violence course, a minimum of two (2) hours in length, within the previous three (3) years of the written test date.
- (5) A Fire Fighter I/II Combined must submit proof with his/her application of successfully completing NIMS IS-700: An Introduction, ICS-100: Introduction to ICS training, and ICS-200: ICS for Single Resources and Initial Action Incidents training or the equivalent of each
- (6) A Fire Fighter I/II Combined must successfully complete a Commission-approved Fire Fighter I/II Combined course of training.

Authority: T.C.A. §§ 4-24-101, 4-24-106, 4-24-107, and 4-24-111.

0360-03-01-.05 FIRE DEPARTMENT INSTRUCTOR I. ~~A fire department instructor I must successfully complete all of the requirements set forth in Rule 0360-02-02-.02, and be certified by the Commission.~~

- (1) Qualifications. An applicant for Fire Department Instructor I may be certified by the Commission provided the applicant can meet the following requirements and show to the satisfaction of the Commission that he/she:
 - (a) is a member of the participating department; and
 - (b) is certified as a Journeyman Fire Fighter or Fire Fighter II pursuant to Rule 0360-03-01-.03; and
 - (c) has served for a minimum period of three (3) years as a fire fighter in a department; and

(d) has satisfactorily passed the examination(s) for Fire Department Instructor I given by the Commission; and

(e) agrees to conduct training and examinations, maintain records, and submit reports in a manner prescribed by the Commission.

Authority: T.C.A. §§ 4-24-106 and 4-24-107.

0360-03-01-.06 FIRE DEPARTMENT INSTRUCTOR II. ~~A Fire Department Instructor II must successfully complete all of the requirements set forth in Rule 0360-02-02-.03, and be certified by the Commission.~~

(1) Qualifications. An applicant for Fire Department Instructor II may be certified by the Commission provided the applicant can meet the following requirements and show to the satisfaction of the Commission that he/she:

(a) has successfully completed all of the requirements of the Fire Department Instructor I as prescribed in these rules and regulations; and

(b) has satisfactorily passed the examination(s) for Fire Department Instructor II given by the Commission; and

(c) agrees to conduct training and examinations, maintain records, and submit reports as prescribed by the Commission.

Authority: T.C.A. §§ ~~4-24-101~~, 4-24-106, ~~and~~ 4-24-107.

0360-03-01-.07 FIRE DEPARTMENT INSTRUCTOR III I/II COMBINED. ~~A Fire Department Instructor III must successfully complete all of the requirements set forth in Rule 0360-02-02-.04, and be certified by the Commission.~~

(1) Qualifications. An applicant for Fire Department Instructor I/II Combined may be certified by the Commission provided the applicant can meet the following requirements and show to the satisfaction of the Commission that he/she:

(a) has successfully completed all of the requirements of the Fire Department Instructor I and Fire Department Instructor II as prescribed in these rules and regulations; and

(b) has satisfactorily passed the examination(s) for Fire Department Instructor I/II Combined given by the Commission; and

(c) agrees to conduct training and examinations, maintain records, and submit reports as prescribed by the Commission.

Authority: T.C.A. §§ ~~4-24-101~~, 4-24-106, ~~and~~ 4-24-107.

0360-03-01-.08 ~~REPEALED-FIRE DEPARTMENT INSTRUCTOR III.~~

(1) Qualifications. An applicant for Fire Department Instructor III may be certified by the Commission provided the applicant can meet the following requirements and show to the satisfaction of the Commission that he/she:

(a) has successfully completed all of the requirements of Fire Department

Instructor II as prescribed in these rules and regulations; and

- (b) satisfactorily passed the examination(s) for Fire Department Instructor III given by the Commission; and
- (c) agrees to conduct training and examination(s), maintain records, and submit reports as prescribed by the Commission.

Authority: T.C.A. §§ 4-24-101, 4-24-106, and 4-24-107.

0360-03-01-.09 FIRE OFFICER I.

- (1) A Fire Officer I must successfully complete all of the requirements of Journeyman Fire Fighter or Fire Fighter II and Fire Department Instructor I as prescribed in these rules and regulations, and by Commission policy.
- (2) A Fire Officer I must satisfactorily pass the examination(s) for Fire Officer I as promulgated by the Commission.
- (3) A Fire Officer I must successfully complete a Commission-approved domestic violence course, a minimum of two (2) hours in length, within the previous three (3) years of the written test date.
- (4) A Fire Officer I who was not certified as a Fire Fighter II or Fire Department Instructor I by the Commission must shall submit proof with their his/her application of successfully completing NIMS IS-700: An Introduction, ICS-100: Introduction to ICS training and ICS-200: ICS for Single Resources and Initial Action Incidents training or the equivalent to each.

Authority: T.C.A. §§ 4-24-101, 4-24-106, ~~4-24-106(4)~~, 4-24-107, ~~4-24-107(3)~~ and 4-24-111.

0360-03-01-.10 FIRE OFFICER II.

- (1) A Fire Officer II must successfully complete all of the requirements of Fire Officer I as prescribed in these rules and regulations, and by Commission policy.
- (2) A Fire Officer II must satisfactorily pass the examination(s) for Fire Officer II as promulgated by the Commission.
- (3) A Fire Officer II must successfully complete a Commission-approved domestic violence course, a minimum of two (2) hours in length, within the previous three (3) years of the written test date.
- (4) A Fire Officer II who was not certified as a Fire Officer I by the Commission must shall submit proof with their his/her application of successfully completing NIMS IS-700: An Introduction, ICS-100: Introduction to ICS training and ICS-200: ICS for Single Resources and Initial Action Incidents training or the equivalent to each.

Authority: T.C.A. §§ 4-24-101, 4-24-106, ~~4-24-106(4)~~, 4-24-107, ~~4-24-107(3)~~ and 4-24-111.

0360-03-01-.11 FIRE OFFICER III I/II COMBINED.

- (1) A Fire Officer I/II Combined must successfully complete all of the requirements of Journeyman Fire Fighter or Fire Fighter II and Fire Department Instructor I as prescribed in these rules and regulations, and by Commission policy.

- (2) A Fire Officer I/II Combined must complete a Commission-approved course of training and satisfactorily pass the examination(s) for Fire Officer I/II Combined as promulgated by the Commission.
- (3) A Fire Officer I/II Combined must successfully complete a Commission-approved domestic violence course, a minimum of two (2) hours in length, within the previous three (3) years of the written test date.
- (4) A Fire Officer I/II Combined who was not certified as a Fire Fighter II or Fire Department Instructor I by the Commission shall submit proof with their application of successfully completing NIMS IS-700: An Introduction, ICS-100: Introduction to ICS training and ICS-200: ICS for Single Resources and Initial Action Incidents training or the equivalent to each."

Authority: T.C.A. §§ 4-24-101, 4-24-106, ~~4-24-106(4)~~, 4-24-107, ~~4-24-107(3)~~ and 4-24-111.

0360-03-01-.14.12 FIRE OFFICER III.

- (1) A Fire Officer III must successfully complete all of the requirements of Fire Officer II as prescribed in these rules and regulations, and by Commission policy.
- (2) A Fire Officer III must satisfactorily pass the examination(s) for Fire Officer III as promulgated by the Commission.
- (3) A Fire Officer III ~~must shall~~ submit proof with ~~their his/her~~ application of successfully completing ~~NIMS IS-700: An Introduction, ICS-100: Introduction to ICS training, ICS-200: ICS for Single Resources and Initial Action Incidents training, ICS-300: Intermediate ICS training and ICS-400: Advanced Incident Command System~~ ICS-300: Intermediate ICS training or its equivalent. A Fire Officer III who was not certified as a Fire Officer II by the Commission shall submit proof with his/her application of successfully completing NIMS IS-700: An Introduction, ICS-100: Introduction to ICS training, ICS-200: ICS for Single Resources and Initial Action Incidents training, and ICS-300: Intermediate ICS training or the equivalent to each

Authority: T.C.A. §§ 4-24-101, 4-24-106, ~~4-24-106(4)~~, 4-24-107 and ~~4-24-107(3)~~.

0360-03-01-.12.13 REPEALED FIRE OFFICER IV.

- (1) A Fire Officer IV must successfully complete all of the requirements of Fire Officer III as prescribed in these rules and regulations, and by Commission policy.
- (2) A Fire Officer IV must satisfactorily pass the examination(s) for Fire Officer IV as promulgated by the Commission.
- (3) A Fire Officer IV ~~must shall~~ submit proof with ~~their his/her~~ application of successfully completing ~~NIMS IS-700: An Introduction, ICS-100: Introduction to ICS training, ICS-200: ICS for Single Resources and Initial Action Incidents training, ICS-300: Intermediate ICS training and ICS-400: Advanced Incident Command System or its equivalent. A Fire Officer IV who was not certified as a Fire Officer III by the Commission shall submit proof with his/her application of successfully completing NIMS IS-700: An Introduction, ICS-100: Introduction to ICS training, ICS-200: ICS for Single Resources and Initial Action Incidents training, ICS-300: Intermediate ICS training, and ICS-400: Advanced Incident Command System~~ or the equivalent to each.

Authority: T.C.A. §§ 4-24-101, 4-24-106, ~~4-24-106(4)~~, 4-24-107 and ~~4-24-107(3)~~.

0360-03-01-.16.14 ~~REPEALED~~. HAZARDOUS MATERIALS AWARENESS CERTIFICATION

- (1) ~~A candidate for Hazardous Materials Awareness certification must successfully complete all of the requirements of Recruit Firefighter as prescribed in these rules and regulations and by Commission policy or complete the hazardous materials portion of a Commission-approved recruit training program.~~
- (1)(2) A candidate for Hazardous Materials Awareness certification must successfully pass the examination(s) for Hazardous Materials Awareness Certification as promulgated by the Commission.

Authority: T.C.A. §§ 4-24-101, 4-24-106, ~~4-24-106(4)~~, 4-24-107 and ~~4-24-107(3)~~.

0360-03-01-.17.15 ~~REPEALED~~. HAZARDOUS MATERIALS OPERATIONS CERTIFICATION.

- (1) A candidate for Hazardous Materials Operations certification must successfully complete all of the requirements of Hazardous Materials Awareness as prescribed in these rules and regulations and by Commission policy or complete the hazardous materials portion of a Commission-approved recruit training program.
- (2) A candidate for Hazardous Materials Operations certification must successfully pass the examination(s) for Hazardous Materials Operations Certification as promulgated by the Commission.
- (3) This level may be taken at the same time as Hazardous Materials Awareness Certification. If the candidate does not successfully pass the examination for Hazardous Materials Awareness Certification, the examination for Hazardous Materials Operations Certification shall not be graded and shall be discarded. Both examinations must be challenged again.

Authority: T.C.A. §§ ~~4-24-101~~, 4-24-106, and 4-24-107.

0360-03-01-.18.16 AIRPORT FIREFIGHTER.

- (1) An Airport Firefighter must successfully complete all of the requirements for Fire Fighter II and Hazardous Materials Operations Certification as prescribed in these rules and regulations and by Commission policy.
- (2) An Airport Firefighter must successfully pass an examination(s) for Airport Firefighter as promulgated by the Commission.

Authority: T.C.A. §§ 4-24-101, 4-24-106(~~4~~), 4-24-107(~~3~~) and 4-24-110.

0360-03-01-.19.17 WILDLAND FIREFIGHTER I.

- (1) A Wildland Firefighter I must successfully complete all of the requirements for Fire Fighter I as prescribed in these rules and regulations and by Commission policy.
- (2) A Wildland Firefighter I must successfully pass the examination(s) for Wildland Firefighter I as promulgated by the Commission.

Authority: T.C.A. §§ 4-24-106 and 4-24-107.

0360-03-01-.20.18 WILDLAND FIREFIGHTER II.

- (1) A Wildland Firefighter II must successfully complete all of the requirements for Wildland Firefighter I as prescribed in these rules and regulations and by Commission policy.
- (2) A Wildland Firefighter II must successfully pass the examination(s) for Wildland Firefighter II as promulgated by the Commission.

Authority: T.C.A. §§ 4-24-106 and 4-24-107.

0360-03-01-.21¹⁹ FIRE AND LIFE SAFETY EDUCATOR I.

- (1) A Fire and Life Safety Educator I must successfully pass the examination(s) for Fire and Life Safety Educator I as promulgated by the Commission.

Authority: T.C.A. §§ 4-24-106 and 4-24-107.

0360-03-01-.22²⁰ FIRE AND LIFE SAFETY EDUCATOR II.

- (1) A Fire and Life Safety Educator II must successfully complete all of the requirements for Fire and Life Safety Educator I as prescribed in these rules and regulations and by Commission policy.
- (2) A Fire and Life Safety Educator II must successfully pass the examination(s) for Fire and Life Safety Educator II as promulgated by the Commission.

Authority: T.C.A. §§ 4-24-106 and 4-24-107.

0360-03-01-.23²¹ FIRE SAFETY COMPLIANCE OFFICER I.

- (1) A Fire Safety Compliance Officer I must successfully complete all of the requirements for Fire Fighter II as prescribed in these rules and regulations or be certified in compliance with T.C.A. § 68-120-113.
- (2) A Fire Safety Compliance Officer I must successfully pass an examination(s) for Fire Safety Compliance Officer I as promulgated by the Commission.
- (3) Certification as a Fire Safety Compliance Officer I does not qualify the individual as a fire prevention and building official under ~~Tenn. Code Ann. T.C.A. §~~ 68-120-113.

Authority: T.C.A. §§ 4-24-101, 4-24-106, ~~4-24-106(4)~~, 4-24-107 and ~~4-24-107(3)~~.

0360-03-01-.24²² FIRE SAFETY COMPLIANCE OFFICER II.

- (1) A Fire Safety Compliance Officer II must successfully complete all of the requirements for Fire Safety Compliance Officer I as prescribed in these rules and regulations and by Commission policy.
- (2) A Fire Safety Compliance Officer II must successfully pass the examination(s) for Fire Safety Compliance Officer II as promulgated by the Commission.
- (3) Certification as a Fire Safety Compliance Officer II does not qualify the individual as a fire prevention and building official under ~~Tenn. Code Ann. T.C.A. §~~ 68-120-113.

Authority: T.C.A. §§ 4-24-101, 4-24-106, ~~4-24-106(4)~~, 4-24-107 and ~~4-24-107(3)~~.

0360-03-01-.25²³ FIRE APPARATUS OPERATOR.

- (1) A Fire Apparatus Operator must successfully complete all of the requirements for Fire Fighter I as prescribed in these rules and regulations and by Commission policy.
- (2) A Fire Apparatus Operator must successfully pass the examination(s) for Fire Apparatus Operator as promulgated by the Commission.

Authority: T.C.A. §§ 4-24-106 and 4-24-107.

0360-03-01-.26²⁴ PUMPER DRIVER/OPERATOR.

- (1) A Pumper Driver/Operator must successfully complete all of the requirements for Fire Fighter I as prescribed in these rules and regulations and by Commission policy.
- (2) A Pumper Driver/Operator must successfully pass the examination(s) for Pumper Driver/Operator as promulgated by the Commission.

Authority: T.C.A. §§ 4-24-106 and 4-24-107.

0360-03-01-.27²⁵ AERIAL APPARATUS DRIVER/OPERATOR.

- (1) An Aerial Apparatus Driver/Operator must successfully complete all of the requirements for Fire Fighter I as prescribed in these rules and regulations and by Commission policy.
- (2) An Aerial Apparatus Driver/Operator must successfully pass the examination(s) for Aerial Apparatus Driver/Operator as promulgated by the Commission.

Authority: T.C.A. §§ 4-24-106 and 4-24-107.

0360-03-01-.28²⁶ SAFETY OFFICER.

- (1) A Safety Officer must successfully complete all of the requirements for Fire Officer I as prescribed in these rules and regulations and by Commission policy.
- (2) A Safety Officer must successfully pass the examination(s) for Safety Officer as promulgated by the Commission.
- (3) Safety Officer will not be available after July 1, 2015 and will be replaced by Incident Safety Officer I.

Authority: T.C.A. §§ 4-24-106 and 4-24-107.

0360-03-01-.27 INCIDENT SAFETY OFFICER I.

- (1) An Incident Safety Officer I must successfully complete a Commission-approved training program compliant with the NFPA 1521, Standard for Fire Department Safety Officer.
- (2) An Incident Safety Officer I must pass the examination(s) for Incident Safety Officer I as promulgated by the Commission.

Authority: T.C.A. §§ 4-24-106 and 4-24-107.

0360-03-01-.28 HEALTH & SAFETY OFFICER I.

- (1) A Health and Safety Officer I must have successfully completed all of the requirements for Fire Officer I as prescribed in these rules and regulations and by Commission policy Fire Officer I.
- (2) A Health and Safety Officer I must successfully complete a Commission-approved training program compliant with the NFPA 1521, Standard for Fire Department Safety Officer.
- (3) A Health and Safety Officer I must pass the examination(s) for Health & Safety Officer I as promulgated by the Commission.

Authority: T.C.A. §§ 4-24-106 and 4-24-107.

0360-03-01-.29 VEHICLE AND MACHINERY RESCUE. RESERVED.

- ~~(1) A Vehicle and Machinery Rescuer must successfully complete a Commission-approved NFPA 1006, Standard for Technical Rescue Professional Qualifications, compliant training program and pass the examination(s) as promulgated by the Commission.~~

~~Authority: T.C.A §§ 4-24-101, 4-24-106(4) and 4-24-107(3).~~

0360-03-01-.30 TECHNICAL RESCUER.

- (1) A Technical Rescuer must successfully complete a Commission-approved training program compliant with the NFPA 1006, Standard for Technical Rescue Professional Qualifications.
- (2) A Technical Rescuer must pass the examination(s) for Technical Rescuer as promulgated by the Commission.

Authority: T.C.A §§ 4-24-101, 4-24-106, and 4-24-107.

0360-03-01-.31 ROPE RESCUER.

- (1) A Rope Rescuer must successfully complete a Commission-approved training program compliant with the NFPA 1006, Standard for Technical Rescue Professional Qualifications.
- (2) A Rope Rescuer must pass the examination(s) for Rope Rescuer as promulgated by the Commission.

Authority: T.C.A §§ 4-24-101, 4-24-106, and 4-24-107.

0360-03-01-.32 NON-FIRE FIGHTER RECRUIT CONFINED SPACE RESCUER.

- ~~(1) A Non Fire Fighter Recruit shall complete a minimum of two hundred forty (240) hours of formal entry level training correlated to NFPA 472 and 1001 and containing a minimum of two (2) hours training in the area of investigating sudden unexpected infant death which has the prior approval of the Commission before qualifying to become a Fire Fighter I.~~
- (1) A Confined Space Rescuer must successfully complete a Commission-approved training program compliant with the NFPA 1006, Standard for Technical Rescue Professional Qualifications.
- (2) A Confined Space Rescuer must pass the examination(s) for Confined Space Rescuer as promulgated by the Commission.

Authority: T.C.A §§ 4-24-101, 4-24-106(4) and 4-24-107(3) AND 68-1-1102.

0360-03-01-.33 TRENCH RESCUER.

- (1) A Trench Rescuer must successfully complete a Commission-approved training program compliant with the NFPA 1006, Standard for Technical Rescue Professional Qualifications.
- (2) A Trench Rescuer must pass the examination(s) for Trench Rescuer as promulgated by the Commission.

Authority: T.C.A §§ 4-24-101, 4-24-106, and 4-24-107.

0360-03-01-.34 STRUCTURAL COLLAPSE RESCUER.

- (1) A Structural Collapse Rescuer must successfully complete a Commission-approved training program compliant with the NFPA 1006, Standard for Technical Rescue Professional Qualifications.
- (2) A Structural Collapse Rescuer must pass the examination(s) for Structural Collapse Rescuer as promulgated by the Commission.

Authority: T.C.A §§ 4-24-101, 4-24-106, and 4-24-107.

0360-03-01-.35 VEHICLE RESCUER.

- (1) A Vehicle Rescuer must successfully complete a Commission-approved training program compliant with the NFPA 1006, Standard for Technical Rescue Professional Qualifications.
- (2) A Vehicle Rescuer must pass the examination(s) for Vehicle Rescuer as promulgated by the Commission.

Authority: T.C.A §§ 4-24-101, 4-24-106, and 4-24-107.

0360-03-01-.36 SURFACE WATER RESCUER.

- (1) A Surface Water Rescuer must successfully complete a Commission-approved training program compliant with the NFPA 1006, Standard for Technical Rescue Professional Qualifications.
- (2) A Surface Water Rescuer must pass the examination(s) for Surface Water Rescuer as promulgated by the Commission.

Authority: T.C.A §§ 4-24-101, 4-24-106, and 4-24-107.

0360-03-01-.37 SWIFTWATER RESCUER I.

- (1) A Swiftwater Rescuer I must successfully complete a Commission-approved training program compliant with the NFPA 1006, Standard for Technical Rescue Professional Qualifications.
- (2) A Swiftwater Rescuer I must pass the examination(s) for Swiftwater Rescuer I as promulgated by the Commission.

Authority: T.C.A §§ 4-24-101, 4-24-106, and 4-24-107.

0360-03-01-.38 SWIFTWATER RESCUER II

- (1) A Swiftwater Rescuer II must successfully complete a Commission-approved training program compliant with the NFPA 1006, Standard for Technical Rescue Professional Qualifications.
- (2) A Swiftwater Rescuer II must pass the examination(s) for Swiftwater Rescuer II as promulgated by the Commission.

Authority: T.C.A §§4-24-101, 4-24-106, and 4-24-107.

0360-03-01-.39 DIVE RESCUER.

- (1) A Dive Rescuer must successfully complete a Commission-approved training program compliant with the NFPA 1006, Standard for Technical Rescue Professional Qualifications.
- (2) A Dive Rescuer must pass the examination(s) for Dive Rescuer as promulgated by the Commission.

Authority: T.C.A §§ 4-24-101, 4-24-106, and 4-24-107.

0360-03-01-.40 ICE RESCUER.

- (1) An Ice Rescuer must successfully complete a Commission-approved training program compliant with the NFPA 1006, Standard for Technical Rescue Professional Qualifications.
- (2) An Ice Rescuer must pass the examination(s) for Ice Rescuer as promulgated by the Commission.

Authority: T.C.A §§ 4-24-101, 4-24-106, and 4-24-107.

0360-03-01-.41 SURF RESCUER.

- (1) A Surf Rescuer must successfully complete a Commission-approved training program compliant with the NFPA 1006, Standard for Technical Rescue Professional Qualifications.
- (2) A Surf Rescuer must pass the examination(s) for Surf Rescuer as promulgated by the Commission.

Authority: T.C.A §§ 4-24-101, 4-24-106, and 4-24-107.

0360-03-01-.42 WILDERNESS RESCUER.

- (1) A Wilderness Rescuer must successfully complete a Commission-approved training program compliant with the NFPA 1006, Standard for Technical Rescue Professional Qualifications.
- (2) A Wilderness Rescuer must pass the examination(s) for Wilderness Rescuer as promulgated by the Commission.

Authority: T.C.A §§ 4-24-101, 4-24-106, and 4-24-107.

0360-03-01-.43 MINE AND TUNNEL RESCUER.

- (1) A Mine and Tunnel Rescuer must successfully complete a Commission-approved training program compliant with the NFPA 1006, Standard for Technical Rescue Professional Qualifications.
- (2) A Mine and Tunnel Rescuer must pass the examination(s) for Mine and Tunnel Rescuer as promulgated by the Commission.

Authority: T.C.A §§ 4-24-101, 4-24-106, and 4-24-107.

0360-03-01-.44 CAVE RESCUER.

- (1) A Cave Rescuer must successfully complete a Commission-approved training program compliant with the NFPA 1006, Standard for Technical Rescue Professional Qualifications.
- (2) A Cave Rescuer must pass the examination(s) for Cave Rescuer as promulgated by the Commission.

Authority: T.C.A §§ 4-24-101, 4-24-106, and 4-24-107.

0360-03-01-.45 MACHINERY RESCUER.

- (1) A Machinery Rescuer must successfully complete a Commission-approved training program compliant with the NFPA 1006, Standard for Technical Rescue Professional Qualifications.
- (2) A Machinery Rescuer must pass the examination(s) for Machinery Rescuer as promulgated by the Commission.

Authority: T.C.A §§ 4-24-101, 4-24-106, and 4-24-107.

0360-03-01-.30.46 EXTERIOR INDUSTRIAL FIRE BRIGADE MEMBER.

- (1) An Exterior Industrial Fire Brigade Member must successfully pass the examination(s) for Exterior Industrial Fire Brigade Member as promulgated by the Commission.

Authority: T.C.A §§ 4-24-101, 4-24-106(4) and 4-24-107(3).

0360-03-01-.31.47 INTERIOR STRUCTURAL FIRE BRIGADE MEMBER.

- (1) An Interior Structural Fire Brigade Member must successfully complete all of the requirements for Exterior Industrial Fire Brigade Member as prescribed in these rules and regulations and by Commission policy.
- (2) An Interior Structural Fire Brigade Member must successfully pass the examination(s) for Interior Structural Fire Brigade Member as promulgated by the Commission.

Authority: T.C.A §§ 4-24-101, 4-24-106(4) and 4-24-107(3).

0360-03-01-.48 FIRE INSPECTOR I.

- (1) A Fire Inspector I must have successfully completed all of the requirements for Hazardous Materials Awareness Certification.
- (2) A Fire Inspector I must successfully complete all of the requirements for Fire Inspector I as prescribed in NFPA 1031 and Commission rules, regulations and policy.

- (3) A Fire Inspector I must complete a Commission-approved training course and successfully pass the examination(s) for Fire Inspector I as promulgated by the Commission.

Authority: T.C.A §§ 4-24-101, 4-24-106, and 4-24-107.

0360-03-01-.49 FIRE INVESTIGATOR I.

- (1) A Fire Investigator I must successfully complete all of the requirements for Fire Investigator I as prescribed in NFPA 921, NFPA 1033, and Commission rules, regulations and policy.
- (2) A Fire Investigator I must complete a Commission-approved training course and successfully pass the examination(s) for Fire Investigator I as promulgated by the Commission.

Authority: T.C.A §§ 4-24-101, 4-24-106, and 4-24-107.

**RULES
OF
THE TENNESSEE COMMISSION ON FIRE FIGHTING
PERSONNEL STANDARDS AND EDUCATION**

**CHAPTER 0360-04-01
EXAMINATIONS**

TABLE OF CONTENTS

0360-04-01-.01	General	0360-04-01-.06	Examination Form
0360-04-01-.02	Applications	0360-04-01-.07	Repealed <u>Reserved</u>
0360-04-01-.03	Character of Examinations	0360-04-01-.08	Written Examinations
0360-04-01-.04	Grading	0360-04-01-.09	Practical Examinations
0360-04-01-.05	Retesting		

0360-04-01-.01 GENERAL.

- (1) All training, practicals and examinations will be based on the performance standards for the appropriate progression level as set forth in these rules and regulations and meet or exceed all applicable NFPA standards, including NFPA 1500. All tests will be given at a location reasonably proximate to local departments in an effort to make it as convenient as possible for applicants.
- (2) Generally, Commission representatives are prohibited from testing personnel from their affiliated department. However, Commission representatives may test personnel from their affiliated department only in a regional test setting and if a majority of the applicants come from other departments.
- (2 ~~3~~) An applicant must be at least eighteen (18) years of age in order to take ~~an~~ a certification examination.
- (~~3~~ 4) Applicants must present a valid ~~state or federally government-~~issued photo identification card prior to being admitted to any examination.
- (~~4~~) ~~Field Representatives may only test personnel from their own fire department in a regional test setting if a majority of the applicants come from other departments. In all other circumstances, Field Representatives are prohibited from testing personnel from their own fire department.~~
- (5) Commission members and Field Commission Representatives who wish to challenge a Commission-administered practical or written examination shall do so only under the proctoring of ~~the Director~~ a Commission-approved person who shall create an examination that is used only once.
- (6) Any individual found cheating on a Commission examination will be prohibited from participating in the Certification program for a period of two (2) years and will be required to restart the certification level upon the expiration of the two (2) years. An individual found cheating a second time will be barred from participating in the Certification program.
- (7) Applicants who do not successfully complete all examinations for a level of certification within one (1) year of the date they first challenge that level of certification's written examination will be required to successfully complete another practical/performance examination for that level of certification prior to retaking the written examination. Individuals called to active military duty shall have the time for which their practical examinations are valid towards a written examination be extended for the amount of time the applicant was on active military duty. Furthermore, if the applicant is on active military duty for a period greater than six (6) months,

the clock will restart on the time allowed for the practical examinations to be valid; the applicant will have one (1) year to complete that level of certification. A letter from the Fire Chief or Training Officer certifying this leave must accompany the application for written examination. If the Commission has adopted a new standard, the applicant will be required to complete a new practical/performance examination which complies with the latest standard adopted by the Commission.

- (8) An applicant may request accommodation for a disability in taking a written examination offered by the Commission. The request for accommodation must be made on the form provided by the Commission and submitted ~~in advance of the examination to the Director along with the test application~~. Any documentation regarding an applicant's disability and his/her need for accommodation in testing will be considered strictly confidential.

Authority: T.C.A. §§ 4-24-101, 4-24-106(2), and 4-24-107. ~~4-24-107(3)~~.

0360-04-01-.02 APPLICATIONS.

- (1) Any department electing to host an examination shall contact the Commission office or its representative to schedule an examination date. At the time of the examination, each individual ~~fire fighter applicant~~ must have a completed application ~~signed by him/her certified by the TC with original signatures~~. ~~The application will be that provided by the Commission upon entering into the Certification Program. All testing must be requested by the Fire Chief or the Training Officer of the department and will not be considered when requested by individual members of the fire department. submitted with appropriate documentation of necessary prerequisites.~~
- (a) Applications must be received by the Commission a minimum of two (2) weeks before any anticipated examination date. The "Application for Examination" form must be completed in its entirety with original signatures.
- (b) ~~The department and the Field Representative~~ Commission office will schedule the examination date. ~~based upon requested examinations.~~
- (c) This test date shall be open to other applicants unless a specific reason exists to have a closed examination. Approval of the Director must be obtained in order to have a closed examination.
- (d) The Field Commission Representative will administer the examination on the examination date. At the end of the examination, the Field Commission Representative will collect all examinations testing materials and answer sheets and send them to the Commission for grading.
- ~~(2) In the event a fire fighter is a member of a fire department which is not participating in the certification program and said fire fighter desires to apply for certification, he/she may attend an approved recruit training academy or identify a sponsoring department for the purpose of meeting application requirements, and the following provisions would apply:~~
- ~~(a) The sponsoring fire department must accept the responsibility to sponsor the applicant, and provide proof of same to the Commission.~~
- ~~(b) The applicant will meet the performance requirements of the sponsoring fire department, which shall be the authority having jurisdiction where applicable.~~
- ~~(3) The Tennessee Fire Service and Codes Academy shall only sponsor fire fighters who are from a fire department that is not enrolled in the Commission's program.~~

~~(4) The Tennessee Fire Service and Codes Academy may complete and submit applications for Commission testing on behalf of, and with the approval of, departments who have students enrolled in classes where Commission testing is desired.~~

Authority: T.C.A. §§ 4-24-101, 4-24-106~~(2)~~, and 4-24-107. ~~4-24-107(3)~~

0360-04-01-.03 CHARACTER OF EXAMINATIONS.

- (1) Written - shall include a written demonstration of each applicant's knowledge and skill in the progression level tested.
 - (a) The Commission shall validate written examination test banks in the following manner:
 1. A Commission ~~member~~ representative or designee shall chair a committee of fire service personnel certified at or above the level of certification being validated;
 2. The committee will ensure that:
 - (i) each test question is appropriately referenced to the NFPA Standard;
 - (ii) each test question is properly referenced to the reference manual(s) cited by the Commission;
 - (iii) terminology used in the question is appropriate for all manuals cited;
 - (iv) the answer indicated is correct for all manuals cited;
 - (v) the question is job relevant to Tennessee; and
 - (vi) there is only one correct answer.
 3. The Commission shall review and approve the work of the committee.
- (2) Oral - may be used to supplement the written examination to obtain information regarding the abilities of the applicant that are not readily determined in a written examination at a particular progression level.
- (3) Performance - shall include such tests of performance as shall determine the ability, manual skills, and leadership of each applicant to perform the work at the appropriate level.

Authority: T.C.A. §§ 4-24-101, 4-24-106~~(2)~~, and 4-24-107. ~~4-24-107(3)~~

0360-04-01-.04 GRADING.

- (1) Written - The Commission will prepare a list with the correct answer to each question. ~~The executive director~~ Commission office personnel will be responsible for the actual grading of each examination. The passing grade shall be seventy percent (70%) of the total point value of the examination. Any questions concerning the examination or grading thereof must be resolved by the Commission.
 - (a) Disputes over the validity of any test question(s) on the Commission's written examinations must be submitted to the Commission, in writing, local Training Committee. ~~The Training Committee, upon determination that the challenge is justified, shall forward, in writing, the dispute and proper documentation (International Fire Service Training Association (IFSTA) Referencing)~~ with the proper referencing materials supporting the dispute ~~to the Commission~~ within ~~sixty (60)~~ thirty (30) calendar

days of receipt of the results of the examination. The Commission shall review the dispute and render a decision on the dispute. The decision of the Commission shall be forwarded to the ~~local Training Committee via the Training Officer-~~ individual.

(b) Individuals wanting to review their tests:

1. must submit to the Commission a written request, ~~signed by the Chairman of the Training Committee,~~ within thirty (30) days of receipt of the test score which includes the applicant's name, last four (4) digits of applicant's social security number, phone number and test date;
2. must make an appointment with the Commission Office, for no more than ~~twenty (20)~~ thirty (30) minutes, after submittal of the written request;
3. must score at least ~~sixty (60%)~~ sixty-five (65%) percent on the test; and
4. will ~~not~~ be allowed to take notes when reviewing the test- but may not leave the Commission office with the notes;
5. will be allowed to see the answer sheet; and
6. will be allowed to review the test only one (1) time.

(c) Test scores will not be released over the telephone.

- (2) Oral - The Commission or its designee will conduct the oral examination where applicable. This portion of the examination will be graded on a pass-or-fail basis.
- (3) Performance - The Commission will designate a qualified individual ~~or the TC~~ to conduct the performance examinations. The Commission will require that each examinee perform these activities and grade that performance on a pass-or-fail basis.

- (a) Disputes over the grading/validity of any written practical must be submitted to the ~~Commission local Training Officer. The Training Officer, upon determination that the dispute is justified, shall forward,~~ in writing, ~~the dispute and proper documentation (FSTA Referencing) with the proper referencing materials~~ supporting the dispute ~~to the Commission~~ within ~~sixty (60)~~ thirty (30) calendar days of receipt of the results of the examination. A ~~three (3) member Appeals Committee of the~~ Commission shall review the dispute, determine the merit of the dispute and determine the appropriate corrective action to be taken, if any is needed, within thirty (30) days of receipt of a dispute. The decision of the ~~Appeals Committee~~ Commission shall be forwarded to the ~~local Training Officer-~~ individual.

Authority: T.C.A. §§ 4-24-101, 4-24-106~~(2)~~, and 4-24-107. ~~and 4-24-107(3)~~

0360-04-01-.05 RETESTING. An applicant failing any examination may retake such examination, ~~after 30 days,~~ at the next regularly scheduled examination or any other examination thereafter. An applicant may not retake the exam until at least fifteen (15) days after the initial examination.

Authority: T.C.A. §§ 4-24-106 and 4-24-107.

0360-04-01-.06 EXAMINATION FORM.

- (1) The examination for Fire Fighter I shall consist of a performance and a written examination. The subjects tested will be substantially derived from the Performance Standards for Fire Fighter I as adopted in standards in Chapter 0360-06-01.

- (a) The performance examination requirements for Fire Fighter I shall consist of all of the following:
1. A hands-on performance/practical administered on a regional basis. This practical shall be developed by the Commission based on and meeting the standards in NFPA 1001.
 2. A live fire practical must be completed. One of the following options must be completed:
 - (i) Completion of the Tennessee Fire Service and Codes Enforcement Academy's Firefighter I Live Burn course or Firefighter I and II Live Burn course. A Live Fire Suppression Verification Form must be completed and attached to the "Application for Written Examination."
 - (ii) Completion of the live fire objectives in NFPA 1001 for Fire Fighter I during a live fire training. ALL of the exercises listed on the Live Fire Suppression Verification Sheet for the appropriate level must be completed through the local ~~fire~~ department's training program. A Live Fire Suppression Verification Form must be completed and attached to the "Application for Written Examination." The department must provide the Commission with a minimum of ~~fifteen (15) working~~ **fourteen (14) calendar** days' notice by submitting an Application for Live Fire Training by e-mail, US mail, or fax. A Commission member or staff may witness any live fire exercises conducted by a ~~fire~~ department. This option must be completed during a training exercise; no working fires can be utilized for this option.
- (2) The examination for Fire Fighter II shall consist of a performance and a written examination. The subjects tested will be substantially derived from the Performance Standards for Fire Fighter II as adopted in standards in Chapter 0360-06-01.
- (a) The performance examination requirements for Fire Fighter II shall consist of all the following:
1. A hands-on performance/practical administered on a regional basis. This practical shall be developed by the Commission based on and meeting the standards in NFPA 1001.
 2. A live fire practical must be completed. One of the following options must be completed:
 - (i) Completion of the Tennessee Fire Service and Codes Enforcement Academy's Firefighter II Live Burn course or Firefighter I and II Live Burn course. A Live Fire Suppression Verification Form must be completed and attached to the "Application for Written Examination."
 - (ii) Completion of the live fire objectives in NFPA 1001 for Fire Fighter II during a live fire training. All of the exercises listed on the Live Fire Suppression Verification Sheet for the appropriate level must be completed through the local ~~fire~~ department's training program. A Live Fire Suppression Verification Form must be completed and attached to the "Application for Written Examination." The department must provide the Commission with a minimum of ~~fifteen (15) working~~ **fourteen (14) calendar** days notice by submitting an Application for Live Fire Training by e-mail, US mail, or fax. A Commission member or staff may witness any live fire exercises

conducted by a fire department. This option must be completed during a training exercise; no working fires can be utilized for this option.

(3) The examination for Fire Fighter I/II Combined shall consist of a performance and a written examination. The subjects tested will be substantially derived from the Performance Standards for Fire Fighter I/II Combined as adopted in standards in Chapter 0360-06-01.

(a) The performance examination requirements for Fire Fighter I/II Combined shall consist of all the following:

1. A hands-on performance/practical administered on a regional basis. This practical shall be developed by the Commission based on and meeting the standards in NFPA 1001.

2. A live fire practical must be completed. One of the following options must be completed:

(i) Completion of the Tennessee Fire Service and Codes Enforcement Academy's Firefighter II Live Burn course or Firefighter I and II Live Burn course. A Live Fire Suppression Verification Form must be completed and attached to the "Application for Written Examination."

(ii) Completion of the live fire objectives in NFPA 1001 for Fire Fighter II during a live fire training. All of the exercises listed on the Live Fire Suppression Verification Sheet for the appropriate level must be completed through the local department's training program. A Live Fire Suppression Verification Form must be completed and attached to the "Application for Written Examination." The department must provide the Commission with a minimum of fourteen (14) calendar days' notice by submitting an Application for Live Fire Training by e-mail, US mail, or fax. A Commission member or staff may witness any live fire exercises conducted by a department. This option must be completed during a training exercise; no working fires can be utilized for this option.

(3)(4) The examination for Fire Department Instructor I shall consist of a performance and a written examination. The subjects tested will be substantially derived from the Performance Standards for Fire Department Instructor I as set forth in Chapter 0360-06-01.

(a) Any applicant challenging the Fire Department Instructor I written examination must complete the Fire Department Instructor I Practical Skills Checklist provided by the Commission. This practical is to be graded by an individual certified by the Tennessee Commission on Fire Fighting as either a Fire Department Instructor I or a Vocational and Higher Education Instructor. A completed copy of the checklist must be attached to the "Application for Written Examination."

(4)(5) The examination for Fire Department Instructor II shall consist of a performance and a written examination. The subjects tested will be substantially derived from the Performance Standards for Fire Department Instructor II as set forth in Chapter 0360-06-01.

(a) The performance examination for the Fire Department Instructor II shall consist of completing a lesson plan for the fire service related subject assigned to him/her at random by the Commission. prescribed Fire Department Instructor II workbook meeting the current standard.

(b) After completion of this lesson plan, these materials, the applicant shall return it them to the Commission Office for grading on a pass/fail basis and will be notified of his/her

results in writing. If the applicant is successful, he/she may apply for the written examination through established procedures; should the applicant be unsuccessful, the applicant will be notified of which areas need improvement and the ~~lesson plan~~ workbook will be returned for revision.

~~(6)~~ (6) The examination for Fire Department Instructor I/II Combined shall consist of a performance and a written examination. The subjects tested will be substantially derived from the Performance Standards for Fire Department Instructor I/II Combined as set forth in Chapter 0360-06-01.

~~(a)~~ (a) The performance examination for the Fire Department Instructor I/II Combined shall consist of completing a prescribed Fire Department Instructor II workbook meeting the current standard.

~~(b)~~ (b) After completion of these materials, the applicant shall return them to the Commission Office for grading on a pass/fail basis and will be notified of his/her results in writing. If the applicant is successful, he/she may apply for the written examination through established procedures; should the applicant be unsuccessful, the applicant will be notified of which areas need improvement and the workbook will be returned for revision.

~~(6)(7)~~ (7) The examination for Fire Department Instructor III shall consist of a performance and a written examination. The subjects tested will be substantially derived from the Performance Standards for Fire Department Instructor III as set forth in Chapter 0360-06-01.

~~(6)(8)~~ (8) The examination for Fire Officer I shall consist of a performance and a written examination. The subjects tested will be substantially derived from the Performance Standards for Fire Officer I as set forth in Chapter 0360-06-01.

~~(a)~~ (a) The performance examination for Fire Officer I shall be administered by the Commission in conjunction with written examinations. The practical requirement shall be completion of two projects assigned to the applicant at random which are derived from NFPA 1021. These projects will be graded by ~~a committee of the Commission~~ designated Commission representatives.

~~(7)(9)~~ (9) The examination for Fire Officer II shall consist of a performance and a written examination. The subjects tested will be substantially derived from the Performance Standards for Fire Officer II as set forth in Chapter 0360-06-01.

~~(a)~~ (a) The performance examination for the Fire Officer II shall consist of completing a workbook based on NFPA 1021 for Fire Officer II. The workbook may be obtained from the Commission. This project will be graded by the Commission.

~~(10)~~ (10) The examination for Fire Officer I/II Combined shall consist of a performance and a written examination. The subjects tested will be substantially derived from the Performance Standards for Fire Officer I/II Combined as set forth in Chapter 0360-06-01.

~~(a)~~ (a) The performance examination for the Fire Officer I/II Combined shall consist of completing a workbook based on NFPA 1021 for Fire Officer II. The workbook may be obtained from the Commission. This project will be graded by the Commission.

~~(8)~~(11) The examination for Fire Officer III shall consist of a performance and a written examination. The subjects tested will be substantially derived from the Performance Standards for Fire Officer III as set forth in Chapter 0360-06-01.

(a) The performance examination for the Fire Officer III shall consist of completing a workbook based on NFPA 1021 for Fire Officer III. The workbook may be obtained from the Commission. This project will be graded by the Commission.

~~(9)~~(12) The examination for Fire Officer IV shall consist of a performance and a written examination. The subjects tested will be substantially derived from the Performance Standards for Fire Officer IV as set forth in Chapter 0360-06-01.

(a) The performance examination for the Fire Officer IV shall consist of completing a workbook based on NFPA 1021 for Fire Officer IV. The workbook may be obtained from the Commission. This project will be graded by the Commission.

~~(10)~~(13) The examination for Hazardous Materials Awareness Certification shall consist of a written examination. The subjects tested shall be substantially derived from the performance standards for Hazardous Materials Awareness as set forth in Chapter 0360-06-01.

~~(11)~~(14) The examination for Hazardous Materials Operations Certification shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Hazardous Materials Operations as set forth in Chapter 0360-06-01.

(a) The performance examination for Hazardous Materials Operations Level Certification shall be part of the Fire Fighter I hands-on practical or administered individually. A minimum of one evolution shall be selected from NFPA 472 Hazardous Materials Operations level.

(b) The written examination for Hazardous Materials Operations level will be administered in conjunction with the Hazardous Materials Awareness written examination or administered individually.

~~(12)~~(15) The examination for Airport Firefighter shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Airport Firefighter as set forth in Chapter 0360-06-01.

(a) The performance examination requirements for Airport Firefighter shall consist of all the following:

1. A hands-on performance/practical administered on a regional basis. This practical shall be developed by the Commission based on the standards in NFPA 1003.

2. A live fire practical must be completed. One of the following options must be completed:

(i) Completion of a Federal Aviation Administration training course where, at minimum, all requirements of the Commission's Airport Live Fire Verification Sheet are accomplished.

(ii) All of the exercises listed on the Airport Live Fire Suppression Verification Sheet for the appropriate level must be completed through the local airport fire department's training program. An Airport Live Fire Suppression Verification Form must be completed and attached to the "Application for

Written Examination". The department must provide the Commission with a minimum of seventy two (72) hours prior notification of live fire exercises, either by e-mail, US mail, or fax. A Commission member or staff may witness any live fire exercises conducted by a fire department. This option must be completed during a training exercise; no working fires can be utilized for this option.

~~(b) Guidelines for Hands-On Practical and Live-Burn Practical Examinations:~~

- ~~1. No fee will be charged by the Commission for these examinations.~~
- ~~2. Hands on Practical regional test sites are to be established in each field representative's territory, on an as needed basis in order to meet the needs of the airport fire departments within their territories.~~
- ~~3. Live Fire Practical Tests sites are to be established by the field representatives in conjunction with fire departments able to host this type of practical.~~
- ~~4. Applicants may travel out of their region to test at other test sites.~~
- ~~5. The Field Representative is to conduct a training seminar for evaluators prior to each practical examination to ensure the evaluator's understanding of testing procedures, grading procedures, performance criteria, and instructions on completing required paperwork. The Commission will provide the field representative with documents to be utilized during this training. Any evaluator who fails to attend this training will not be allowed to serve as an evaluator.~~
- ~~6. Applications to challenge the practical examination must be submitted to the Commission a minimum of two (2) weeks prior to the examination date. A minimum of fifteen (15) applicants must be scheduled in order to conduct the practical examinations; a maximum of thirty five (35) applicants can be tested per day. The Director may waive this requirement if justification exists.~~
- ~~7. An applicant who fails any evolution shall be notified immediately of his/her failure and will be allowed to leave the practical immediately.~~
- ~~8. Copies of the entire practical examination will be provided to all fire departments. A copy may also be requested by individuals from the Commission Office either by e-mail or US mail.~~
- ~~9. Applicants who complete the examination must remain at the host facility until the end of the day to assist in cleaning and restoring the host facility to original condition prior to receiving test results. Leaving early will result in automatic failure unless the applicant is given permission to leave by the field representative.~~
- ~~10. Persons who have completed their practical must remain separate from those waiting to challenge.~~
- ~~11. Persons waiting to challenge the practical examination must be secluded from the actual practical. Under no circumstances should an applicant waiting to challenge the practical examination be allowed to see the practicals being administered or be in contact with any individual who has completed the practical.~~

- ~~12. The applicant's home department must send with their personnel at least one SCBA and mask; and each applicant must bring a mask which has been fit tested to them.~~
- ~~13. The applicant's home department shall inspect each applicant's equipment to ensure it meets current additions of applicable safety standards. These standards include:
 - ~~(i) NFPA 1984~~
 - ~~(ii) NFPA 1974~~
 - ~~(iii) NFPA 1976~~
 - ~~(iv) NFPA 1977~~
 - ~~(v) NFPA 1982~~~~
- ~~14. Each applicant must bring his/her own turn-out gear.~~
- ~~15. The host department shall provide the equipment to be used for testing, e.g. ladders, hose, etc.~~
- ~~16. The applicant's home department must assume liability in case of injury. A statement to this effect is included on the application which must be signed by the chief of the applicant's department.~~
- ~~17. The Commission will solicit individuals who are Airport Firefighter certified or individuals deemed by the Commission to be subject matter experts in the area of airport firefighting and interested in serving as evaluators, who will be required to submit their names and qualifications. This list of names will be maintained by the field representative who will rotate through the names for each examination. Individuals may add their names at any time.~~
- ~~18. An applicant must perform the evolutions provided. An applicant cannot discard an evolution because their department does not have the equipment specified.~~
- ~~19. The Commission Representative shall have the authority to adapt these guidelines to address specific life safety problems as they arise.~~

~~(14)~~**(16)** The examination for Wildland Firefighter I shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Wildland Firefighter I as set forth in Chapter 0360-06-01.

- (a) The performance examination for Wildland Firefighter I shall consist of one (1) of the following:
 - (i) Completion of a performance examination based upon NFPA 1051 which has been submitted to the Commission for approval, or
 - (ii) Completion of the "Task Book for the Position of Firefighter Type 2" offered by the Tennessee Division of Forestry.

~~(14)~~**(17)** The examination for Wildland Firefighter II shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Wildland Firefighter II as set forth in Chapter 0360-06-01.

(a) The performance examination for Wildland Firefighter II shall consist of one (1) of the following:

1. Completion of a performance examination based upon NFPA 1051 which has been submitted to the Commission for approval, or
2. Completion of the "Task Book for the Position of Advanced Firefighter/Squad Boss" offered by the Tennessee Division of Forestry.

~~(45)~~**(18)** The examination for Fire and Life Educator I shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Fire and Life Safety Educator I as set forth in Chapter 0360-06-01.

(a) The performance examination for Fire and Life Safety Educator I shall consist of completing a workbook based upon NFPA 1035 for the appropriate level and returning it to the Commission for grading. Once the performance examination has been passed, the applicant can submit his/her application for written examination. An applicant has one year from the completion of the workbook to pass the written examination or must redo the workbook. The workbook can be obtained upon request from the Commission.

~~(46)~~**(19)** The examination for Fire and Life Educator II shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Fire and Life Safety Educator II as set forth in Chapter 0360-06-01.

(a) The performance examination for Fire and Life Safety Educator II shall consist of completing a workbook based upon NFPA 1035 for the appropriate level and returning it to the Commission for grading. Once the performance examination has been passed, the applicant can submit his/her application for written examination. An applicant has one (1) year from the completion of the workbook to pass the written examination or must redo the workbook. The workbook can be obtained upon request from the Commission.

~~(47)~~**(20)** The examination for Fire Safety Compliance Officer I shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Fire Safety Compliance Officer I as set forth in Chapter 0360-06-01.

(a) The performance examination for personnel assigned to fire suppression shall consist of:

1. the applicant monitoring a minimum of eight (8) fire safety inspections conducted by a Fire Safety Compliance Officer II or an individual certified by the State Fire Marshal's Office in accordance with T.C.A. § 68-120-113 utilizing Standards outlined in NFPA 101 and 1031. Two (2) fire safety inspections of each of the four (4) occupancies, industrial, educational, general business, and institutional, as defined in the NFPA 101 Life Safety Code, are to be conducted; or
2. becoming certified by the State Fire Marshal's Office in accordance with T.C.A. § 68-120-113.

~~(48)~~**(21)** The examination for Fire Safety Compliance Officer II shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Fire Safety Compliance Officer II as set forth in Chapter 0360-06-01.

(a) The performance examination for personnel assigned to fire suppression shall consist of:

1. the applicant conducting a minimum of eight (8) fire safety inspections under the supervision of a Fire Safety Compliance Officer II or an individual certified by the State Fire Marshal's Office in accordance with T.C.A. § 68-120-113 utilizing Standards outlined in NFPA 101 and 1031. Two (2) inspections of each of the four (4) occupancies, industrial, educational, general business, and institutional, as defined in the NFPA 101 Life Safety Code, are to be conducted. The evaluator shall evaluate each inspection on a pass/fail basis determining whether the applicant conducted a thorough and complete inspection ensuring compliance with NFPA Standards and any applicable local ordinances. In order to successfully complete the performance examination, the applicant must receive a passing grade for each of the inspections on each of the four (4) occupancies; or
2. becoming certified by the State Fire Marshal's Office in accordance with T.C.A. § 68-120-113.

~~(19)~~(22) The examination for Fire Apparatus Operator shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Fire Apparatus Operator as set forth in Chapter 0360-06-01.

- (a) The applicant must complete a hands-on performance/practical examination promulgated by the Commission utilizing the Standards outlined in NFPA 1002, Chapters 4, 5, and 6. In order to challenge this level, the applicant must be able to perform the evolutions on both pumper and aerial apparatus equipment.

~~(20)~~(23) The examination for Pumper Driver/Operator shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Pumper Driver/Operator as set forth in Chapter 0360-06-01.

- (a) The applicant must complete a hands-on performance/practical examination promulgated by the Commission utilizing the Standards outlined in NFPA 1002, Chapters 4 and 5.

~~(21)~~(24) The examination for Aerial Apparatus Driver/Operator shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Aerial Apparatus Driver/Operator as set forth in Chapter 0360-06-01.

- (a) The applicant must complete a hands-on performance/practical examination promulgated by the Commission utilizing the Standards outlined in NFPA 1002, Chapters 4 and 6.

~~(22)~~(25) The examination for Safety Officer shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Safety Officer as set forth in Chapter 0360-06-01.

- (a) The performance examination for Safety Officer shall be the completion of a written outline of the Safety Officer's role, duties, and responsibilities in accordance with NFPA 1521, OSHA, and other standards given an incident scenario provided by the Commission. The applicant will be provided the incident scenario in a written examination setting. This outline will be evaluated by a Committee of the Commission which will meet in conjunction with a regularly scheduled Commission meeting on an as-needed basis. Successful completion of this outline will qualify the applicant to challenge take the written examination for Safety Officer.

- (26) The examination for Incident Safety Officer I shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Incident Safety Officer I as set forth in Chapter 0360-06-01.
- (a) The performance examination for Incident Safety Officer I shall be the completion of a written outline of the Incident Safety Officer I's role, duties, and responsibilities in accordance with NFPA 1521, OSHA, and other standards given an incident scenario provided by the Commission. The applicant will be provided the incident scenario in a written examination setting. This outline will be evaluated by a Committee of the Commission which will meet in conjunction with a regularly scheduled Commission meeting on an as-needed basis. Successful completion of this outline will qualify the applicant to take the written examination for Incident Safety Officer I.
- (27) The examination for Health & Safety Officer I shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Health & Safety Officer I as set forth in Chapter 0360-06-01.
- (a) The performance examination for Health & Safety Officer I shall be the completion of a written outline of the Health & Safety Officer I's role, duties, and responsibilities in accordance with NFPA 1521, OSHA, and other standards given an incident scenario provided by the Commission. The applicant will be provided the incident scenario in a written examination setting. This outline will be evaluated by a Committee of the Commission which will meet in conjunction with a regularly scheduled Commission meeting on an as-needed basis. Successful completion of this outline will qualify the applicant to take the written examination for Health and Safety Officer I.
- (28) The examination for Technical Rescuer shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Technical Rescuer as set forth in Chapter 0360-06-01.
- (a) The applicant must complete a hands-on performance/practical examination promulgated by the Commission utilizing the Standards outlined in NFPA 1006, Chapters 4 and 5.
- (29) The examination for Rope Rescuer shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Rope Rescuer as set forth in Chapter 0360-06-01.
- (a) The applicant must complete a hands-on performance/practical examination promulgated by the Commission utilizing the Standards outlined in NFPA 1006, Chapters 5 and 6.
- (30) The examination for Confined Space Rescuer shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Confined Space Rescuer as set forth in Chapter 0360-06-01.
- (a) The applicant must complete a hands-on performance/practical examination promulgated by the Commission utilizing the Standards outlined in NFPA 1006, Chapters 5 and 7.
- (31) The examination for Trench Rescuer shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Trench Rescuer as set forth in Chapter 0360-06-01.

- (a) The applicant must complete a hands-on performance/practical examination promulgated by the Commission utilizing the Standards outlined in NFPA 1006, Chapters 5 and 8.
- (32) The examination for Structural Collapse Rescuer shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Structural Collapse Rescuer as set forth in Chapter 0360-06-01.
 - (a) The applicant must complete a hands-on performance/practical examination promulgated by the Commission utilizing the Standards outlined in NFPA 1006, Chapters 5 and 9.
- (33) The examination for Vehicle Rescuer shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Vehicle Rescuer as set forth in Chapter 0360-06-01.
 - (a) The applicant must complete a hands-on performance/practical examination promulgated by the Commission utilizing the Standards outlined in NFPA 1006, Chapters 5 and 10.
- (34) The examination for Surface Water Rescuer shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Surface Water Rescuer as set forth in Chapter 0360-06-01.
 - (a) The applicant must complete a hands-on performance/practical examination promulgated by the Commission utilizing the Standards outlined in NFPA 1006, Chapters 5 and 11.
- (35) The examination for Swiftwater Rescuer shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Swiftwater Rescuer as set forth in Chapter 0360-06-01.
 - (a) The applicant must complete a hands-on performance/practical examination promulgated by the Commission utilizing the Standards outlined in NFPA 1006, Chapters 5 and 12.
- (36) The examination for Dive Rescuer shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Dive Rescuer as set forth in Chapter 0360-06-01.
 - (a) The applicant must complete a hands-on performance/practical examination promulgated by the Commission utilizing the Standards outlined in NFPA 1006, Chapters 5 and 13.
- (37) The examination for Ice Rescuer shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Ice Rescuer as set forth in Chapter 0360-06-01.
 - (a) The applicant must complete a hands-on performance/practical examination promulgated by the Commission utilizing the Standards outlined in NFPA 1006, Chapters 5 and 14.

- (38) The examination for Surf Rescuer shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Surf Rescuer as set forth in Chapter 0360-06-01.
- (a) The applicant must complete a hands-on performance/practical examination promulgated by the Commission utilizing the Standards outlined in NFPA 1006, Chapters 5 and 15.
- (39) The examination for Wilderness Rescuer shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Wilderness Rescuer as set forth in Chapter 0360-06-01.
- (a) The applicant must complete a hands-on performance/practical examination promulgated by the Commission utilizing the Standards outlined in NFPA 1006, Chapters 5 and 16.
- (40) The examination for Mine and Tunnel Rescuer shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Mine and Tunnel Rescuer as set forth in Chapter 0360-06-01.
- (a) The applicant must complete a hands-on performance/practical examination promulgated by the Commission utilizing the Standards outlined in NFPA 1006, Chapters 5 and 17.
- (41) The examination for Cave Rescuer shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Cave Rescuer as set forth in Chapter 0360-06-01.
- (a) The applicant must complete a hands-on performance/practical examination promulgated by the Commission utilizing the Standards outlined in NFPA 1006, Chapters 5 and 18.
- (42) The examination for Machinery Rescuer shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Machinery Rescuer as set forth in Chapter 0360-06-01.
- (a) The applicant must complete a hands-on performance/practical examination promulgated by the Commission utilizing the Standards outlined in NFPA 1006, Chapters 5 and 19.
- (43) The examination for Exterior Industrial Fire Brigade Member shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Exterior Industrial Fire Brigade Member as set forth in Chapter 0360-06-01.
- (a) The applicant must complete a hands-on performance/practical examination promulgated by the Commission utilizing the Standards outlined in NFPA 1081, Chapters 4 and 6.
- (44) The examination for Interior Structural Fire Brigade Member shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Interior Structural Fire Brigade Member as set forth in Chapter 0360-06-01.

- (a) The applicant must complete a hands-on performance/practical examination promulgated by the Commission utilizing the Standards outlined in NFPA 1081, Chapters 4 and 7.
- (45) The examination for Fire Inspector I shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Fire Inspector I as set forth in Chapter 0360-06-01.
 - (a) The applicant must complete a hands-on performance/practical examination promulgated by the Commission utilizing the Standards outlined in NFPA 1031, Chapter 4.
- (46) The examination for Fire Investigator I shall consist of a performance and a written examination. The subjects tested shall be substantially derived from the performance standards for Fire Investigator I as set forth in Chapter 0360-06-01.
 - (a) The applicant must complete a hands-on performance/practical examination promulgated by the Commission utilizing the Standards outlined in NFPA 1033.

Authority: T.C.A. §§ 4-24-101, 4-24-106(4), 4-24-107, ~~4-24-107(3)~~, 4-24-110 and 68-1-102.

0360-04-01-.07 ~~REPEALED. RESERVED.~~

Authority: T.C.A. § 4-24-107.

0360-04-01-.08 WRITTEN EXAMINATIONS.

- (1) ~~Written examinations cannot be scheduled unless a minimum of six (6) applicants are scheduled for the examination. will be scheduled by the Commission office.~~
 - (a) ~~If fewer than six (6) applicants are at the test site when the examination is scheduled to be administered, the examination may still be administered.~~
 - (b) ~~If a fire department requests a written examination to be conducted within the fire department and the minimum of number of applicants is not present for two examinations within a one (1) calendar year period, the fire department will not be allowed to host written examinations for a period of one (1) calendar year. After the first instance, the chief of the fire department will be notified in writing of the event and the rules of this part.~~
- (2) A test site for a written examination must:
 - (a) have sufficient space with tables/desks and chairs for the applicants;
 - (b) have sufficient lighting;
 - (c) be sufficiently free of outside noise or other distractions which could interfere with the examination;
 - (d) be reasonably comfortable with respect to the environment so as to not provide a distraction from the examination; and
 - (e) meet all ADA requirements.
- (3) The field Commission representative shall ensure that the test site meets these requirements prior to the start of the written examination.

Authority: T.C.A. §§ 4-24-101, 4-24-106(2) and 4-24-107(3).

0360-04-01-.09 PRACTICAL EXAMINATIONS.

- (1) One department may administer a performance/practical examination to another participating department and/or may enroll students from another department in an approved Recruit Training Program provided the following conditions are met:
 - (a) The administering department's practical/performance examination and/or Recruit Training Program have been approved by the Commission;
 - (b) Both departments have agreed to allow the applicant(s) to utilize the administering department's practical examination; and
 - (c) Proof of successful completion of the practical is sent to the applicant(s)' fire department and placed on file.
- (2) The application for examination shall be submitted by the fire department of which the applicant is a member and the examination results will be forwarded to that department.
- (3)
 - (a) For hands-on or live burn practical examinations, compliance with 29 CFR 1910.134, Respiratory Protection Standard, is required. An applicant is required to have been SCBA fit tested within twelve (12) months of the examination and a SCBA Fit Testing Verification form is to be completed. ~~and signed by the Fire Chief or Training Officer from the applicant's sponsoring fire department. Appropriate documentation shall include: 1) the signature of the Fire Chief from the applicant's sponsoring department; and 2) documentation from an authorized fit-testing entity.~~ No one will be allowed to participate in the hands-on or live burn practical examination in which a SCBA is used unless their fit testing is documented.
 - (b) Candidates for Tennessee State Fire Commission Certification in Fire Fighter I or II hands-on or live burn practicals, who have beards or facial hair in the area of the SCBA face piece seal (examples may include full-face beards, muttonchops, goatees, sideburns, mustaches, or even a few days growth of stubble etc.) will not be allowed to participate in the skills exam. Facial hair between the wearer's skin and the sealing surfaces of the face piece will prevent a good seal. A fire fighter shall not enter an area in which it has been determined that respiratory protection is necessary when conditions prevent a good seal of the respirator face piece to the face. This will be enforced regardless of the live fire skills being tested at any site. No exceptions to this policy will be granted. This is in conjunction with 29 CFR 1910.134 Respiratory Protection Standard.
 - (c) Ordinary eyeglasses shall not be used with full-face piece respirators. Eye glasses with temple bars or straps that pass between the sealing surface of a full-face piece and the fire fighter's face will prevent a good seal. Special spectacle kits can be ordered and mounted inside a full-face piece respirator.
 - ~~(d) An academy or fire department which sponsors a non-firefighter recruit shall be responsible for fit testing the candidate in accordance with Commission rules and applicable national standards prior to the candidate challenging a written or hands-on practical. The academy or fire department shall sign and submit the applications for written and practical examinations for non-firefighter recruits. The practical examination must be completed at the host academy's or fire department's test site and they shall assume liability for the candidate who is not a member of a fire department.~~

- (4) (a) For Regional Practical Examinations, a fire department is required to furnish a minimum of one (1) evaluator for every two (2) applicants that the department submits for examination. If a department submits less than two applicants, that department will not be required to provide an evaluator but is strongly encouraged to do so. ~~Failure to meet this requirement may result in personnel from the department not being allowed to test.~~
- (b) Evaluators must be certified by the Commission at a minimum of Fire Fighter-II level (Fire Fighter-III for 1987 NFPA Standard or earlier) and are encouraged to be certified at the Fire Department Instructor-I level.
- ~~(c) For fire departments which participate in the Educational Incentive Pay Program, an evaluator must have participated in this program within the past year, as this ensures training and evaluation have occurred.~~
- (c) Evaluators will be required to successfully complete a Commission-approved examination before being allowed to serve as an Evaluator. The Evaluator training and examination may be available online over the Internet.
- ~~(d) For departments that do not participate in the Educational Incentive Pay Program, a resume must be submitted of training completed by any person who wishes to serve as an evaluator and must be approved by the Commission prior to that person serving as an evaluator. The Commission shall maintain a list of approved evaluators who utilize this option. Updated resumes will be required each time the Commission adopts a revised edition of NFPA 1001 standard.~~
- ~~(e) Should a fire department send an unqualified evaluator, the department will be requested to appear before the Commission at the next regularly scheduled Commission meeting to explain its actions. It is noted that mistakes do occur which would definitely be taken into consideration at the meeting.~~
- (5) Regional Practical Examination Site Requirements. The department hosting a regional practical exam must be able to meet the following conditions:
- (a) have adequate space to conduct the practical examinations;
- (b) be able to provide all equipment required for the examination, excluding the equipment each applicant must provide in accordance with Commission rules;
- (c) a member of the host department must have attended a regional practical examination before hosting one within the department;
- (d) provide a minimum of three (3) evaluators who are certified by the Commission at a minimum of Fire Fighter-II level (Fire Fighter-III for 1987 NFPA Standard or earlier) and are encouraged to be certified at the Fire Department Instructor-I level;
- (e) the proposed test site was inspected by the field Commission representative in order to ensure it meets the requirements of the program; and
- (f) provide for their firefighters and for practical examinations equipment which has been inspected and meets all applicable NFPA safety standards.
- (6) A host ~~fire~~ department for a practical examination must provide the field Commission representative on the day of the practical examination a letter addressed to the Commission and signed by the Fire Chief or Training Chief certifying that all equipment used in the practical examination meets all applicable NFPA, OSHA and other applicable Standards for

safety and required inspections. Included in the letter shall be a certification statement that all equipment that is required to be tested according to said Standard (e.g., ladders, hose, pumps, SCBA, etc.) has been tested according to the Standard. Failure to provide this letter will result in cancellation of the practical examination for that day.

- (7) ~~Any individual who~~ All instructors, evaluators, and approved applicants who participates in a live fire practical must meet the requirements of Chapter 4, Section 4.13, Student Prerequisites, of the latest adopted edition of NFPA 1403. Written documentation of completion of this training must be kept on file by the ~~fire~~ department and will be subject to audit by the Commission. All requirements listed in the Live Fire Training Requirements Book must be completed.
- (8) Hands-on practical skill sheets shall be available to all applicants through the Commission Internet website. ~~The Commission shall provide each fire department with at least one copy of the skill sheets. It shall be the responsibility of the Training Officer to provide each applicant a copy of the skill sheets prior to the applicant challenging the practical examination for Fire Fighter I/II. Additional copies are available in paper or electronic format from the Commission upon request.~~
- (9) Practical examination sites must have adequate space to safely hold the examination. The test site should have an isolated holding area for the applicants waiting to take the examination and a separate area for applicants who have completed the examination. The ~~field~~ Commission representative shall ensure that the test site meets these requirements prior to the start of the examination.

(10) Guidelines for Hands-On Practical and Live Burn Practical Examinations:

- (a) No fee will be charged by the Commission for these examinations.
- (b) Hands-on Practical regional test sites are to be established in each Commission representative's territory, on an as needed basis in order to meet the needs of the airport fire departments within their territories.
- (c) Live Fire Practical Tests sites are to be established by the Commission representatives in conjunction with departments able to host this type of practical and must be NFPA 1403 compliant.
- (d) Applicants may travel out of their region to test at other test sites.
- (e) The Commission representative is to conduct a training seminar for evaluators prior to each practical examination to ensure the evaluator's understanding of testing procedures, grading procedures, performance criteria, and instructions on completing required paperwork. The Commission will provide the Commission representative with documents to be utilized during this training. Any evaluator who fails to attend this training will not be allowed to serve as an evaluator.
- (f) Applications to challenge the practical examination must be submitted to the Commission a minimum of two (2) weeks prior to the examination date. A minimum of ten (10) applicants must be scheduled in order to conduct the practical examinations; a maximum of fifty (50) applicants can be tested per day. The Commissioner or Commissioner's designee may waive this requirement if justification exists.
- (g) An applicant who fails any evolution shall be notified immediately of his/her failure and will be allowed to leave the practical immediately.

- (h) Copies of the entire practical examination will be provided to all departments. A copy may also be requested by individuals from the Commission Office either by e-mail or US mail.
- (i) Applicants who complete the examination must remain at the host facility until the end of the day to assist in cleaning and restoring the host facility to original condition prior to receiving test results. Leaving early will result in automatic failure unless the applicant is given permission to leave by the Commission representative.
- (j) Persons who have completed their practical must remain separate from those waiting to challenge.
- (k) Persons waiting to challenge the practical examination must be secluded from the actual practical. Under no circumstances should an applicant waiting to challenge the practical examination be allowed to see the practicals being administered or be in contact with any individual who has completed the practical.
- (l) The applicant or the applicant's sponsoring department must provide at least one SCBA and mask; and each applicant must bring a mask which has been fit tested to them.
- (m) The applicant or the applicant's sponsoring department shall inspect each applicant's equipment to ensure it meets current additions of applicable safety standards. These standards include:

 1. NFPA 1981
 2. NFPA 1971
 3. NFPA 1976
 4. NFPA 1977
 5. NFPA 1982
- (n) Each applicant must bring his/her own personal protective equipment (i.e. helmet, turnout gear, gloves, and coat) including SCBA.
- (o) The host department shall provide the equipment to be used for testing, e.g. ladders, hose, etc.
- (p) The applicant must assume liability in case of injury. A statement to this effect is included on the application which must be signed by the applicant.
- (q) The Commission will solicit individuals who are Fire Fighter II or Fire Instructor I certified or individuals deemed by the Commission to be subject matter experts in the area of firefighting and are interested in serving as evaluators. Individuals shall submit their names and qualifications. This list of names will be maintained by the Commission office which will rotate through the names for each examination. Individuals may add their names at any time.
- (r) An applicant must perform the practical skills examinations as required for each class of certification. An applicant cannot refuse to perform a practical skills

examination even if his/her department does not have the equipment specified to perform that practical skill.

(s) The Commission representative shall have the authority to adopt these guidelines to address specific life safety problems as they arise.

Authority: T.C.A. §§ 4-24-101, 4-24-106~~(2)~~ and 4-24-107~~(3)~~.

**RULES
OF
THE TENNESSEE COMMISSION ON FIRE FIGHTING
PERSONNEL STANDARDS AND EDUCATION**

**CHAPTER 0360-05-01
REVOCATION OF CERTIFICATION**

0360-05-01-.02 SEPARATION FROM ACTIVE FIRE SERVICE.

- (1) An individual's certification will automatically terminate upon the expiration of three (3) years after such person ceases to be an active member of a fire department. It will be the responsibility of each individual fire department to notify the Commission of any fire service personnel leaving the fire department due to separation, termination, retirement, death, etc.
- (2) Work for the Commission as a Commission Member or Commission staff shall constitute continued work in the fire service and shall not be considered as a separation from active fire service if that individual is no longer employed by a fire department.
- (3) Personnel leaving the fire service for active military duty shall not be subject to termination of certification while on active duty as stated in this part. It will be the responsibility of each individual fire department's Chief of Training to notify the Commission in writing of any fire service personnel leaving the fire department on active military duty for more than twelve (12) months. This notification shall be submitted at the end of each twelve (12) month period.
- (4) The Fire Fighter I/Hazardous Materials Awareness/Hazardous Materials Operations Certificates ~~issued to a non-firefighter recruit~~ shall terminate three (3) years from the date of certification if the candidate has not become affiliated with a fire department. If the candidate does become affiliated with a fire department, it is the responsibility of the candidate to have the Chief of the Fire Department notify the Commission Office, in writing, of the date of said affiliation.
- (5) Work as a full- or part-time employee of a unit of government (local, state, or federal) in the State of Tennessee, where the job responsibilities include, but are not limited to, the training of firefighters, fire investigations, fire inspections or significant interaction with the fire services, shall not be considered to be a separation from active fire service. It is the responsibility of the firefighter to provide proof to the Commission that his/her new job duties include training of firefighters, fire investigations, fire inspections or significant interaction with the fire services in the State of Tennessee.

Authority: T.C.A. § 4-24-101 and 4-24-107.

**RULES
OF
THE TENNESSEE COMMISSION ON FIRE FIGHTING
PERSONNEL STANDARDS AND EDUCATION**

**CHAPTER 0360-06-01
MISCELLANEOUS CERTIFICATION STANDARDS**

0360-06-01-.04 PROGRESSION.

- ~~(1) Unless otherwise provided in these rules, an applicant may progress to another level of certification after ninety (90) days from the date of the last certification awarded. If an applicant fails a written examination for a level, the applicant must wait ninety (90) days before attempting a different level of certification.~~
- ~~(2) The Commission may waive the waiting periods for progression for individuals called to active military duty during wartime to allow firefighters to achieve the level of certification that they would have been eligible to achieve should their firefighting career not have been interrupted by the military service. A letter from the fire department, signed by the Chief or Training Officer, certifying the individual's military duty must accompany the individual's application requesting this waiver.~~
- ~~(3)(1) Fire service personnel who have been certified at a specific progression level are prohibited from taking may take the examination for a lower (regression) level. except for as provided in 0360-03-01-02(9).~~
- ~~(4)(2) If an applicant who has already achieved certification at a particular level(s) under prior NFPA standards wishes to achieve certification for those levels after the date Tennessee becomes accredited, the applicant will be allowed to do so and the waiting period shall not apply. The applicant will be required to complete all the requirements for the level(s) of certification sought.~~
- ~~(3) Unless otherwise prescribed in these rules, an applicant may progress to the next level of certification after achieving the prior certification level.~~

Authority: T.C.A. §§ 4-24-101 and 4-24-107. ~~4-24-107(3).~~

0360-06-01-.05 RECIPROCITY.

- (1) Reciprocity of certification shall be considered by the Commission for applicants who have achieved certification from another agency that has achieved national accreditation from an organization recognized by the Commission and who meet the criteria established by the Commission.
- (2) The following must be submitted to request reciprocity:
 - (a) Application for Reciprocity ~~{one form for each level~~ with a list of certification(s) for which the applicant is requesting reciprocity;
 - (b) ~~Letter(s) from the applicant's previous fire department(s) showing the dates the applicant was a member (employed) by that department as a firefighter; and~~ Documentation that the applicant has not been out of the fire service for a period of greater than three (3) years, and

- (c) Proof of Certification (copies of certificates). Certificates of Attendance do not constitute Proof of Certification.
- (3) When considering whether to grant reciprocity to another jurisdiction's certifications, the Commission will only grant reciprocity if the following criteria are met:
 - (a) the Commission certifies an equivalent course;
 - (b) the certification was issued by an entity accredited by the IFSAC or the National Fire Service Professional Qualifications Board and the certification is in the registry of the national accrediting agency and the certification was issued after the date the entity became accredited;
 - (c) the applicant has not been out of the fire service for a period greater than three (3) years; and
 - (d) the applicant has not previously failed a written or performance examination for that level of certification in the State of Tennessee.
- (4) If reciprocity is granted, the Commission shall issue a letter recognizing the applicant's certifications in the State of Tennessee and this recognition shall meet the requirements of certification in Tennessee.
- (5) For progression purposes in the Certification Program and for purposes related to Educational Incentive Pay, the date of recognition of the certification shall be used for "Date of Certification."
- (6) If a fire department requires or an individual, who has received reciprocity of a level of certification, chooses to pursue certification in the State of Tennessee, the applicant will be eligible to pursue certification but will be required to meet all of the certification requirements in force.
- (7) The Commission will not recognize or grant reciprocity to a certification issued by a fire department in Tennessee even if that fire department is accredited by a national accrediting agency.

Authority: T.C.A. §§ 4-24-101, 4-24-106~~(2)~~, 4-24-107, 4-24-107~~(3)~~ and 4-24-202~~(b)~~.

**RULES
OF
THE TENNESSEE COMMISSION ON FIRE FIGHTING
PERSONNEL STANDARDS AND EDUCATION**

**CHAPTER 0360-07-01
EDUCATIONAL INCENTIVE PAY**

TABLE OF CONTENTS

0360-07-01-.01	Minimum Employment Standards –	0360-07-01-.11	Repealed <u>Reserved</u>
	Definitions	0360-07-01-.12	Repealed <u>Reserved</u>
0360-07-01-.02	Fire Fighter – Definition	0360-07-01-.13	Repealed <u>Reserved</u>
0360-07-01-.03	Repealed <u>Reserved</u>	0360-07-01-.14	Repealed <u>Reserved</u>
0360-07-01-.04	Entry-Level Personnel		
0360-07-01-.05	Requirements for In-Service Training	0360-07-01-.15	Repealed <u>Reserved</u>
	Programs	0360-07-01-.16	Repealed <u>Reserved</u>
0360-07-01-.06	Payment Procedures	0360-07-01-.17	Repealed <u>Reserved</u>
0360-07-01-.07	Waiver		
0360-07-01-.08	Audit	0360-07-01-.18	Repealed <u>Reserved</u>
0360-07-01-.09	Disciplinary Matters		
0360-07-01-.10	Prosecution of False Claims for Educational Incentive Pay		

0360-07-01-.01 MINIMUM EMPLOYMENT STANDARDS -- DEFINITIONS. The minimum employment standards as established by the Commission shall be as follows:

- (1) All persons who are hired as a fire fighter by an eligible unit of government on or after January 1, 1986, shall:
 - (a) be at least eighteen (18) years of age; and
 - (b) be a citizen of the United States; and
 - (c) be a high school graduate or possess equivalency; and
 - (d) have not been convicted of any felony charge, have not pleaded guilty to any felony charge, have not entered a plea of nolo contendere to any felony charge; and
 - (e) have not been released or discharged ~~under~~ for any other ~~reason~~ reason than honorable discharge from any of the armed forces of the United States; and
 - (f) have no history, within the past three (3) years, of habitual intoxication and/or personal misuse of any drugs, and/or the use of intoxicating liquors, narcotics, controlled substances and/or stimulants in such a manner as to adversely affect the person's ability to perform as a fire fighter to cause discredit to the fire service; and
 - (g) must meet all local requirements; and
 - (h) have passed a physical examination by a licensed physician which, at minimum, meets the requirements of Section E of Occupational Health and Safety Administration ("OSHA") regulation 1910.134; and
 - (i) have a good moral character; or
 - (j) ~~or~~ have successfully appealed such cause of ineligibility to the appropriate local authority having jurisdiction.

- (2) All persons hired as a fire fighter by an eligible unit of government prior to January 1, 1986, shall be considered as having met the minimum employment standards.

Authority: T.C.A. §§4-24-107 and 4-24-202.

0360-07-01-.02 FIRE FIGHTER -- DEFINITION. For the purpose of qualifying for the pay supplement, a person must meet all of the following criteria:

- (1) any person in the employ of a unit of government who is a full-time employee of the fire department of such unit; and
- (2) is trained in fire fighting or prevention of fires and is actively engaged in such work; and
- (3) whose primary livelihood is derived from such work.

Authority: T.C.A. §§ 4-24-107 and 4-24-201.

0360-07-01-.03 ~~REPEALED.~~ RESERVED

Authority: T.C.A. §§4-24-107.

0360-07-01-.04 ENTRY LEVEL PERSONNEL.

- (1) It shall be mandatory for all qualified personnel that have entered the Fire Service after December 31, 1990, to become certified, when eligible, at the Fire Fighter I level and progress when eligible through the Fire Fighter II level of certification in order to become eligible for supplemental pay.
- (2) The Fire Fighter I, Fire Fighter II, Hazardous Materials Awareness and Hazardous Materials Operations certification level must be completed by the end of the calendar year in which the applicant reaches his/her thirty-sixth (36th) month of employment with a participating fire department. Fire Service personnel that have not obtained Fire Fighter I, Fire Fighter II, Hazardous Materials Awareness and Hazardous Materials Operations certification after this date will not be eligible for Educational Incentive Pay until said certification has been obtained.
- (3) Qualified personnel who are separated from the fire service for a period of greater than three (3) years and then reenter the fire service, must subsequently obtain certification in accordance with Rule 0360-05-01-.02.
- (4) Individuals hired into a fire department as Fire Safety Inspectors after December 31, 1990, and who are not trained in fire suppression may meet the requirements of this section by completing certification as prescribed by Tenn. Code Ann. 68-120-113 by the end of the calendar year in which they reach their twelfth (12) month of employment. If an individual is hired as a Fire Safety Inspector and later transfers to fire suppression, the individual must achieve Fire Fighter I, Fire Fighter II, Hazardous Materials Awareness and Hazardous Materials Operations certification within three (3) years after the transfer date.
- (5) Individuals hired into a fire department as Public Fire and Life Safety Educators after December 31, 1990, and who are not trained in fire suppression may meet the requirements of this section by completing certification as Public Fire and Life Safety Educator I and Public Fire and Life Safety Educator II by the end of the calendar year in which they reach their thirty-sixth (36) month of employment. If an individual is hired as a Public Fire and Life Safety Educator and later transfers to fire suppression, the individual must achieve Fire Fighter I/Fire Fighter II/Hazardous Materials Awareness and Operations certification within three (3) years after the transfer date.

- (6) The date an individual entered the fire service for participation in the educational incentive pay program shall be the date the individual joins a paid **fire** department in Tennessee that participates in the educational incentive pay program as a full-time paid firefighter of that department. Service as a volunteer, paid on call, part-time firefighter or other non full-time firefighter shall not count toward an individual's time in the fire service as it relates to Educational Incentive Pay Program.

Authority: T.C.A. §§ 4-24-101, 4-24-106~~(5)~~, 4-24-107, ~~4-24-107(3)~~, ~~4-24-107(6)~~, 4-24-201 and 4-24-202.

0360-07-01-.05 REQUIREMENTS FOR IN-SERVICE TRAINING PROGRAMS.

(1) Length of Training

- (a) Certified or recognized programs must be of at least forty (40) hours duration. A **fire** department may count one (1) hour for testing as part of the department's forty (40) hour in-service training program.
- (b) Each subject area segment of the program must be scheduled for not less than two (2) hours ~~and must be completed on assigned shift.~~

(2) Appointment of Training Officer.

- (a) Each **fire** department conducting a forty (40) hour in-service training program must meet the minimum standards as defined in this chapter ~~0360-02-02~~ of the Commission's rules and regulations.
- (b) Within twelve (12) months of their appointment, each new Training Officer for a department participating in the Educational Incentive Pay Program must attend a training session on the Commission's laws, rules, programs, policies and procedures. Commission staff may offer one-on-one training sessions at the Commission office and will hold at least one (1) regional training session in each Grand Division of the state per year.

(3) Appointment of Instructor.

- (a) Instructors used for in-service training must be approved by the Training Officer and must be qualified by experience and training in the subject matter of the course to be taught.
- (b) Instructors cannot teach themselves. However, instructors of Commission-approved in-service training classes shall receive one (1) hour credit for each hour taught provided that the teaching does not consist ~~exclusively of playing a video tape of a previously recorded, Commission-approved in-service training class or supervising Commission-approved computerized training.~~ of the use of electronic media exclusively.
- (c) Fire service personnel who serve as evaluators at Commission Sponsored Hands-on or Live Burn Practical Examinations shall receive four (4) hours Specialized Training Credit for each practical where the firefighter serves as an evaluator up to a maximum of ~~four (4) two (2)~~ two (2) practicals per calendar year ~~for a (maximum of 16 eight (8) hours credit).~~ for a (maximum of 16 eight (8) hours credit). In-house practical/live burn examinations do not qualify. One (1) In-Service Training Substitution form should be submitted per evaluator for the year noting the date(s) the applicant served as an evaluator.

(4) Course Curriculum Requirements.

(a) Course curricula must be based on a needs survey of the area served and courses required by the Commission. All curricula must be substantially derived from the appropriate standards as set forth in the Commission's rules, ~~Chapter~~ Chapter 0360-06-01 with the exception of any required subject material not adequately covered in these standards and must be submitted for review by the Director or his/her designee, and be approved by the Commission. At least thirty (30) days prior to commencement of training, a copy of the curriculum noting instructors and their qualifications, the dates and location of training, the dates of testing, and a copy of the test instrument and answers, and other such data as required by the Commission, must be submitted to the Commission for approval.

1. All Training Programs must be submitted ~~for to the~~ Commission office for approval no later than ~~May~~ November 1 of the calendar year ~~that the training is to be conducted effective January 1, 1991- 2014 for the training conducted in calendar year 2015. Thereafter, information and training programs required by the Commission must be received at the Commission office by November 1 of the preceding calendar year in which training is to be taught. Failure to provide all information by the required date may result in a rejection of supplemental pay. All information shall be submitted in a form prescribed by the Commission.~~
2. Course dates submitted for a department's In-Service Training Program are the dates on which the courses are to be taught. However, due to unforeseen circumstances, changes must sometimes occur. If a change in a date is necessary less than thirty (30) days from the scheduled date, a ~~fire~~ department is to make note of the change in their program along with the reason for the change. If a change in class date is required thirty (30) or more days before the scheduled date, a written notification must be sent to the Commission office with the new class date and the reason for change. The notice may be submitted by fax, email or by U.S. Mail.
3. If a ~~fire~~ department must provide a range of dates and locations that a particular class will be taught when submitting their In-Service Training Program, the department must provide to the Commission office the exact dates, times, and locations of the classes a minimum of seventy-two (72) hours prior to the classes being taught. This notice may be submitted ~~by fax, email or by mail in a form prescribed by the Commission;~~ however if by mail, sufficient time should be allowed so that the notice has time to arrive in the Commission Office a minimum of seventy-two (72) hours in advance of the new class dates. No credit will be given for classes for which the Commission office has not received advance notice of specific dates.
4. A ~~fire~~ department may not use the substantially same in-service training program in consecutive years.

(b) The Commission requires that the following minimum training be included in all training programs that are submitted for Commission approval:

1. at least eight (8) but not more than sixteen (16) hours on Hazardous Materials; and
2. at least once every three (3) years, four (4) hours of the following subjects:
 - (i) Firefighter safety;
 - (ii) Post Traumatic/Critical Incident Stress Training;

- (iii) Domestic violence training/Sudden Infant Death Syndrome ("SIDS") training; and
 - 3. The Commission also requires that eligible fire fighters be currently trained and demonstrate proficiency in the skills of CPR by an agency recognized by the Commission. A maximum of four (4) hours credit toward the required forty (40) hours in-service training shall be allowed for this training.
 - 4. Should the department elect to participate in a two (2) year CPR training program, a minimum of forty (40) hours in-service training will still be required in order to qualify for the Educational Incentive Pay.
- (c) Training subjects curricula must demonstrate in-depth training and preliminary subjects that are normally found in basic training will not be acceptable.
 - (d) Courses taught by a fire department on routine functions of the fire department (hose testing, pre-planning, pumper testing, vehicle maintenance, station maintenance, etc.) will not be considered training for purposes of the in-service training program.
 - (e) Training provided to members of a fire department must be appropriate to a firefighter's rank and responsibility and the size and location of a firefighter's department. (e.g., an Arson Investigator or Codes Enforcement Officer who has no fire suppression duties should not complete a course in fire suppression activities.)
 - (f) Computerized training courses and/or internet courses may be part of a fire department's In-Service Training Program but must meet the following conditions:
 - 1. The course software must provide sufficient safeguards to ensure each individual claiming credit has completed his/her own work.
 - 2. The course software must prohibit the student from skipping any of the courses and proceeding to the final examination.
 - 3. The course software must have a final examination and the examination test bank must be, at a minimum, twice the size of the final examination. The final examination should be randomly generated from this test bank for each student completing the course. If the software cannot meet this provision, then the Training Officer is to develop a final examination for this course based upon Commission requirements for the final examination of an in-service training program to be submitted with the program.
 - 4. The software provider must provide a Certificate of Completion for each student who successfully completes the course. This Certificate should be kept on file by the fire department for audit purposes.
 - 5. The software provider must provide information that outlines the course objectives, instructional method(s), and the time it takes to complete the course. This information should be briefly outlined as part of the fire department's In-Service Training Program.
 - 6. The fire department must schedule the training in accordance with the requirements of the Commission.

7. The Training Officer or a Fire Department Instructor-I must be available (either in person or by telephone) during the allocated training time to answer any questions that a student may have regarding the course.
 8. The **fire** department must have audit procedures in place to ensure that a student is completing his/her own work. These procedures should be briefly outlined as part of the **fire** department's In-Service Training Program.
 9. No more than ~~ten (10)~~ twenty (20) hours of credit will be given for computerized training.
- (5) **Attendance Records.** Attendance records must be maintained on each trainee in a form prescribed by the Commission and must be made available for inspection upon request by the Commission or its representative. The Training Officer and head of the department conducting in-service training must certify to the local unit of government those fire fighters who successfully completed the training, and certified records must be maintained in each individual **fire** department for a period of three (3) years. Such certification must include:
- (a) name (printed and signed);
 - (b) rank or position;
 - (c) Employee Identification Number or last four digits of Social Security Number;
 - (d) employing department;
 - (e) test score;
 - (f) title of class;
 - (g) number of students in class;
 - (h) instructor's name (printed and signed);
 - (i) date of course;
 - (j) length of course (number of hours of course and time it was instructed);
 - (k) test date; and
 - (l) the instructor must void any unused lines on the Class roster by drawing a line through each line and writing the word "VOID".
- (6) **Testing Instrument.**
- (a) Multiple test instruments must be designed to assure that the same test is not administered to two (2) consecutive training sessions using the same curriculum. ~~The test must include at least forty (40) questions of the multiple-choice type. The test must be in the form of multiple choice questions and a separate test administered to cover each unique course of instruction in the training program. The Each test must contain the greater of ten (10) questions relating to a course of instruction or at least one (1) question relating to the subject material of each hour of course instruction. (e.g. sixteen (16) hazardous materials questions for a sixteen (16)-hour hazardous materials course.) The tests may be administered either independently or in a single cumulative test at the conclusion of the training program. If a cumulative test option is selected, the test must be divided by section of each unique course of instruction.~~

- (b) Test answer sheets must follow a format which must show the following:
1. name;
 2. rank or position;
 3. Employee Identification Number or last four digits of Social Security Number;
 4. employing department; and
 5. score of the trainee.
- (c) Test Instruments which combine the questions with the answer sheet will not be accepted for grading. Answer sheets must be separate and must be maintained as a record for at least three (3) years and shall be submitted to the Commission office upon request by the Commission.
- (d) The Each test covering a course of instruction should be developed, administered and scored by the Training officer and or Instructor. Each trainee must score at least seventy percent (70%) on each test. Only one retest will be allowed for individuals failing to achieve seventy percent (70%). If administered as a single cumulative test, each trainee must score at least seventy percent (70%) on each section of the test. If the trainee fails any section of the test, the trainee can retest one time on each section.
- (7) Approval of Specialized Schools/Courses.
- (a) If a fire fighter attends a specialized school appropriate to his rank (or position) and responsibility, the eligibility of the school must be approved by the Commission office. Only schools of a fire service related nature of at least two (2) hours in duration will be considered for in-service credit toward meeting the forty (40) hour training requirement. When submitting a course for Commission approval, the fire department shall indicate the NFPA Standard Number and Section that is applicable to the course being submitted. When applicable, the course will be submitted for pre-approval by the Commission office. In cases where the curriculum and instructors are unknown and when admittance is by short notice, the curriculum and proof of successful completion will be submitted after the course is completed.
- (b) If no test is administered, the attending fire fighter should submit to his Training Officer a detailed evaluation of the course and a correlation sheet showing how their coursework meets the appropriate NFPA Standard. If satisfied that the training was valid and beneficial, the Training Officer should submit a statement to that effect, along with a copy of the report, to the Commission office. If this is not done, no credit will be given.
- (c) In-service credit requests will be reviewed and may be granted for an individual fire fighter for the current training year only, if the course is relevant to his duties and responsibilities.
- (d) In some instances, the above type training session may be combined with the regularly scheduled and Commission-approved forty (40) hour in-service training sessions. If this is done, the attending fire fighter must be tested on those hours attended in the departmental forty (40) hour program. This will necessitate the local training officer being responsible for identifying the appropriate questions involved in the Commission-approved testing instrument.

- (e) Fire service personnel attending the National Fire Academy and successfully completing courses taught on campus will be given credit. In addition, Hazardous Materials training is required annually and a current CPR certification is required in order to be qualified for the Educational Incentive Pay.
- (8) Approval of Fire Courses (Colleges and Universities).
- (a) Any fire fighter who successfully completes a fire related course (or courses) at any accredited institution, institution of higher education, college or university, may be considered for annual fulfillment of all or a portion of the required forty (40) hour in-service training, not to include the eight (8) hours of hazardous material training or the CPR certification requirements as provided for in the provisions herein and approved by the Commission.
 - (b) Course completion toward credit for the annual forty (40) hour in-service training requirements may be met by completing three (3) semester hours (45 classroom hours) or four (4) quarter hours (40 class room hours) of instruction with a passing grade. The completion date of the course must be within the calendar (training) year for which in-service training credit is sought.
 - (c) Applicants for in-service training credit under these provisions must have the approval of the department head and must submit the required Commission form for consideration to the Commission office. When submitting a course for Commission approval, the fire department shall indicate the NFPA Standard Number and Section that is applicable to the course being submitted.
 - (d) In some instances, the above type training hours may be combined with the regularly scheduled and Commission-approved forty (40) hour in-service training sessions. If this is done, the attending fire fighter must be tested on those hours attended in the departmental forty (40) hour program. This will necessitate the local Training Officer being responsible for identifying the appropriate questions involved in the Commission-approved testing instrument.
 - (e) Final approval by the Commission is contingent upon official notification from the institution in which the course was completed with a passing grade.
- (9) Approval of Certification Programs.
- (a) Fire fighters completing the required number of hours of preparation training, certified by the training officer, and successfully passing the appropriate progression level examination in the Commission's certification program within the calendar year for which training is sought, shall be considered as having fulfilled the forty (40) hour in-service requirement and therefore eligible for the supplemental pay.
 - (b) Any fire fighter qualifying for in-service training credit in this manner must also meet the eight (8) hours of hazardous material training requirements and the CPR certification requirements as provided in these rules.
- (10) Emergency Medical Training
- (a) Emergency Medical Training shall be considered meeting the requirements of in-service training so long as all other mandatory programs, as provided in these rules, are met.
 - (b) No more than sixteen (16) hours of credit will be awarded for this training.

(11) Records Storage

- (a) All ~~fire~~ department records related to the Educational Incentive Pay Program shall be kept by the ~~fire~~ department in a secure location. Access to the records shall be limited to the fire chief, the chief of training or their designee.
- (b) Any ~~fire~~ department that maintains training records via computer or other electronic means, must submit a request to the Director Commission office in writing. ~~The Director and a Commission member shall conduct an on-site audit of the department's electronic system to ascertain the security, safeguards, etc. of the system and make a recommendation to the Commission at the next regularly scheduled Commission meeting on whether to approve the request and, if needed, any conditions which need to be placed on the approval. All departments who receive approval must obtain signatures of all eligible personnel on the "In-Service Training Verification Sheet" annually. The department's electronic records may be subject to audit by the Commission. The department must describe the electronic records system, identifying the security safeguards that are in place.~~

Authority: T.C.A. §§ 4-24-101, 4-24-106~~(5)~~, 4-24-107, ~~4-24-107(3)~~, 4-24-111, and 4-24-202.

0360-07-01-.06 PAYMENT PROCEDURES. The Commission shall disburse to eligible units of government the Educational Incentive Pay awarded to fire fighters who have established eligibility for such under the provisions of the Commission's rules and regulations. The disbursement of these funds shall be subject to all of the following conditions:

- (1) The Educational Incentive Pay will be based on the availability of funds appropriated by the General Assembly.
- (2) Payment will be made only upon request by the unit of government and upon submission of the necessary documentation by the administrative officer of the eligible department.
 - (a) Proof of the successful completion of a Commission-approved training program, by submission of a copy of ~~each signed "In-Service Training Verification Sheet" and as prescribed in these rules and regulations, within the calendar year by all recipients of the Educational Incentive Pay. the following forms by March 1 of the calendar year:~~
 - 1. Educational Incentive Pay Request;
 - 2. In-Service Training Report;
 - 3. Notarized Statement of Fire Chief attesting to accuracy and completeness of the Information, and
 - 4. Training Substitution Forms for previous year.
- (3) Payment will be made in a lump sum directly to the governmental entity handling salary accounts for the eligible ~~fire~~ departments.
- (4) It will be the responsibility of the unit of government to disburse the funds to the individual fire fighters after the deduction of the applicable taxes.
- (5) The unit of government is responsible for any increase in the employer's contribution to social security or like programs necessitated by the increase in the employee's annual base earnings.

- (6) Members of the Fire Service shall not be eligible for supplement pay from more than one agency.
- (7) Effective January 2015, information and Training Programs required by the Commission must be received at the Commission office by May 1 November 1 of the preceding calendar year in which training is to be taught. Failure to provide all information by the required date may result in a rejection for supplemental pay.
- (8) Departments submitting a certified list of eligible names of fire fighters who have qualified themselves for the forty (40) hour in-service training, Educational Incentive Pay, must also certify to the Commission that each qualifying individual is a member of the department whose name was on the department payroll as of December 31, of the calendar year in which training was received.

If a qualifying individual is separated from the fire service for any of the following reasons, after becoming qualified, they will be considered as having met the December 31 employment requirements if they:

- (a) become eligible and accept a service retirement and begin drawing retirement benefits; or
 - (b) become eligible and accept a disability retirement; or
 - (c) die while employed.
- (9) All requests for supplemental pay must be submitted to the Commission office by certified mail and postmarked no later than March 1 of each calendar year.
 - (a) The Commission will not grant a waiver of this date for two (2) consecutive years.
 - (b) A fire department shall have fifteen (15) calendar days from the date it receives notice that a correction is required to their request for Educational Incentive Pay to make the necessary correction and return the request to the Commission.
 - (c) Fire Departments may submit additions to their requests for supplemental pay for up to sixty (60) days from the date Educational Incentive Pay checks were mailed to fire departments. Payment of these additions is contingent upon availability of funds.

Authority: T.C.A. §§ 4-24-101, 4-24-106~~(5)~~, 4-24-107, ~~4-24-107(3)~~, ~~4-24-107(6)~~ and 4-24-202.

0360-07-01-.07 WAIVER.

- (1) The Commission shall only consider requests to waive the following rules and regulations:
 - (a) the waiting periods between certifications in Rules 0360-02-02 and 0360-03-01;
 - (b) the deadline for submission of training programs for approval in Rule 0360-07-01-.05(4); and
 - (c) the deadline for submitting requests for supplemental pay in Rule 0360-07-01-.06(9).
- (2) When considering whether good cause has been shown to grant a waiver pursuant to this rule, the Commission may consider, but is not limited to, the following:
 - (a) hardships on fire departments through time, staffing, budget or facilities limitations;

- (b) unavailability of qualified instructors or test proctors due to financial, staffing or time constraints;
 - (c) inclement weather, natural disasters, etc.
 - (d) illness, injury or disability of training officer that causes the department to miss the submission deadlines in 0360-07-01(4) and (9).
- (3) A waiver shall not be granted in two (2) consecutive years.
 - (4) A request for a waiver must be submitted in writing.

Authority: T.C.A. §§ 4-24-101, 4-24-107, ~~4-24-107(3)~~ and ~~4-24-107(6)~~.

0360-07-01-.08 AUDIT.

- (1) All accounts shall be subject to audit by the State Comptroller.
- (2) All records pertaining to the Educational Incentive Pay Program shall be available for inspection by a member of the Commission or its staff and shall be kept for three (3) years after the Educational Incentive Pay was issued.
- (3) An audit committee of the Commission, made up of the Director and a Commission Member or a ~~Field Representative~~ Commission-approved designee, shall review the Educational Incentive Pay Program records of a minimum of ten percent (10%) of ~~fire~~ departments participating in the Educational Incentive Pay Program each year. Departments subject to review each year will be chosen at random by each Commission member drawing a minimum of two (2) departments to audit after all Educational Incentive Pay requests have been received.
 - (a) The audit committee shall present its findings to the Commission for consideration. The audit committee shall the review records of the ~~fire~~ department to ensure compliance with Commission rules, including, but not limited to:
 - 1. "In-Service Training Verification Sheets" are signed;
 - 2. attendance records were properly filled out as required by 0360-07-01-.05(5);
 - 3. test records were properly graded and filled out as required by 0360-07-01-.05(6);
 - 4. records required by NFPA 1001, Chapter 4 are properly maintained; and
 - 5. electronic records, if kept, are properly maintained and secured.
 - (b) The audit committee should make one of the following recommendations to the Commission:
 - 1. Audit was in compliance with Commission Requirements.
 - 2. No action required. This would be used for a minor infraction. Committee counselled the department on the corrective actions needed.
 - 3. Informal Review. This would be used for minor infractions that the committee felt needed to be reviewed to ensure corrective action was taken. This review would

only encompass the areas that needed reviewing and would be done by the participants of the original audit.

4. Probation. This would be used for more significant infractions. The committee would recommend that the ~~fire~~ department be audited again for a period ranging from one (1) to three (3) years.
5. Formal Hearing. The Committee feels that a major violation of the Commission's ~~R~~rules or ~~S~~state statute has occurred; and would recommend a hearing under the Commission's Rules and Regulations for formal discipline under the Commission's rules.

(c) When making its report to the Commission, the Committee may make any additional comments and recommendations it feels are appropriate, but the above are the general guidelines to be used. The ~~Director~~ Commissioner or Commissioner's designee shall send each audited Department a copy of the completed audit report.

- (4) Commission staff and Commission Members may conduct unannounced visits to ~~fire~~ departments training classes. The visit will not disrupt the training session; however information may be solicited from the participants and/or instructor during a break or after the class. Documentation will be completed about the visit and filed with that department's In-Service Training Program for that year. If training is not being conducted as scheduled, that department will be invited to the next regularly scheduled Commission meeting to offer an explanation.

Authority: T.C.A. §§ 4-24-101, 4-24-106~~(5)~~, 4-24-107, ~~4-24-107(3) and 4-24-107(6)~~.

0360-07-01-.09 DISCIPLINARY MATTERS.

- (1) The Commission may revoke, modify, suspend or condition the educational incentive pay, to the unit of government, or governmental entity handling salary accounts for the otherwise eligible ~~fire~~ departments, if it finds, after appropriate notice and hearing, that:
 - (a) the requirements for the salary pay supplement had not been met as per the Commission's Rules and Regulations.
 - (b) any fraud, collusion, misrepresentation or substantial mistake was involved in the procurement of the educational incentive pay.

Authority: T.C.A. §§ 4-24-101, 4-24-106~~(5)~~, 4-24-107, ~~4-24-107(3), 4-24-107(6)~~ and 4-24-201.

0360-07-01-.10 PROSECUTION OF FALSE CLAIMS FOR EDUCATIONAL INCENTIVE PAY.

- (1) As an added measure to guard against the misuse of State funds, the Fire Fighting Commission and Staff will vigorously seek criminal prosecution through the State Attorney General's Office against any individual or individuals it finds have engaged in fraudulent conduct or false representation in connection with the completion of training requirements in order to unjustly obtain educational incentive pay.
- (2) The Commission will recognize the possibility of inadvertent mistakes involved in a Department's record keeping, and after close scrutiny of such facts will make the proper recommendation to such Department involved and seek immediate reimbursement of such funds erroneously paid due to the Department's oversight. If such reimbursement is not immediately forthcoming, the Fire Fighting Commission and Staff will commence legal action accordingly.

Authority: T.C.A. §§ 4-24-101, 4-24-106(5), 4-24-107, ~~4-24-107(3), 4-24-107(6)~~ and 4-24-201.

0360-07-01-.11 THROUGH 0360-07-01-.18 ~~REPEALED, RESERVED.~~

Authority: T.C.A. §4-24-107.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Commissioner Biggs	X				
Commissioner Cotton	X				
Commissioner Finucane	X				
Commissioner McCormack	X				
Commissioner Naifeh	X				
Commissioner Slay	X				
Commissioner Sorge	X				
Commissioner Vance	X				
Commissioner Wakefield	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Commission for Firefighting Personnel Standards and Education on 4/30/14, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 3/12/14

Rulemaking Hearing(s) Conducted on: (add more dates). 4/30/14

Date: 10/01/2014

Signature: Joseph Underwood

Name of Officer: Joseph Underwood

Title of Officer: Chief Counsel for Fire Prevention & Law Enforcement



Subscribed and sworn to before me on: October 1, 2014

Notary Public Signature: Ann Jones

My commission expires on: June 21, 2016

All rulemaking hearing 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.

Herbert H. Slatery III
 Herbert H. Slatery III
 Attorney General and Reporter
10/23/2014
 Date

Department of State Use Only

Filed with the Department of State on: 10/27/14

Effective on: 1/25/15

Tre Hargett

Tre Hargett
Secretary of State

RECEIVED
2014 OCT 27 PM 3:57
SECRETARY OF STATE

G.O.C. STAFF RULE ABSTRACT

<u>AGENCY:</u>	Tennessee Correction Institute's Board of Control
<u>SUBJECT:</u>	Correctional Facilities Inspections: Minimum Standards for Juvenile and Local Correctional Facilities
<u>STATUTORY AUTHORITY:</u>	Tennessee Code Annotated, Section 41-4-140
<u>EFFECTIVE DATES:</u>	January 27, 2015 through June 30, 2015
<u>FISCAL IMPACT:</u>	None
<u>STAFF RULE ABSTRACT:</u>	<p>The rule repeals Chapter 1400-2 regarding minimum standards for non-secure holding facilities for juveniles.</p> <p>The rule also repeals Chapter 1400-3 regarding minimum standards for juvenile detention facilities.</p> <p>The rule also amends existing Chapter 1400-1 regarding minimum standards for local correctional facilities, primarily by updating definitions and terminology used in the Rules and by updating certain policies and procedures requirements. These modifications include, but are not limited to, the following:</p> <ol style="list-style-type: none">1. Preventing a currently certified local facility from being decertified if the local government submitted a plan of action within sixty (60) days of an initial annual inspection that is reasonably expected to eliminate fixed ratio deficiencies;2. Detailing new square footage standards for clean floor space for single- and multiple-occupancy cells;3. Requiring that inmates have twenty-four (24) hour access to toilets and washbasins with hot and cold water;4. Consolidating facility types into three (3) designations;5. Updating dimensions for outdoor recreation areas;6. Requiring that secure control centers be staffed twenty-four (24) hours per day;7. Requiring facilities to establish inmate grievance procedures with one (1) level of appeal;

8. Requiring that a criminal records check be conducted for employees, service providers, contractors and volunteers;
9. Updating and expanding training requirements, including orientation and annual training;
10. Updating and expanding policies regarding firearms and less-lethal weapons, tools and potentially dangerous supplies, security staffing, and the use of restraints;
11. Updating discipline policies, including disciplinary review board requirements and written policies and procedures for disciplinary hearings regarding inmate conduct;
12. Updating food and medical service guidelines;
13. Identifying information required to be maintained in inmate custody records and providing inmate access to records;
14. Requiring the establishment of certain policies and procedures for the release of inmates from facilities; and
15. Providing additional requirements and policies for inmates with disabilities.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

No public comments were made during the Rulemaking Hearing and no letters of inquiry were submitted.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 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.

(If applicable, insert Regulatory Flexibility Addendum here)

1. The types and estimated number of small businesses directly affected:
No small businesses will be affected by the promulgation of these rules.
2. The projected reporting, recordkeeping, and other administrative costs:
There is no foreseeable alteration in small business reporting or recordkeeping that will result from the promulgation of these rules.
3. The probable effect on small businesses:
No small businesses will be affected by the promulgation of these rules.
4. Less burdensome, intrusive, or costly alternative methods:
Since the proposed rules will not impact small businesses, a less burdensome, intrusive or costly alternative method has not been identified or recommended for use.
5. Comparison with federal and state counterparts:
The proposed rules will amend existing Chapter 1400-01, and repeal Chapters 1400-02 and 1400-03, but there is no other comparison to federal or state counterparts.
6. Effect of possible exemption of small businesses:
There are no exemptions for small businesses to the requirements contained in the proposed rules because the proposed rules will not affect small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed rules will have an impact on local governments.

9

Department of State
Division of Publications
312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence
Number: 10-17-14
Rule ID(s): 5828-5830
File Date: 10-29-14
Effective Date: 1-27-15

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Department of Commerce and Insurance
Division: Tennessee Corrections Institute
Contact Person: Joseph Underwood
Address: 500 James Robertson Parkway
Zip: 37243
Phone: 615-741-3899
Email: Joseph.underwood@tn.gov

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
1400-01	Minimum Standards For Local Correctional Facilities
Rule Number	Rule Title
1400-01-.02	Basic Information
1400-01-.03	Glossary
1400-01-.04	Physical Plant
1400-01-.05	Administration/Management
1400-01-.06	Personnel
1400-01-.07	Security
1400-01-.08	Discipline
1400-01-.09	Sanitation/Maintenance
1400-01-.10	Food Services
1400-01-.11	Mail and Visiting
1400-01-.12	Prisoner Programs And Activities

1400-01-.13	Medical Services
1400-01-.14	Admission, Records And Release
1400-01-.15	Hygiene
1400-01-.16	Supervision Of Prisoners
1400-01-.17	Classification
Chapter Number	Chapter Title
1400-02	Minimum Standards for Non-Secure Holding Facilities for Juveniles
1400-03	Minimum Standards for Juvenile Detention Facilities

RECEIVED
2014 OCT 29 PM 4:05
TENN
SECRETARY OF STATE

**RULES
OF
THE TENNESSEE CORRECTIONS INSTITUTE
CORRECTIONAL FACILITIES INSPECTION**

1400-01-.01	Preface	1400-01-.10	Food Services
1400-01-.02	Basic Information	1400-01-.11	Mail and Visiting
1400-01-.03	<u>Glossary/Definitions</u>	1400-01-.12	<u>Prisoner-Inmate</u> Programs and Activities
1400-01-.04	Physical Plant	1400-01-.13	Medical Services
1400-01-.05	Administration/Management	1400-01-.14	Admission, Records and Release
1400-01-.06	Personnel	1400-01-.15	Hygiene
1400-01-.07	Security	1400-01-.16	Supervision of <u>Prisoners/Inmates</u>
1400-01-.08	Discipline	1400-01-.17	Classification
1400-01-.09	Sanitation/Maintenance		

1400-01-.02 Basic Information.

(1) Statutory Authority: The standards contained in this document are ~~based on the authorizedty of Section 41-4-140 of the~~ pursuant to Tennessee Code Annotated § 41-4-140 to require the establishment of minimum standards for the inspection of local jails, lock-ups, workhouses and detention facilities.

(2) Categories Covered by Standards: The minimum standards established and recorded herein will cover the following categories:

- (a) Physical Plant
- (b) Administration/Management
- (c) Personnel
- (d) Security
- (e) Discipline
- (f) Sanitation/Maintenance
- (g) Food Services
- (h) Mail and Visiting
- (i) Prisoner-Inmate Programs and Activities
- (j) Medical Services
- (k) Admission Records and Release
- (l) Hygiene
- (m) Supervision of Inmates Prisoners
- (n) Classification

Formatted: Font color: Auto, Not Strikethrough

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

(3) Other Standards: Nothing contained in these standards shall be construed to prohibit a city, county, or city and county agency operating a local correctional agency from adopting standards governing its personnel and facility, provided such standards meet or exceed and do not conflict with the standards established and recorded herein. Nor shall the standards be construed as authority to violate any state fire safety standards, building standards or health and safety codes.

Formatted: Font color: Auto, Not Strikethrough

(4) Validity: In determining the application of these minimum facility standards, the Tennessee Corrections Institute Board of Control has enacted the following:

(a) Standards contained herein shall apply to specific types of local correctional facilities as noted at the end of each standard. For the purpose of this document, primarily adult jails or workhouses which house inmates for over seventy-two (72) hours will be considered Type I; primarily adult jails which house inmates prisoners for no more than seventy-two (72) hours will be considered Type II; primarily adult jails which house inmates for no more than between one (1) and twelve (12) hours will be considered Type III. Type III does not include facilities used primarily for fingerprinting, photographing, interviewing or interrogating.

(b) Detention facilities shall be classified according to construction date. Facilities constructed after June, 2000, shall be considered as new, while facilities constructed prior to or during the month of June, 2000, shall be considered existing facilities.

(c) An existing facility must meet all applicable standards referring to such facilities and all other applicable standards. A new facility must comply with all applicable standards referring to such facilities and all other applicable standards.

(d) Any additions or renovations to existing facilities must comply with all applicable standards for new facilities.

(e) The number of prisoners-inmates awaiting transfer to the Department of Correction penal system may be discounted from any computations used to determine compliance with standards (2), (3), (4), (5), (6), and (7) of Section 1400-01-05 Administration/Management, 04 Physical Plant under the following conditions:

1. The Governor must have invoked the power of delayed intake pursuant to T.C.A. § 41-1-504(a)(2) and/or a federal or state court has delayed intake into the Department of Correction penal system and,
2. More than six (6%) percent of the county's total average prisoner-inmate population over the preceding ninety (90) days in all of its correctional facilities consists of prisoners-inmates sentenced to the Department of Corrections whose commitments have been delayed pursuant to (1.) then,
3. The number of prisoners-inmates awaiting transfer to the Department of Correction at a particular facility in excess of six (6%) percent shall not be used in any computations used to determine compliance with the above stated standards.

Formatted: Indent: Hanging: 0.44"

(5) Certification of Facilities: Facilities which meet all applicable standards as determined by an annual inspection shall be recommended for certification by the inspector to the Tennessee Corrections Institute's Board of Control during the first board meeting following the completion of the inspection. These facilities which do not meeting all applicable standards shall be recommended for non-certification. Facilities whose annual

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

inspections are completed prior to the fifteenth (15th) of the month shall be recommended for certification or non-certification to be effective on the first (1st) day of the month during which the inspection was completed. Facilities whose annual inspections are completed after the fifteenth (15th) of the month shall be recommended for certification or non-certification to be effective on the first (1st) day of the month following the month in which the inspection was completed. The Judicial Cost Accountant in the Office of the Comptroller shall be immediately notified of any proposed change in a facility's status.

- (6) No currently certified local facility shall be decertified if the local government has submitted a plan of action within sixty (60) days of the initial annual inspection that is reasonably expected to eliminate fixed ratio deficiencies in that facility and cause that facility to remain certified.

Formatted: Not Highlight

Authority: T.C.A. § 41-4-140.

1400-01-03 Glossary-Definitions.

~~(1) Attorney - One who is licensed to practice law and is authorized to act in the place or stead of another.~~

- (21) Basic Training - The introductory training provided by the Tennessee Corrections Institute which prepares a jail-facility employee with general and specific knowledge about the detention of prisoners-inmates in a local facility.

(2) Booking- An official recording of an arrest and the identification of the person, place, time, arresting authority, and the reason for the arrest. It is the procedure for the admission of a person charged with or convicted of an offense, which includes searching, fingerprinting, photographing, medical screening, and collecting personal history data. Booking also includes the inventory and storage of the individual's personal property.

(3) Cell Block - A separate, secure group or cluster of single and/or multiple occupancy cells or detention rooms immediately adjacent and directly accessible to a day or activity room. In some facilities the cell block consists of a row of cells fronted by a dayroom or corridor-like proportion.

(4) Censor - To read communications such as letters in order to delete material which might be considered harmful to the interests of the organizations, or institution agency or facility.

(5) Chemical Agent - An active substance, such as pepper spray, used to deter acts that might cause personal injury or property damage.

(56) Classification - A process for determining the needs and requirements of those for whom confinement has been ordered and for assigning them to housing units and programs according to their needs and existing resources.

(67) Clear Floor Space - Floor space that is free of obstructions such as bunks, showers, commodes, and lavatories.

~~(7) Coma - A state of deep, prolonged unconsciousness, usually the result of injury, disease or ingestion of toxins.~~

~~(8) Communicable Disease - An illness that may be transmitted to others.~~

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

- (98) Contraband – Any item that has not been approved for possession or use by inmates or detainees by those legally charged with the responsibility for administration and operation of the facility.
- (9) Control Center – A very secure, self-contained unit designed to maintain the security of the facility. Policies governing the design, staffing, and accessibility of the control center should ensure that it cannot be commandeered by unauthorized persons.
- (4010) Corporal Punishment - Any kind of punishment inflicted on the body, such as whipping. Any act of inflicting punishment directly on the body, causing pain or injury. Physical punishment, as distinguished from pecuniary punishment, inflicted on the body of an inmate or detainee for the purpose of interrupting an impermissible act or deterring undesirable behavior.
- (44) Corrosive – Capable of producing the process of dissolving or wearing away, especially of metals.
- (42) Counsel – Advice or guidance.
- (4311) Daily Log - A record of all significant activities that take place during the course of a day.
- (4412) Dayroom - A secure area directly adjacent to inmate prisoner living area, to which prisoner inmates may be admitted for activities such as bathing, exercise, recreation and dining. Spaces originally designed for circulation, such as corridors, are not dayrooms.
- (4513) Detainee - Any person confined in a local facility jail not serving a sentence for a criminal offense.
- (4614) Detainer - A writ or instrument, issued or made by a competent officer, authorizing the keeper of a prison/jail to keep in his custody a person therein named.
- (4715) Detention - The confinement of an inmate prisoner in a secure area (usually pretrial prisoners inmates).
- (4816) Detention Facility - A confinement facility, usually operated by a local law enforcement agency, which holds persons detained pending adjudication and/or persons committed after adjudication. Jails, while intended for the confinement of adults, sometimes hold juveniles as well.
- (4917) Detention Officer – A person One who is employed or authorized to detain or guard prisoners inmates.
- (2018) Disciplinary Action - An action taken upon an prisoner inmate that is intended to correct or punish.
- (2419) Disciplinary Hearing - A non-judicial administrative procedure to determine if substantial evidence exists to find a prisoner an inmate guilty of a rule violation.
- (2220) Disciplinary Report - An account, or announcement that is prepared, presented or delivered, usually in formal or organized form based on the possibility of a rule violation.
- (21) Disciplinary segregation – A form of separation from the general population in which inmates who committed serious violations of conduct regulations are confined for short periods of time to individual cells separated from the general population by the disciplinary committee or other authorized group. Placement in disciplinary detention may only occur after a finding of a rule violation at an impartial hearing and when there is not an adequate alternative disposition to regulate the inmate's behavior.

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt.

- (23) ~~Disinfect – To cleanse or rid of pathogenic microorganisms.~~
- (24) ~~Disposition – Final adjudication by courts and administrative boards.~~
- (2522) Document - To support with written sources.
- (2923) Due Process Guarantees – Those procedures that ensure just, equal, and lawful treatment of an individual involved in all stages of the criminal justice system, such as a notice of allegations, impartial and objective fact finding, a written record of the proceedings, a statement of any disposition ordered with the reasons for it, and the right to confront accusers, call witnesses, and present evidence.
- (2624) Existing ~~Facilities-Facility~~ - Facilities-Detention facility built prior to or during the month of June, 2000.
- (2725) Facility Administrator - Any official who has primary responsibility for managing and operating a local detention facility.
- (2828) ~~Fire Retardant – Material that will burn, but at a slow rate.~~
- (2929) ~~Flammable – Easily ignitable and capable of burning with great rapidity; highly combustible.~~
- (3026) Flushable Drain - A pipe or channel which is cleaned by a rapid, brief gush of water.
- (3127) Foot-candle - A unit for measuring the intensity of illumination; the amount of light thrown on a surface one foot away from the light source.
- (28) Furnishings – Applies to all living quarters. Includes draperies, curtains, furniture, mattresses and bedding, upholstered or cushioned furniture, wastebaskets, decorations, and similar materials that can burn.
- (3229) General Population - A group of individuals confined in an institution ~~that who~~ have no institutional restrictions on them, such as segregation.
- (30) Grievance/Grievance Process – A circumstance or action considered to be unjust and grounds for complaint or resentment and/or a response to that circumstance in the form of a written complaint filed with the appropriate body.
- (31) Health/Medical Screen – A structured inquiry and observation to prevent newly-arrived offenders who pose a health and safety threat to themselves or others from being admitted to the general population and to identify offenders who require immediate medical attention. The screen can be initiated at the time of admission by health care personnel or by a health-trained correctional officer.
- (3332) Housing Area - A ~~high-security, medium-security, or low-security~~ cell or room, excluding holding, detoxification, infirmary, and segregation cells or rooms.
- (33) Informed Consent – The agreement by a patient to a treatment, examination, or procedure after the patient receives the material facts regarding the nature, consequences, risks, and alternatives concerning the proposed treatment, examination, or procedure.
- (34) Inmate – A person, whether in pretrial, un-sentenced, or sentenced status, who is confined in a correctional facility.

Formatted: Font color: Auto, Not Strikethrough

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

(345) In-Service Training - ~~That training~~ Training which is given to an employee on an annual basis to reinforce or add to his basic training.

(35) ~~Infraction - A breach or violation of a facility rule.~~

(36) Jail - A confinement facility, usually operated by a local law enforcement agency, which holds persons detained pending adjudication and/or persons committed after adjudication. Jails, while intended for the confinement of adults, ~~sometimes may hold also confine juveniles, as well.~~

Formatted: Font color: Auto, Not Highlight

Formatted: Font color: Auto, Not Highlight

Formatted: Not Highlight

Formatted: Not Highlight

(37) Jailer - ~~One A person~~ who is charged by an institution to detain or guard ~~prisoners~~ inmates.

(38) ~~Library Service - A service that provides reading materials for convenient use; circulation of reading materials; service to help provide users with library materials, educational and recreational materials, or a combination of these services.~~

(389) ~~Medical Records - Records of medical examinations, diagnoses, treatments and physicians' orders. Records of medical examinations and diagnoses maintained by the responsible medical provider for each inmate separate from the inmate's file. Medical records shall include the date and time of the medical examination and copies of standing or direct medical orders from the physician.~~

(3940) Medication Receipt System - A method that accounts for the administering of medications.

(401) Menu Pattern - The outline of food items to be included in each meal.

(412) Monitor - To keep watch over, supervise.

(423) ~~New Facilities~~ Facility - ~~Facilities~~ Detention facility built after June 2000.

(4344) Physical Force - Any use of firearms, chemical agents, clubs or other devices in controlling ~~a prisoner~~ an inmate. Also, any situation which requires an officer to "lay hands" on ~~a prisoner~~ an inmate or physical force used which subjects ~~a prisoner~~ an inmate to pain, discomfort or physical incapacitation.

(4445) Physical Plant - ~~The building~~ A building, set of buildings, portion of a building, or area that is used for the lawful custody and/or treatment of individuals.

(4946) ~~Plan of Action - A written plan that will eliminate or correct deficiencies noted in the annual inspection.~~

(45) ~~Policy - A statement of what is to be done in relation to a particular issue. It reflects the philosophy of the organization and defines the purpose for which the action is taken.~~

(4647) Potentially Hazardous Food - Any food that consists, in whole or in part, of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. ~~The term d~~ Does not include clean, whole, uncracked, odor-free shell eggs, ~~or~~ foods which have a pH level of 4.6 or below, or a water activity (aw) value of 0.85 or less.

(48) Pre-Service ~~Training~~ Orientation - Training accomplished prior to assignment of duty, which is intended to familiarize new employees with the operations of the particular jail to which they are to be assigned.

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

- ~~(49) Preventative Maintenance – A system designed to enhance the longevity and/or usefulness of buildings or equipment in accordance with a planned schedule.~~
- ~~(48) Prisoner – One who is confined to a jail.~~
- ~~(49) Procedure – A procedure provides a detailed description of how a policy is to be accomplished. It details the steps to be taken, the order in which they will be carried out, and by whom.~~
- (50) Range of Sanctions - The various penalties for noncompliance of rules specified by the facility administrator.
- ~~(5451) Receiving Area - The point of prisoner inmate entry into a jail or detention facility; the period when awhere an prisoner inmate undergoes admission processing, which may include orientation and initial classification prior to regular assignment to the housing area.~~
- (52) Receiving Screening - An system of structured observation/initial health assessment to identify newly-arrived prisoners inmates who pose a health or safety threat to themselves or others.
- ~~(5353) Regular Access - The documented number of hours an prisoner inmate may utilize additional living space available as described by facility policy.~~
- ~~(54) Rules – Those guidelines which govern an prisonerinmate's behavior while he/she is confined in a jail facility.~~
- ~~(5554) Sally Port - An enclosure situated either in the perimeter wall or fence of the facility or within the interior of the facility, containing gates or doors at both ends, only one of which opens at a time. This method of entry and exit ensures there will be no breach in the perimeter or interior security of the facility.~~
- ~~(56) Search – To examine the person or his/her personal effects in order to detect contraband.~~
- ~~(57) Secure – To provide Providing a degree of restriction of prisoner inmate movement within a detention facility.~~
- ~~(5855) Security Devices - Locks, gates, doors, bars, fences, screens, ceilings, floors, walls, and barriers used to confine and control prisoners inmates. Also, electronic monitoring equipment, security alarm systems, security light units, auxiliary power supply, and other equipment used to maintain facility safety.~~
- ~~(5956) Security Perimeter - Outer portions of a facility which actually provide for secure confinement of prisonersinmates. This perimeter may vary for individual prisensfacilities, depending upon their security classification.~~
- ~~(57) Segregation – Confinement of an inmate to an individual cell separated from the general population.~~
- ~~(6058) Sick Call - A function which provides prisoners inmates the opportunity to receive required medical attention.~~
- ~~(59) Strip Search – Examination of an inmate's naked body for weapons, contraband, and physical abnormalities and includes a thorough search of all of the individual's clothing while it is not being worn.~~

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

- (6460) Structural Projections - Some part of the construction that protrudes with sharp or pointed edges.
- (62) ~~Toxic - Poisonous; harmful, destructive or deadly.~~
- (6361) Trusty - ~~A prisoner~~ An inmate, usually in a minimum security classification, who is responsible for performing various maintenance tasks under supervision in a jail.
- (62) Type I Facility - A detention facility housing primarily adults for more than seventy-two (72) hours.
- (63) Type II Facility - A detention facility housing primarily adults for not more than seventy-two (72) hours.
- (64) Type III Facility - A detention facility where persons are detained between one (1) and twelve (12) hours and does not include detention facilities used primarily for fingerprinting, photographing, interviewing or interrogating.
- (65) Unencumbered Space - Usable space that is not encumbered by furnishings or fixtures. In determining unencumbered space in the area, the total square footage is obtained and the square footage of fixtures and equipment is subtracted. All fixtures and equipment must be in operable position.
- (6466) Work Stoppage - A halt by those employed by the facility; usually refers to a strike.
- (6567) Workhouse - A county ~~confinement detention~~ facility operated by or for a county which holds primarily sentenced, minimum security ~~prisoners~~ inmates.
- (68) Working Inmate - An inmate who has been screened, selected, and assigned to a formal jail work program (occurring within the security area of the jail, or external to the jail). This includes those inmates who are taken out by various persons/agencies to work offsite (for example, a county employee comes to the jail each day to take a group of inmates to work at a recycling center).

Authority: T.C.A. § 41-4-140.

1400-01-.04 Physical Plant

- (1) All ~~types of~~ facilities shall ~~provide, for at a minimum~~ meet the following requirements:
- (a) ~~In new~~ New and existing facilities, shall have, on average, lighting of at least ~~twenty (20) foot-candles in~~ activity areas shall have lighting of at least ~~twenty (20) footcandles,~~ to be measured three (3) feet off the floor.
- (b) New and existing facilities shall have forced air ventilation in sleeping and activity areas.
- (c) New facilities shall have access to natural light in sleeping and activity areas.
- (d) New and existing facilities shall have a temperature of not less than sixty-five (65) degrees Fahrenheit and ~~not~~ more than eighty (80) degrees Fahrenheit in sleeping and activity areas.

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

- (e) ~~New facilities sleeping areas in new facilities~~ shall have lighting of ~~at least not less than~~ five (5) ~~average~~ footcandles ~~in sleeping areas; on the average~~, to be measured three (3) feet off the floor.

~~Applies to Types I, II, and III. IV, and V.~~

Formatted: Font color: Auto, Not Strikethrough

Formatted: Font color: Auto, Not Strikethrough

- (2) ~~For In new and existing facilities, the minimum size of a single-occupancy cell shall have be fifty (50) thirty-five (35) square feet of clear floor space with a ceiling height of not less than eight (8) feet. At least seventy (70) square feet of total floor space shall be provided when the occupant is confined for more than ten (10) hours per day. All dimensions of cell length and width for both single and multiple-occupancy cells shall allow for a reasonable amount of usable floor space for any in-cell activities of inmates. Each cell shall contain a bunk, water closet and lavatory. Any questions pertaining to sufficiency of cell dimensions shall be decided by the Tennessee Corrections Institute. For existing facilities, the minimum size of a single-occupancy cell shall be forty-five (45) square feet with a ceiling height of at least eight (8) feet. Each single cell in an existing facility shall contain a bunk, water closet and lavatory. If a prisoner who occupies a single occupancy cell in either an existing or a new facility has regular access to additional living areas outside the cell, this additional area may be added on a pro-rata basis to the square footage available to the prisoner.~~

Formatted: Font color: Red

Formatted: Not Strikethrough

~~Applies to Types I, II, and III. IV, and V.~~

- (3) ~~In new and existing facilities, the minimum size of a Mmultiple-occupancy cells (2-64 occupants) in new facilities shall not be designed to accommodate more than sixteen (16) persons. A minimum of forty (40) shall be twenty-five (25) square feet of clear floor space for each occupant must be provided in the sleeping areas, with a ceiling elevation of not less than eight (8) feet. At least thirty-five (35) square feet of clear floor space shall be provided for each occupant when the occupant is confined for more than ten (10) hours per day. In existing facilities, multiple-occupancy cells shall allow twenty-five (25) square feet of floor space per occupant, exclusive of the floor area occupied by the bunks, with a ceiling height of not less than eight (8) feet. If a prisoner who occupies a multiple-occupancy cell in either an existing or a new facility has regular access to additional living areas, the additional area may be added on a pro-rata basis to the square footage available to a prisoner.~~

Formatted: Font color: Auto, Not Strikethrough

~~Applies to Types I, II, and III. IV, and V.~~

- (4) In new jails and workhouses, dormitories shall ~~not~~ be designed to accommodate ~~not~~ more than sixty-four (64) persons. A minimum of twenty-five (25) square feet of clear floor space for each ~~occupant inmate~~ must be provided in the housing area with a ceiling elevation of not less than eight (8) feet. ~~This type of housing shall be used only for minimum security prisoners~~

In existing jails and workhouses, dormitories shall provide ~~not less than~~ twenty-five (25) square feet of floor space per occupant, exclusive of the area occupied by ~~the~~ bunks, and a ceiling height of not less than eight (8) feet. If ~~a prisoner an inmate~~ who occupies a dormitory ~~in either an existing or a new facility~~ has regular access to additional living areas, the additional area may be added on a pro rata basis to the square footage available to ~~a prisoner an inmate~~.

A dayroom is required with thirty-five (35) square feet per inmate for the maximum number of users at one time.

Applies to Type I.

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

- (5) New facilities shall have a dayroom for each cell block or cluster of cells, which has a minimum of thirty-five (35) square feet of floor space per ~~prisoner~~inmate.

Existing facilities are not required to provide dayrooms.

Applies to Types I and IV.

Formatted: Font color: Red

- (6) ~~Inmates, including those in medical housing units or infirmaries, shall have access to toilets and washbasins with temperature-controlled hot and cold running water twenty-four (24) hours per day.~~ All facilities shall provide operable toilets and washbasins to inmates on a ratio of at least one (1) toilet and washbasin to every twelve (12) male inmates and one (1) toilet and washbasin for every eight (8) female inmates and one (1) toilet and washbasin accessible to occupants of any single-occupancy cell without their having to leave their cell. ~~Two (2) urinals may equal one (1) toilet. Urinals may be substituted for up to one-half of the toilets in male facilities. Inmates shall be able to use toilet facilities without staff assistance when they are confined in their cells/sleeping areas. All new facilities constructed after January 1, 2015 shall be required to provide an unbreakable toilet, washbasin or water closet in maximum security areas.~~

Applies to Types I, II, and III, IV, and V.

- (7) Jails shall have at least one (1) operable shower for every sixteen (16) ~~prisoners~~ inmates, which shall be accessible to ~~prisoners~~ inmates without their having to leave their cell ~~area~~ block.

Workhouses shall have at least one (1) operable shower for every sixteen (16) ~~prisoners~~ inmates, which shall be accessible to ~~prisoners~~ inmates on a daily basis.

Applies to Types I, and II, IV, and V.

- (8) New facilities shall ~~be provided with have~~ at least one (1) single cell for the separation and control of problem ~~inmate(s)~~ prisoners. The cell shall conform to the single-occupancy cell dimensions and shall have, at a minimum, ~~the following features~~:

Formatted: Font color: Auto, Not Strikethrough

- (a) High security light fixture.
- (b) Unbreakable water closet and lavatory with control valve located outside the cell.
- (c) Forced air ventilation; and,
- (d) Concrete bed, a minimum of twelve (12) inches off of the floor and no higher than sixteen (16) inches off of the floor, with rounded edges.

The cell shall contain no structural projections or furnishings that would allow the ~~prisoner~~ inmate to harm himself/herself. The cell shall be located to allow continuous monitoring by detention ~~staff/officers~~.

Applies to Types I, II, and III, IV, and V.

- (9) (a) All facilities shall have at least one (1) special purpose cell for males and one (1) special purpose cell for females to provide for the temporary detention of persons under the influence of intoxicants. ~~This~~ The special purpose cells shall conform to multiple-occupancy cell dimensions and capacity. These cells shall have, at a minimum, ~~the following features~~:

1. Flushable drain or unbreakable water closet and lavatory;

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

2. High security light fixture.
 3. Forced air ventilation, and.
 4. No structural projections.
- (eb) New facilities shall also provide ~~in this cell~~ a concrete bed in the special purpose cell, a minimum of twelve (12) inches off of the floor and no higher than sixteen (16) inches off of the floor with rounded edges.
- (fc) In new facilities, this cell shall be located so as to allow continuous monitoring by detention ~~staff~~officers.
- (gd) The requirement for one (1) special purpose cell This standard applies only to jails facilities that have construction plans reviewed and approved by the Tennessee Corrections Institute after June 1, 2000. The requirement for two (2) special purpose cells applies to plans reviewed and approved after January 1, 2015.

Applies to Types I, II, and III, ~~and IV~~.

- (10) New facilities shall provide space inside the security perimeter, separate from ~~prisoner inmate~~ living areas and administrative offices, for the inmate processing ~~of prisoners as they inmates~~ are received and discharged from the facility. This space shall have the following components:
- (a) Pedestrian and/or vehicle sally port.
 - (b) Telephone facilities for ~~prisoner inmate~~ use.
 - (c) Temporary holding rooms which have fixed benches to seat ~~prisoners inmates~~ and.
 - (d) A shower, toilet and washbasin.

Existing facilities shall ~~be provided with~~provide space where ~~prisoners inmates~~ are received, searched, showered, and issued clothing (if provided by the facility) prior to assignment to the living quarters.

Applies to Types I, and II, ~~and IV~~.

- (11) Provisions shall be made for a visiting area which shall allow each ~~prisoner inmate~~ at least one (1) hour of visitation each week.

Applies to Types I, and IV.

- (12) Provisions shall be made for a private interview room for the use of attorneys and for interrogation of ~~prisoners inmates~~ by law enforcement agencies.

Applies to Types I, II, and III, ~~IV, and V~~.

- (13) ~~Each new facility~~New facilities shall have at least one (1) multi-purpose room for conducting programs and for ~~prisoner inmate~~ exercise.

Applies to Types I, and IV.

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

- (14) ~~Each new facility~~New facilities shall provide a secure outdoor recreation area with dimensions of at least ~~thirty (30) feet by thirty (30) feet, nine hundred (900) square feet.~~Covered/enclosed exercise areas in facilities where less than one hundred (100) inmates utilize one recreation area shall have fifteen (15) square feet per inmate for the maximum number of inmates expected to use the space at one time, but not less than five hundred (500) square feet of unencumbered space.

Formatted: Not Strikethrough

Applies to Types I, II, ~~and IV.~~

- (15) ~~Space shall be provided~~Facilities shall have space where a physician may conduct sick call, examine patients in privacy and render routine medical treatment.

Applies to Types I, II, and III. ~~IV, and V.~~

- (16) ~~Every facility~~Facilities shall ~~be provided with~~have a secure control center, manned ~~twenty-four (24) hours per day,~~ through which telephone and other communications are channeled. The location of the control center shall provide good visibility or be equipped with a monitoring device. The control center shall monitor the operation of various systems, including fire alarm, smoke and thermal detection, public address, radio and other mechanical and electrical systems as warranted.

Applies to Types I, II, and III. ~~IV, and V.~~

- (17) Access to potable water, shall be located in all housing areas. In existing facilities, if the water from washbasins is potable, drinking cups must be made available.

Applies to Types I, II, and III. ~~IV, and V.~~

- (18) ~~Facilities shall have~~Aan emergency power source ~~shall be provided to activate at times of power failure with~~of sufficient capacity to operate security and evacuation electrical devices and equipment and to provide minimum lighting within the jail facility and its perimeter at times of power failure. The power source shall be checked for functional readiness quarterly and the dates logged.

Applies to Types I, II, and III. ~~IV, and V.~~

- (19) ~~Each facility~~Facilities shall provide that any electric locks have the capability for manual operation.

Applies to Types I, II, and III. ~~IV, and V.~~

- (20) ~~Each facility~~Facilities shall have exit signs at each exit which are distinctly marked and continuously illuminated. Exits shall be kept clear and in usable condition. ~~to insure the timely evacuation of inmates and staff in the event of fire or other emergency.~~

Applies to Types I, II, and III. ~~IV, and V.~~

- (21) ~~Each facility~~Facilities shall have documentation of compliance with applicable sanitation and fire safety standards.

Applies to Types I, II, and III. ~~IV, and V.~~

- (22) All kitchens, dining rooms, multiple toilet areas and corridors shall contain operable floor drains.

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

Applies to Types I, II, and III. ~~IV, and V.~~

- (23) ~~These Facilities~~ shall ~~be have~~ cells to accommodate the facility's classification plan. Facilities that house ~~both~~ males and females, ~~and as well as~~ juveniles and adults shall have provisions to separate accordingly. Such provisions shall not allow physical contact or sight and sound communication. Provisions shall also be made to separate minimum, medium, and maximum security ~~prisoners inmates~~.

Applies to Types I, II, and III. ~~IV, and V.~~

- (24) Plans for any new facility ~~to be built and for any existing facility to be renovated construction or renovation~~ shall be in compliance with minimum standards recorded herein and be submitted to the Tennessee Corrections Institute ~~for review~~ and the State Fire Marshal's Office for review and approval ~~pursuant to Tenn. Comp. R. & Regs. 0780-02-03.~~

~~In planning a new facility it shall be necessary, at the outset, to determine clearly the function and purpose which the facility will serve. In essence, Plans for the construction of any new facility and the renovation of any existing facility shall define state whether or not its the facility's function will be for temporary holding or for permanent confinement of inmates an institution to which convicted persons are sent. Its The facility's primary function may encompass both of these functions.~~

A plan for operating the ~~jail facility~~ shall be developed in the initial stages of planning the ~~physical plant facility~~ so that the ~~jail facility~~ can be designed around the operating plan, rather than the reverse. This approach will contribute to ~~simplicity the simplification~~ of design and effective use of operating controls.

Applies to Types I, II, and III. ~~IV, and V.~~

- (25) Any temporary ~~prisoner inmate~~ housing shall meet all standards for existing facilities, ~~and all other applicable standards.~~ Temporary housing for ~~prisoners inmates~~ shall not be in use for more than eighteen (18) months, ~~unless an extension is approved by the Tennessee Corrections Institute Board of Control.~~

Applies to Types I, II, and III. ~~IV, and V.~~

Authority: T.C.A. § 41-4-140.

1400-01-.05 Administration/Management.

- (1) ~~Each facility Facilities~~ shall maintain fiscal records which ~~will~~ clearly indicate the total cost for operating the facility according to generally accepted accounting principles. Such records shall have an itemized breakdown of the total operating expenses, such as wages and salaries, food, and operating supplies.

Applies to Types I, II, and III. ~~IV, and V.~~

- (2) ~~Each jail Facilities~~ shall ~~have maintain~~ written policies and procedures governing the facility's operations. ~~They policies and procedures~~ shall be reviewed at least annually and updated as needed. These policies and procedures shall be approved by the sheriff, chief, or warden and shall be made available to all ~~facility~~ employees.

Applies to Types I, II, and III. ~~IV, and V.~~

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

- (3) ~~There~~ Facilities shall ~~be maintain~~ written plans developed in advance for dealing with emergencies such as escape, ~~prisoner inmate~~ disturbances, assaults on ~~facility~~ employees, hostage taking, and emergency evacuation plans. ~~These~~ The written plans shall be incorporated into the facility's manual. Each ~~facility~~ employee shall be familiar with these plans.

Applies to Types I, II, ~~and III. ,IV,-and-V.~~

- (4) ~~Facilities shall maintain a Written-written~~ policy and procedure ~~to shall~~ provide for each shift ~~at a facility to have~~ fire drills every ~~six (6) three (3)~~ months ~~for all staff members on every shift~~ and document dates of said drills.

Applies to Types I, II, ~~and III. ,IV,-and-V.~~

- (5) ~~The facility~~Facility administrators shall develop a list of articles and materials that shall be allowed in the cell area. Inmates shall be informed of this list upon admission.

Applies to Types I ~~and II. ,IV,-and-V.~~

- (6) ~~The facility~~Facilities shall have a written and graphic evacuation plan posted in the ~~living housing~~ area, as well as any other specified locations. ~~The plan shall be approved by a contractor or local fire inspector trained in the application of fire safety codes and shall be reviewed annually.~~

Applies to Types I, II, ~~and III. ,IV,-and-V.~~

- (7) Written policy and procedure shall ensure that ~~prisoners inmates~~ shall not be subjected to discrimination based on race, national origin, color, creed, sex, economic status or political belief. ~~When both males and females are housed in the same facility, available services and programs shall be comparable.~~

Applies to Types I ~~and II. ,IV,-and-V.~~

- (8) ~~A facility preventative maintenance program shall be in place. All equipment shall be in working order. Safety and security equipment shall be repaired or replaced without undue delay. The use of padlocks and/or chains to secure inmate cells or housing area doors is prohibited.~~

Applies to Types, I, II, ~~and III. ,IV,-and-V.~~

- (9) Each facility relying on regular access to additional living space to comply with minimum cell size requirements under ~~Rule Tenn. Comp. R. & Regs. 1400-01-.04~~ shall maintain a written policy regarding the number of hours of access to additional living space outside an inmate's cell that inmates will be allowed. This policy should take into consideration any relevant factors regarding inmates, including but not limited to inmate classifications. Records shall be maintained on the number of hours per day inmates have access to additional living areas in such facilities.

Applies to Types I ~~and II.~~

- (10) ~~Facilities shall provide an inmate grievance procedure to all inmates. The grievance procedure must include at least one (1) level of appeal.~~

Applies to Types I, II and III.

Authority: T.C.A. § 41-4-140.

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

1400-01-.06 Personnel.

15

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

(1) A criminal record check shall be conducted on all new facility employees, service providers with continuous access to restricted areas, contractors, and volunteers prior to their assuming duties to identify if there are criminal convictions that have a specific relationship to job performance. This criminal record check includes comprehensive identifier information to be collected and run against law enforcement indices. If suspect information on matter with potential terrorism connections is returned on the person, this information shall be forwarded to the local Joint Terrorism Task Force (JTTF) or other similar agency.

Applies to Types I, II, and III.

(1 2) The facilityFacilities shall develop a personnel policy manual, ~~to be distributed~~ made available to each employee, and which provides information on the following subjects.

Formatted: Font color: Auto, Not Strikethrough

- (a) Description of organizational structure;
- (b) Position ~~specifications~~ descriptions;
- (c) Personnel rules and regulations;
- (d) Recruitment procedures;
- (e) Equal employment opportunity provisions;
- (f) Work hours;
- (g) Personnel records;
- (h) Employee evaluation;
- (i) In-Service training;
- (j) Hostage policy; and.
- (k) Use of force.

Applies to Types I ~~and IV~~.

(2 3) Each facility shall be required to offer jail personnel a pre-service (orientation) program designed to familiarize each person with the functions and mission of the facility. ~~Prior to assuming duties, all detention facility employees, support employees and non-facility support staff shall receive orientation training regarding the functions and mission of the facility under the supervision of a qualified detention officer. This training may be accomplished through classroom instruction, supervised on-the-job training, an individual review of policies and procedures, or any combination of the three and shall include:~~

Formatted: Font color: Auto

- (a) Facility policies and procedures;
- (b) Suicide prevention;
- (c) Use-of-force;
- (d) Report writing;
- (e) Inmate rules and regulations;

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

- (f) Key control;
- (g) Emergency plans and procedures;
- (h) Cultural diversity;
- (i) Communication skills; and,
- (j) Sexual misconduct.

Applies to Types I, II, and III, ~~IV, and V.~~

- (4) A Facility Training Officer (FTO) shall coordinate the staff development and training program. This person shall have specialized training for that position (assigned as a primary or additional duty). The FTO shall complete the Training the Trainer (3T) course and attend the annual FTO Conference conducted by the Tennessee Corrections Institute.

Applies to Types I, II, and III.

- (5) All support employees who have minimal inmate contact shall receive at least sixteen (16) hours of facility training during their first year of employment. All employees in this category shall receive an additional sixteen (16) hours of facility training each subsequent year of employment.

Applies to Types I, II, and III.

- (6) All non-facility support staff who have regular or daily inmate contact, shall receive a minimum of four (4) hours continuing annual training, which may include:
 - (a) Security procedures and regulations;
 - (b) Supervision of inmates;
 - (c) Signs of suicide risk;
 - (d) Suicide precautions;
 - (e) Use-of-force regulations and tactics;
 - (f) Report writing;
 - (g) Inmate rules and regulations;
 - (h) Key control;
 - (i) Rights and responsibilities of inmates;
 - (j) Safety procedures;
 - (k) All emergency plans and procedures;
 - (l) Interpersonal relations;
 - (m) Social/cultural lifestyles of the inmate population;

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

- (n) Cultural diversity;
- (o) CPR/first aid;
- (p) Counseling techniques;
- (q) Sexual harassment/sexual misconduct awareness;
- (r) Purpose, goals, policies, and procedures for the facility and the parent agency;
- (s) Security and contraband regulations;
- (t) Appropriate conduct with inmates;
- (u) Responsibilities and rights of employees;
- (v) Universal precautions;
- (w) Occupational exposure;
- (x) Personal protective equipment;
- (y) Bio-hazardous waste disposal; and
- (z) Overview of the correctional field.

Applies to Types I, II, and III

- (3 7) All personnel detention facility employees, including part-time employees, whose primary duties include the industry, custody, or treatment of prisoners-inmates shall be required during the first year of employment to complete a basic training program consisting of a minimum of forty (40) hours and provided or approved by the Tennessee Corrections Institute.

Applies to Types I, II, and III, ,IV,-and-V.

- (4-8) All personnel correctional-detention facilities employees, including part-time employees, whose primary duties include the industry, custody, or treatment of prisoners-inmates shall be required to complete an annual in-service program designed to instruct them in specific skill areas of jail-facility operations. This annual in-service shall consist of forty (40) hours with at least sixteen (16) of these hours provided or approved by the Tennessee Corrections Institute. The remaining twenty-four (24) hours may be provided by the facility if course content is approved and monitored by the Tennessee Corrections Institute.

Applies to Types I, II, and III, ,IV,-and-V.

- (5 9) A minimum number of hours of training and any additional courses for basic and in-service training shall be complied with as in compliance with the requirements established by the Tennessee Corrections Institute Board of Control.

Applies to Types I, II, and III, ,IV,-and-V.

- (6 10) All jail facility personnel-employees who are authorized to use firearms or-chemical agents and less lethal weapons shall receive basic and ongoing in-service training in the

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

use of these weapons. ~~Training shall include decontamination procedures for individuals exposed to chemical agents.~~ All such training shall be recorded with the dates completed and kept in the ~~officer's-employee's~~ personnel file.

Applies to Types I, ~~and II, ,and IV.~~

- (7 11) ~~Each facility~~Facilities shall maintain records on the types and hours of training completed by each ~~detention-officer~~ correctional employee, support employee and non-facility support staff.

Applies to Types I, II, ~~and III, ,IV, and V.~~

Authority: T.C.A. § 41-4-140.

1400-01-.07 Security.

- (1) Each newly admitted ~~prisoner inmate~~ shall be thoroughly searched for weapons and other contraband immediately upon arrival in the facility, regardless of whether the arresting officer ~~has~~ previously conducted a search.

Applies to Types I and II.

- (2) A record shall be maintained on a search administered to a newly admitted ~~inmate prisoner.~~

Applies to Types I and II.

- (3) ~~Facilities shall maintain~~The facility's policy and procedures ~~shall to~~ require that all ~~inmates prisoners,~~ including trustees, ~~shall~~ be searched thoroughly by detention ~~personnel-officers~~ whenever the ~~inmates prisoners~~ enter ~~or-and~~ leave the security area.

Applies to Type I.

- (4) ~~Facilities shall maintain a w~~Written policy and procedure ~~shall to~~ provide for searches of ~~the facilities and prisoners inmates~~ to control contraband.

Applies to Type I.

- (5) Procedure shall differentiate between the searches allowed (orifice, pat, or strip) and identify when these shall occur and by whom such searches may be ~~made~~conducted. All orifice searches shall be done under medical supervision. ~~Prisoners Inmates~~ shall be searched by ~~jail facility-personnel employees~~ of the same sex, except in emergency situations.

Applies to Types I,II, ~~and III, ,IV, and V.~~

- (6) ~~Facilities shall maintain a written policy and procedure for K~~key control, including the inventory and use of keys, ~~shall be established~~ and the operator of the control center shall have knowledge of who has the keys in use and the location of duplicate keys. All day-to-day operations shall be centralized and controlled through the control center.

Applies to Types I ~~and IV.~~

- (7) There shall be one (1) full set of well-identified keys, other than those in use, secured in a place accessible only to ~~jail-facility~~ personnel for use in the event of an emergency.

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

These keys shall be ~~notched for easy identification~~ easily identifiable by sight and touch under adverse conditions.

Applies to Types I, ~~IV, and V.~~

- (8) ~~Written policy and procedure shall govern the availability, control and use of chemical agents and firearms. Written policy and procedures shall govern the availability, control, inventory, storage, and use of firearms, less-lethal weapons, and related security devices, and specify the level of authority required for their access and use. Chemical agents and electrical disablers shall be used only with the authorization of the facility administrator or designee. Access to storage areas shall be restricted to authorized persons facility employees and the storage space shall be located in an area separate from and apart from inmate housing or activity areas.~~ A written report shall be submitted to the facility administrator when such weapons are used.

Applies to Types I, II, ~~and III, IV, and V.~~

- (9) ~~Facilities shall develop a Written-written~~ policy and procedure ~~shall to~~ require that firearms, chemical agents, and related security and emergency equipment are inventoried and tested at least quarterly to determine their condition and expiration dates. This ~~written policy and procedure~~ shall ~~include provide for~~ regular inspection of ABC type fire extinguishers, smoke detectors, and other detection and suppression systems.

Applies to Types I, II, ~~and III, IV, and V.~~

- (10) All tools, toxic, corrosive and flammable substances and other potentially dangerous supplies and equipment shall be stored in a locked area which is secure and located outside the security perimeter of the confinement area. Tools, supplies and equipment which are particularly hazardous shall be used by ~~prisoners inmates~~ only under direct supervision.

Applies to Types I, ~~and II, and IV.~~

- (11) ~~Facilities shall develop a Written-written~~ policy and procedure ~~shall to~~ require at least weekly inspection of all security facilities and documentation of ~~said the dates of inspections.~~

Applies to Types I, ~~and II, and IV.~~

- (12) ~~Facilities shall develop a Written-written~~ policy and procedure ~~shall to~~ provide for continuous inspection, inventory, and maintenance of all locks, tools, kitchen utensils, toxic, corrosive, and flammable substances and other potentially dangerous supplies and equipment.

Applies to Types I ~~and IV.~~

- (13) ~~There shall be~~ Facilities shall develop a written plan that provides for continuing operations in the event of a work stoppage or other job action. Copies of this plan shall be available to all supervisory personnel who are required to familiarize themselves with it.

Applies to Types I ~~and IV.~~

- (14) Detention officer posts shall be located in close proximity to inmate living areas to permit officers to see or hear and respond promptly to emergency situations. There shall be written orders for every detention officer duty and post.

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

Applies to Types I, II, and III.

- (15) The facility administrator or designee shall visit the facility's living and activity areas at least weekly.

Applies to Types I, II, and III.

- (16) The facility perimeter shall ensure that inmates are secured and that access by the general public is denied without proper authorization.

Applies to Types I, II, and III.

- (17) All inmate movement from one area to another shall be controlled by facility employees.

Applies to Types I, II, and III.

- (18) Facility employees shall maintain a permanent log and prepare shift reports that record routine information, emergency situations, and unusual incidents.

Applies to Types I, II, and III.

- (19) Facilities shall have sufficient staff, including designated supervisor, to provide, at all times, the performance of functions relating to the security, custody, and supervision of inmates as needed to operate the facility in conformance with the standards.

Applies to Types I, II, and III.

- (20) Restraint devices shall never be applied as punishment. Facilities shall define circumstances under which supervisory approval is needed prior to application.

Applies to Types I, II, and III.

- (21) Four/five-point restraints shall be used only in extreme instances and only when other types of restraints have proven ineffective. Advance approval shall be secured from the facility administrator/ designee before an inmate is placed in a four/five-point restraint. Subsequently, the health authority or designee shall be notified to assess the inmate's medical and mental health condition, and to advise whether, on the basis of serious danger to self or others, the inmate should be in a medical/mental health unit for emergency involuntary treatment with sedation and/or other medical management, as appropriate. If the inmate is not transferred to a medical/mental health unit and is restrained in a four/five-point restraint, the following minimum procedures shall be followed:

- (a) Continuous direct visual observation by facility employees prior to an assessment by the health authority or designee;
- (b) Subsequent visual observation is made at least every fifteen (15) minutes;
- (c) Restraint procedures are in accordance with guidelines approved by the designated health authority; and
- (d) Documentation of all decisions and actions.

Applies to Types I, II, and III.

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

(22) The use of firearms shall comply with the following requirements:

- (a) A written policy and procedure that governs the availability, control, and use of chemical agents and firearms;
- (b) Firearms, chemical agents, and related security and emergency equipment are inventoried and tested at least quarterly;
- (c) Weapons are subjected to stringent safety regulations and inspections;
- (d) A secure weapons locker is located outside the secure perimeter of the facility;
- (e) Except in emergency situations, firearms and authorized weapons are permitted only in designated areas to which inmates have no access;
- (f) Facility employees supervising inmates outside the facility perimeter follow procedures for the security of weapons;
- (g) Facility employees are instructed to use deadly force only after other actions have been tried and found ineffective, unless the employee believes that a person's life is immediately threatened;
- (h) Facility employees on duty use only firearms or other security equipment that has been approved by the facility administrator;
- (i) Appropriate equipment is provided to facilitate safe unloading and loading of firearms; and,
- (j) A written report shall be submitted to the facility administrator when such weapons are used.

Applies to Types I, II, and III.

Authority: T.C.A. § 41-4-140.

1400-01-08 Discipline.

- (1) Facilities shall maintain policies and procedures to insure that written or electronic Written facility rules along with the corresponding range of sanctions for rule violations and disciplinary procedures to be followed shall be given-provided to each inmate during the booking process prior to being placed into the general population. A record shall be maintained of this transaction. Socially, mentally, or physically impaired inmates shall be assisted by staff membersfacility employees in understanding the rules. The rules and regulations shall be available for viewing during confinement and shall be translated into those languages spoken by a significant number of inmates.

Applies to Types I, and IV.

- (2) Disciplinary reports shall be prepared by staff membersfacility employees and must include, but are not limited to, the following information:

- (a) Names of persons involved;
- (b) Description of the incident;
- (c) Specific rule(s) violated;

22

Formatted: Font color: Red
Formatted: Font color: Red
Formatted: Font color: Red
Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar
Formatted: Font: (Default) Arial, 10 pt

- (d) ~~Staff Employee~~ or ~~prisoner inmate~~ witnesses;
- (e) Any immediate action taken, including use of force, ~~and,~~
- (f) Reporting staff member's signature, date and time report is made.

Formatted: Font color: Red

Formatted: Font color: Red

Formatted: Font color: Red

Applies to Types I ~~and IV~~

- (3) ~~Each facility~~ ~~Facilities~~ shall ~~develop-maintain~~ written policies and procedures governing disciplinary ~~and administrative actions~~ ~~actions, administrative actions, and criminal offenses~~. ~~Each county is required by T.C.A § 41-2-111 to have a disciplinary review board.~~

Applies to Types I ~~and IV~~.

- (4) ~~Facilities shall maintain~~ ~~Written-written~~ policies ~~and procedures shall to~~ provide for disciplinary hearings to be held in cases of alleged violations of ~~prisoner inmate~~ conduct rules. ~~These h~~ ~~Hearings~~ shall include the following administrative due process guarantees:
 - (a) ~~Inmates shall receive~~ written notice of charges and time of hearing.;
 - (b) ~~The inmate shall be allowed time~~. ~~A brief period of time after the notice, no not less than twenty-four (24) hours, shall be allowed for the prisoner~~ to prepare for appearance before an impartial officer or board.
 - (c) ~~Prisoner The inmate has shall have~~ the right to call and cross examine witnesses and present evidence in his own defense, when permitting him to do so will not be unduly hazardous to institutional safety or correctional goals;
 - (d) ~~An inmate may be excluded during testimony. An inmate's absence or exclusion shall be documented.~~
 - (e) ~~e~~ The reasons for any limitations placed on testimony or witnesses shall be stated in writing by the hearing officer;
 - (e) ~~f~~ There must be a written statement by the fact finders ~~to include, at a minimum, as to~~ evidence relied on and reasons for the disciplinary action; ~~and,~~
 - (f) ~~g~~ Appeals process is available.

Formatted: Font color: Auto, Not Strikethrough

Applies to Types I ~~and IV~~.

- (5) ~~Facilities shall maintain a~~ ~~Written-written~~ policy ~~and procedure to allow provides for~~ ~~prisoners inmates~~ to receive a hearing prior to segregation, except in cases where the security of the facility is threatened, as determined by the facility administrator or his/her designee.

Applies to Types I ~~and IV~~.

- (6) For segregated ~~inmates prisoners~~, a disciplinary hearing must be held within seventy-two (72) hours of placement in segregation, excluding holidays, weekends and emergencies, and for other ~~inmates, prisoners~~ a disciplinary hearing must be held within seven (7) days of the write-up.

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

Applies to Types I and IV.

- (7) ~~The facility shall give the inmate prisoner receives~~ a copy of the disciplinary decision and ~~the facility shall keep~~ a copy ~~of the disciplinary decision is kept~~ in the ~~inmate's prisoner's~~ record.

Applies to Types I and IV.

- (8) ~~Facilities shall maintain a Written-written~~ policy and procedure ~~to~~ provide that the disciplinary reports are removed from all files on ~~inmates prisoners~~ found not guilty of an alleged violation.

Applies to Types I and IV.

- (9) Corporal punishment is not ~~to be~~ permitted under any circumstances ~~in a disciplinary hearing~~.

Applies to Types I, II, and III.

- (10) ~~Use of physical force may be used when authorized and shall be thoroughly documented with detailed account of who was involved, the force that was used, and justification for its use. This report shall be submitted to the facility administrator.~~ Force may be used to:

- (a) Overcome resistance.
- (b) Repel aggression.
- (c) Protect life, ~~and~~.
- (d) Retake ~~inmate prisoner~~ or property.

~~Use of physical force shall be thoroughly documented with detailed account of who was involved, the force that was used, and justification for its use. This report shall be submitted to the facility administrator.~~

Applies to Types I and IV.

Authority: T.C.A. § 41-4-140.

1400-01-.09 Sanitation/Maintenance.

- (1) ~~Facilities shall be clean and in good repair.~~ Floors throughout the facility shall be kept clean, dry, and free of any hazardous materials or substance.

Applies to Types I, II, ~~and III, IV, and V.~~

- (2) A ~~member of the staff facility employee~~ shall make daily sanitation and safety inspections. Dates of inspections shall be recorded and conditions noted. Any maintenance problems shall be recorded on a regular maintenance report.

Applies to Types I and IV.

- (3) ~~The facility Facilities~~ shall provide for regularly scheduled disposal of ~~waste and trash, liquid, solid, and hazardous material complying with applicable government regulations.~~

Applies to Types I and IV.

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

- (4) The institution Facilities shall provide for control of vermin and pests and shall remove prisoners-inmates from treatment areas if there is a risk of illness.

Applies to Types I, II, and III, IV, and V.

- (5) Inmate housing area walls shall be kept clean and free of pictures or other objects which provide hiding places for vermin or create a fire hazard.

Applies to Types I and IV.

- (6) All walls, ceilings, floors, showers, and toilets shall be kept free from mold and mildew.

Applies to Types I, II, and III.

Authority: T.C.A. § 41-4-140.

1400-01-.10 Food Services.

- (1) Food service guidelines and a menu pattern approved by a dietician, at least annually, shall be used by each facility in the preparation of meals. Menu evaluations shall be conducted, at least quarterly, by food service supervisory staff to verify adherence to the established basic dietary servings.

Applies to Types I and IV.

- (2) Working inmates prisoners shall receive at least three (3) meals every twenty-four (24) hours with no more than fourteen (14) hours between any two (2) meals. At least two (2) of these meals shall be hot. Non-working inmates prisoners shall receive at least two (2) meals every twenty-four (24) hours with no more than fourteen (14) hours between any two (2) meals. Variations may be allowed based on weekend and holiday food service demands, as long as basic nutritional goals are met.

Applies to Types I and IV.

- (3) All meals shall be prepared (except when catered) and served under the direct supervision of staff.

Applies to Types I, II, and III, IV, and V.

- (4) Inmates involved in the preparation of the food shall receive an agency-approved pre-assignment medical screening to ensure freedom from illness transmittable by food or utensils. Facilities shall have a policy to insure those currently assigned to food service preparation duties who are identified by food service staff as having an illness or infection shall be removed from those duties.

Applies to Types I, II, and III.

- (4 5) Written policy and procedure shall require that accurate records are maintained on the number of meals served per day, the actual food served, and meal schedule.

Applies to Types I and IV.

- (6) Facilities shall inspect all food service areas on a weekly basis, including dining and food preparation areas and equipment by administrative, medical, or food service personnel.

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

Applies to Types I, II, and III.

- (5 7) Written policy shall require that food shall never be used as a reward or disciplinary measure.

Applies to Types I, and II, IV, and V.

- (6 8) Modified diets shall be prepared for inmates prisoners when requested by medical staff or by a physician's order, and all reasonable efforts shall be made to accommodate dietary needs of a religion.

Applies to Types I, and II, IV, and V.

- (7 9) Shelf goods shall be are maintained at between forty-five (45) degrees to and eighty (80) degrees Fahrenheit; refrigerated foods at between thirty-five (35) degrees to and forty (40) degrees Fahrenheit; and frozen foods at zero (0) degrees Fahrenheit or below.

Applies to Types I, II, and III. and IV.

- (8 10) The preparation or storage of open food, other than a reasonable amount of commissary food, shall not be permissible in the immediate housing area.

Applies to Types I, II, and III. and IV.

- (9 11) Refrigerators shall be clean and contain a thermometer. The temperature shall be 45o-F or below.

Applies to Types I, II, and III. and IV.

- (10 12) All food products shall be stored at least six (6) to eight (8) inches off the floor on shelves or in shatter-proof containers with tight fitting lids.

Applies to Types I, II, and III. and IV.

- (11 13) Insecticide, cleaning agents and poisonous substances shall be plainly labeled and stored away from food and plainly labeled.

Applies to Types I, II, and III. and IV.

- (14) Culinary equipment (knives and other sharp instruments) shall be securely stored, inventoried and their use controlled.

Applies to Types I, II, and III.

- (12 15) Stoves shall be equipped with operable hooded exhaust systems and the filters shall be kept clean.

Applies to Types I, II, and III. and IV.

Authority: T.C.A. § 41-4-140.

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

1400-01-.11 Mail and Visiting.

- (1) ~~Facilities shall maintain a Written-written~~ policy ~~shall outline-outlining~~ the facility's procedures governing ~~inmate prisoner~~ mail.

Applies to Types ~~I and IV~~.

- (2) ~~Each-Facilities jail~~ shall develop a written policy governing the censoring of mail. Any regulation for censorship must meet the following criteria:

- (a) The regulation must further an important and substantial governmental interest unrelated to the suppression of expression (e.g., detecting escape plans which constitute a threat to facility security and/or the well-being of ~~staff-employees~~ and/or ~~prisonersinmates~~); and,
- (b) The limitation must be no greater than is necessary ~~to-for~~ the protection of the particular governmental interest involved.

Applies to Types ~~I and IV~~.

- (3) ~~Both incoming and outgoing Incoming~~ mail shall be inspected for contraband items prior to delivery, unless received from the courts, attorney of record, or public officials, where the mail shall be opened in the presence of the ~~prisonerinmate~~.

Applies to Types ~~I and IV~~.

- (4) Outgoing mail shall be collected and incoming mail shall be delivered without unnecessary delay.

Applies to Types ~~I and IV~~.

- (5) ~~An inmate prisoner~~ shall be notified if a letter ~~addressed to the inmate or written by the inmate is rejected~~, ~~whether it is written by or addressed to him~~. ~~If the inmate wrote the rejected letter, the inmate must be given a reasonable opportunity to protest the rejection.~~

Applies to Types ~~I and IV~~.

- ~~(6) When a letter is rejected, the author must be given a reasonable opportunity to protest that decision.~~

~~Applies to Types I and IV.~~

- ~~(7) Written policy and procedure shall provide that the facility permits postage for two (2) free personal letters per week for inmates prisoners that-who have less than two dollars (\$2.00) in their account. They Facilities shall also receive-provide postage for all legal or official mail.~~

~~Applies to Type I and IV.~~

- ~~(8) Facilities shall maintain a Written-written~~ policy ~~shall-to~~ define the facility's visitation policies which shall include, at a minimum:

- (a) One (1) hour of visitation each week for each ~~inmate prisoner~~;

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

- (b) A list of possible visitors submitted by each inmate prisoner;
- (c) Children shall be allowed to visit their parents;
- (d) Visitors shall register before admission and may be denied admission for refusal to register, for refusal to consent to search, or for any violation of posted institutional rules; and;
- (e) Probable cause shall be established in order to do perform a strip or body cavity search of a visitor. When probable cause exists, the search shall be documented.

Formatted: Font color: Auto, Not Strikethrough
 Formatted: Font color: Auto, Not Strikethrough
 Formatted: Font color: Auto, Not Strikethrough

Applies to Types I and IV.

Authority: T.C.A. § 41-4-140.

1400-01-.12 Prisoner-Inmate Programs And Activities.

- (1) Library services shall be made available to all inmates prisoners.

Applies to Types I and IV.

- (2) Inmates shall have access to exercise and recreation opportunities. A written plan shall provide that all inmates prisoners have the opportunity to participate in an average of one (1) hour of physical exercise per day with at least three (3) exercise periods per week, outside the cell. Outdoor recreation may be available when weather and staffing permit.

Applies to Types I and IV.

- (3) Written policy and procedure requires that the facility shall provide for inmates prisoners to voluntarily participate in religious activity at least once a each week.

Applies to Types I and IV.

- (4) Policy and procedure shall provide for that the inmates prisoners have reasonable private access to a telephone. Such Telephone procedure, including any limitations, shall be in writing and posted so as to be conspicuous to prisonersinmates. The procedure shall include, at a minimum:

- (a) The hours during which such access shall generally be provided;
- (b) A statement regarding the privacy of telephone communication; and;
- (c) Inmates with hearing and/or speech disabilities shall be afforded access to a Telecommunications Device for the Deaf (TDD), or comparable equipment. Public telephones with volume control shall be made available to inmates with a hearing impairment. Information regarding the availability of TDD communication devices shall be posted. Inmates with hearing and/or speech impairments shall be afforded access similar to those inmates without impairments.

Formatted: Font color: Auto

Applies to Types I, II, and III, and IV.

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar
 Formatted: Font: (Default) Arial, 10 pt

- (5) Release programs shall require:
- (a) Written operational procedures;
 - (b) Careful screening and selection procedures;
 - (c) Written rules of prisoner-inmate conduct;
 - (d) A system of supervision to minimize prisoner-inmate abuse of program privileges;
 - (e) A complete record-keeping system;
 - (f) A system for evaluating program effectiveness; and.
 - (g) Efforts to obtain community cooperation and support.

Applies to Type I.

- (6) Written policy shall provide that inmates prisoners be allowed to have confidential access to attorneys and their authorized representatives at any reasonable hour.

Applies to Types I, II, and III, IV, and V.

- (7) Every Inmates prisoner shall have unrestricted and confidential access to the courts. Inmates Prisoners shall have the right to present any issue before a court of law or governmental agency. The facility shall establish reasonable hours during which attorneys may visit and/ or telephonically communicate. Inmates shall have access to legal materials.

Applies to Types I, II, and III, IV, and V.

- (8) Written policy shall provide that pretrial detainees shall not be required to work, except to do personal housekeeping.

Applies to Types I, and II, IV, and V.

- (9) Foreign nationals shall have access to the diplomatic representatives of their country of citizenship through the State Department consular notification protocols and contact information.

Applies to Types I, II, and III.

Authority: T.C.A. § 41-4-140.

1400-01-.13 Medical Services.

- (1) The provision of medical services for the facility shall be the responsibility of a designated health/medical authority such as a hospital, clinic, or physician. There shall be an agreement between the governmental funding agency responsible for the facility and the hospital/clinic/physician responsible for such services. The designated health/medical authority must be notified in instances where an inmate prisoner may be in need of medical treatment and the facility shall document this notification. The health authority shall meet with the Sheriff and/ or facility administrator at least annually.

Applies to Types I, II, and III, IV, and V.

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

- (2) Medical decisions are the sole province of the responsible health care provider and shall not be countermanded by non-medical personnel.

Applies to Types I, II, and III.

- (3) All health care professional staff shall comply with applicable state and federal licensure, certification, or registration requirements. Verification of current credentials shall be available upon request from the provider. Health care staff shall work in accordance with profession-specific job descriptions approved by the health authority. If inmates are assessed or treated by non-licensed health care personnel, the care shall be provided pursuant to written standing or direct orders by personnel authorized to give such orders.

Applies to Type I, II, and III.

- (4) Continuity of care is required from admission to transfer or discharge from the facility, including referral to community-based providers, when indicated. When health care is transferred to providers in the community, appropriate information shall be shared with the new providers in accordance with consent requirements. Prior to release from custody or transfer, inmates with known serious health conditions shall be referred to available community resources by the facility's health care provider currently providing treatment.

Applies to Types I, II, and III.

- (2 5) Written policy and procedure shall prohibit inmates prisoners from performing patient care services, scheduling health care appointments or having access to medications, health records or medical supplies and equipment.

Applies to Type I.

- (3 6) First aid kits shall be available with and a physician shall approve, approving the number, contents, and location of such kits on an annual basis. Documentation of such approval must be in the facility's permanent records or attached to the kit itself.

Applies to Types I, II, and III, IV, and V.

- (4 7) Receiving screening shall be performed on all inmates prisoners upon admission to the facility and before their placement in the general housing area. The findings shall be recorded on a printed screening form. The officer performing this duty shall check for:

- (a) A serious illness;
- (b) A comatose state;
- (c) Obvious wounds;
- (d) Prescribed medications; and,
- (e) Suicide risk assessment, including suicidal ideation or history of suicidal behavior or other mental health illness.

Applies to Types I, II, and III, IV, and V.

- (5 8) A more complete examination shall be completed on prisoners-inmates within fourteen (14) days of their the inmate's initial confinement date. If the facility can document that a health appraisal was conducted within the previous ninety (90) days, this fourteen (14)-

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

day physical is not required unless medical conditions dictate otherwise. This examination shall be performed by a physician or a person who has been designated by a physician as capable of performing such examination. If a designee performs the examination, he/she must do so under supervision of a physician and with a protocol or set of instructions and guidelines from the physician. This examination shall include:

- (a) Inquiry into current illness and health problems, including those specific to wWomen;
- b) Inquiry into medications taken and special health requirements;
- (c) Screening of other health problems designated by the responsible physician;
- (d) Behavioral observation, including state of consciousness and mental status;
- (e) Notification of body deformities, trauma markings, bruises, lesions, jaundice, ease of movement, etc.;
- (f) Condition of skin and body orifices, including rashes and infestations;
- (g) Disposition/referral of prisoners-inmates to qualified medical personnel on an emergency basis;
- (h) A review of the initial intake receiving screening; and,
- (i) An individual treatment plan as appropriate.

Applies to Type I and IV.

(9) All intersystem transfer inmates (transferred from one confinement facility to another within the same county's jurisdiction) shall receive a health screening by trained or qualified health care personnel, which commences on their arrival at the facility. All findings are recorded on a screening form approved by the health authority. At a minimum, the screening includes the following:

- (a) A review of the inmate's medical, dental, and mental health problems;
- (b) Current medications; and,
- (c) Current treatment plan.

Applies to Types I, II, and III

(6 10) Sick call, conducted by a physician or other person designated by a physician as capable of performing such duty, shall be available to each prisoner-inmate according to written procedure for sick call. The inmate prisoner shall be informed of these procedures, including any copayment requirements, as well as procedures for submitting grievances, upon admission.

Applies to Types I, II, and III, and IV.

(11) Inmates shall have access to mental health services as clinically warranted in accordance with protocols established by the health authority that include:

- (a) Screening for mental health problems;

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

- (b) Referral to outpatient services, including psychiatric care;
- (c) Crisis intervention and management of acute psychiatric episodes;
- (d) Stabilization of the mentally ill and prevention of psychiatric deterioration in the facility;
- (e) Referral and admission to inpatient facilities; and,
- (f) Informed consent for treatment.

Applies to Types I, II, and III.

- (12) A suicide prevention program shall be approved by the health authority and reviewed by the facility administrator. The program must include specific procedures for handling intake, screening, identifying, and continually supervising the suicide-prone inmate. All facility employees responsible for supervising suicide-prone inmates shall be trained annually on program expectations.

Applies to Types I, II, and III.

- (7 13) At least one (1) person per shift, assigned to work at the facility, shall be trained in First Aid/CPR, as defined by the American Red Cross, and CPR, as defined by the American Heart Association. Training shall also cover:

- (a) Awareness of potential emergency situations;
- (b) Transfer to appropriate health care~~medical~~ provider;
- (c) Recognition of symptoms of illness most common to the facility; and,
- (d) Giving of medication to prisoners~~inmates~~.

In addition, the health authority shall approve policies and procedures that insure that emergency supplies and equipment are readily available and in working order.

Applies to Types I, II, and III. and IV.

- (14) Detoxification from alcohol, opiates, hypnotics, and other stimulants shall be conducted under medical supervision in accordance with local, state, and federal laws. When performed at the facility, detoxification shall be prescribed in accordance with clinical protocols approved by the health authority. Specific criteria shall be established for referring symptomatic inmates suffering from withdrawal or intoxication for more specialized care at a hospital or detoxification center.

Applies to Types I, II, and III.

- (8 15) Facilities shall provide dental treatments, not limited to extractions, shall be provided when the health of the inmate prisoner would otherwise be adversely affected during confinement, as determined by a physician or dentist.

Applies to Types I and IV.

- (9 16) Facilities shall confiscate all medications in the possession of an inmate prisoner at the time of admission to the facility, shall be taken from him/her and the identification of and the need for such medication shall be verified by a physician or qualified health care

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

personnel before it is administered.

Applies to Types I, II, and III, IV, and V.

- (10 17) ~~There shall be strict control of medications. Medications to be issued to inmates prisoners shall be strictly controlled and they shall be kept in a secure place within the administrative or medical offices in the facility. An officer shall be responsible to see that the medicine is taken as directed.~~

Formatted: Not Strikethrough

Formatted: Underline, Not Strikethrough

Applies to Types I, and II, IV, and V.

- (14 18) All medications shall be ~~issued prescribed~~ by a physician or his designee at the time of use. ~~An officer or qualified health care personnel shall verify that the medication is taken as directed~~ and a medication receipt system established. This shall include controlled drugs and injections.

Applies to Types I, and II, IV, and V.

- (12 19) Medical and mental health records ~~shall be kept in a separate file from other inmate prisoner records, on the inmate's prisoner's~~ physical condition on admission, during confinement, and at discharge ~~shall be kept in a separate file from the inmate's other facility records.~~ The medical record shall indicate all medical orders issued by the jail facility's physician and/or any other health care medical personnel who are responsible for rendering health care medical services. These medical records shall be retained for a period of five-ten (510) years after the inmate's prisoner's release.

Applies to Types I, II, and III and IV.

- (20) ~~Informed consent standards of the jurisdiction shall be observed and documented for inmate care in a language understood by the inmate. In the case of minors, the informed consent of a parent, guardian, or a legal custodian applies when required by law. Inmates routinely have the right to refuse medical interventions. When health care is rendered against the inmate's will, it shall be in accordance with state and federal laws and regulations.~~

Applies to Types I, II, and III.

- (21) ~~Involuntary administration of psychotropic medication(s) to inmates shall be authorized by a physician and provided in accordance with policies and procedures approved by the health authority, and in accordance with applicable laws and regulations of the jurisdiction.~~

Applies to Types I, II and III.

- (22) ~~The use of inmates in medical, pharmaceutical, or cosmetic experiments is prohibited. This does not preclude inmate access to investigational medications on a case-by-case basis for therapeutic purposes in accordance with state and federal regulations.~~

Applies to Types, I, II, and III.

- (13 23) In case of medical emergencies, there shall be specific information readily accessible to all employees, such as telephone numbers and names of persons to be contacted, so that professional medical care can be received. There shall also be available the names and telephone numbers of persons to contact in case of death.

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

Applies to Types I, II, ~~and III, IV, and V.~~

- (14 24) Inmates Prisoners suffering from communicable diseases and those who are sick but do not require hospitalization shall be housed separate from other inmates prisoners as recommended by medical health care authorities.

Applies to Types I, II, and III ~~and IV.~~

- (25) When an inmate is placed in segregation for health concerns, health care personnel shall be informed as soon as practical and provide assessment and review as indicated by the protocols established by the health authority.

Applies to Types I and II.

- (26) Medical/dental instruments and supplies (syringes, needles, and other sharp instruments) shall be inventoried, securely stored, and use shall be controlled.

Applies to Types I and II.

- (27) Pregnant inmates shall have access to obstetrical services (prenatal, partum, and post-partum care) by a qualified health care provider.

Applies to Types I and II.

- (28) Inmates with chronic medical conditions, such as diabetes, hypertension, and mental illness shall receive periodic care by a qualified health care provider in accordance with individual treatment plans that include monitoring of medications and laboratory testing.

Applies to Types I, II, and III.

- (29) Information shall be provided to inmates about sexual abuse/assault including:

- (a) Prevention/ intervention;
- (b) Self-protection;
- (c) Reporting sexual abuse/assault; and,
- (d) Treatment and counseling.

This information shall be communicated in writing or electronically, in a language clearly understood by the inmate, upon arrival at the facility.

Applies to Type I, II, and III.

- (30) Sexual conduct between facility employees, volunteers or contract personnel and inmates is prohibited and subject to administrative, disciplinary and criminal sanctions. The prohibition applies regardless of consent.

Applies to Types I, II, and III.

- (31) The health authority shall develop and approve protocols for identifying and evaluating major risk management events related to inmate health care, including inmate deaths, preventable adverse outcomes, and serious medication errors.

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

Applies to Types I, II, and III.

Authority: T.C.A. § 41-4-140.

1400-01-.14 Admission, Records And Release.

(1) An intake form shall be completed for every person-inmate, except detainees, admitted to the facility and shall contain the following information, unless otherwise prohibited by statute:

- (a) Picture;
- (b) Booking number;
- (c) Date and time of intake;
- (d) Name and aliases of person;
- (e) Last known address;
- (f) Date and time of commitment and authority therefore;
- (g) Names, title, signature and authority therefore;
- (h) Specific charge(s);
- (i) Sex;
- (j) Age;
- (k) Date of birth;
- (l) Place of birth;
- (m) Race;
- (n) Occupation;
- (o) Last place of employment;
- (p) Education;
- (q) Name and relationship of next of kin;
- (r) Address of next of kin;
- (f s) Driver's license and social security numbers;
- (e t) Disposition of vehicle, where applicable;
- (t u) Court and sentence (if sentenced prisonerinmate);
- (# y) Notation of cash and property;
- (v w) Bonding company;

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

- (w x) Amount of bond;
- (x y) Date of arrest;
- (y z) Warrant number;
- (z aa) Court date and time;
- (aa bb) Cell assignment;
- (bb cc) Fingerprints; and
- (dd) Criminal history check.

Applies to Types I, II, and III, IV, and V.

- (2) The admitting officer shall assure himself/herself ensure that each inmate prisoner received is committed under proper legal authority.

Applies to Types I, II, and III, IV, and V.

- (3) At the time of booking, a telephone shall be available within the receiving or security area. The detainee shall be allowed to complete at least one (1) telephone call to the person of his choice. Pursuant to T.C.A. § 40-7-106(b), no person under arrest by any officer or private citizen shall be named in any book, ledger, or any other record until after the person has successfully completed a telephone call to an attorney, relative, minister, or any other person that the person shall choose, without undue delay. One (1) hour shall constitute a reasonable time without undue delay.

Applies to Types I, II, and III, IV, and V.

- (4) Cash and personal property shall be taken from the inmate prisoner upon admission, listed on a receipt form in duplicate, and securely stored pending the prisoner's inmate's release. The receipt shall be signed by the receiving officer and the inmate prisoner, the duplicate given to the inmate prisoner, and the original kept for the record. If the inmate prisoner is in an inebriated state, there shall be at least one witness to verify this transaction. As soon as the inmate prisoner is able to understand what he is doing, he shall sign and be given the duplicate of the receipt.

Applies to Types I, II, and III, IV, and V.

- (5) Facilities shall maintain custody records on all inmates committed to or assigned to the facility, which shall include but are not limited to the following:

- (a) Intake/ booking information;
- (b) Court generated background information;
- (c) Cash and property receipts;
- (d) Reports of disciplinary actions, grievances, incidents, or crime(s) committed while in custody;
- (e) Disposition of court hearings;

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

(f) Records of program participation;

(g) Work assignments; and

(h) Classification records.

Inmates shall have reasonable access to information in their records. Access is only limited due to safety or security concerns for the inmate, other inmates, or the facility.

Applies to Types I, II, and III.

(5 6) Written policy and procedure shall ensure that inmate prisoner records are current and accurate.

Applies to Types I, II, and III and IV.

(6 7) Inmate Prisoner records shall be safeguarded from unauthorized and improper disclosure.

Applies to Types I, II, and III and IV.

(7 8) As part of the inmate prisoner accounting system, the facility/facilities shall maintain on a daily basis the following information:

(a) Admissions

1. Adult - Juvenile
2. Male - Female
3. Race
4. Charge

(b) Releases

1. Adult - Juvenile
2. Male - Female
3. Race
4. Charge

(c) Inmate Prisoner Population

1. Sentenced – Non-sentenced
2. Adult - Juvenile
3. Male - Female
4. Felons - Misdemeanants
5. Race

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

Applies to Type I

(8 9) ~~Facilities Records shall be kept~~ keep records on each inmate prisoner specifying:

- (a) Date of confinement;
- (b) Length of sentence;
- (c) Reduction of sentences provided by statutes; and;
- (d) Release date.

Applies to Type I.

(9 10) The administrator of a facility jail or ~~a designated member of his staff~~ designee shall maintain a record which indicates:

- (a) When an inmate prisoner is to be discharged and under what conditions;
- (b) If any detainees or pending detainees are placed against the inmate prisoner and ~~if such be the case if so~~, the appropriate authorities ~~shall to~~ be notified of his/her release date; and;
- (c) The time when and the authority by which the inmate prisoner was released.

Applies to Type I.

(10 11) ~~Written policy and procedure shall specify when a prisoner is released into the custody of another officer, appropriate credentials must be reviewed. Positive identification of a prisoner shall be made by the releasing officer before discharge or release. Facilities shall maintain written policy and procedures for releasing inmates from the facility which include, but are not limited to, the following:~~

- (a) Identification of outstanding warrants, wants, or detainees;
- (b) If released into the custody of another officer, appropriate credentials must be reviewed;
- (c) Positive identification of the inmate by the releasing officer;
- (d) Verification of release papers;
- (e) Completion of release arrangements, including notification of the parole authorities in the jurisdiction of release, if required;
- (f) Return of personal property including cash. All items shall be inventoried on a receipt and witnessed by the releasing officer. This receipt shall be kept in the permanent records of the facility;
- (g) Provision of a listing of available community resources; and
- (h) Provision of medication as directed by the health authority.

Applies to Types I, II, and III, and IV.

(11 12) All inmates prisoners released from the facility shall sign a receipt for property, valuables and cash returned at the time of release. All items shall be carefully inventoried on the

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

receipt and witnessed by the releasing officer. The receipt shall be kept in the permanent records of the ~~ja~~facility.

Applies to Types I, II, ~~and III, IV, and V.~~

Authority: T.C.A. § 41-4-140.

1400-01-15 Hygiene.

- (1) ~~The standard clothing issue for anyone detained longer than forty-eight (48) hours in a facility for both males and females~~ Inmates shall be issued clothing within a reasonable time frame that is properly fitted and suitable for the climate and shall include the following:

- (a) Clean socks.
- (b) Clean undergarments.
- (c) Clean outer garments, and.
- (d) Footwear.
- (e) ~~Clean prisoner's~~ Inmates' personal clothing (if available and clean) may be substituted for institutional clothing at the discretion of the facility administrator.

Applies to Types I, ~~and II, IV, and V.~~

- (2) Provisions shall be made so that inmates ~~prisoners~~ can regularly obtain the following minimum hygiene items:

- (a) Soap.
- (b) Toothbrush.
- (c) Toothpaste or toothpowder.
- (d) Comb.
- (e) Toilet paper.
- (f) Hygiene materials for women; and.
- (g) Shaving equipment.
- (h) ~~These items or services shall be made available at the inmate's expense unless he or she~~ the inmate cannot afford to pay, in which case ~~they~~ the inmate shall be provided the item or services free of charge.

Applies to Types I, ~~and II, IV, and V.~~

- (3) An inmate commissary may be available by which inmates can purchase approved items that are not furnished by the facility. The commissary operations shall be strictly controlled using standard accounting procedures.

Applies to Types I and II.

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

- (3 4) ~~Inmates shall be allowed freedom in personal grooming except when a valid governmental interest justifies otherwise.~~ Arrangements for ~~prisoner's~~ haircuts shall be made available, at the ~~inmate's~~ ~~prisoner's~~ expense, on a regular basis. If an ~~inmate~~ ~~prisoner~~ cannot afford this service, it shall be provided free of charge.

Applies to Types I ~~and IV.~~

- ~~(4 5) Facilities that are utilized for the confinement of females shall have a trained female correctional officer on duty or on call when a female is confined in the facility, to perform the following functions:~~

Formatted: Font color: Red

~~(a) Searches~~

~~(b) Health and welfare checks~~

~~Applies to Types I, II and III and IV.~~

- (5) Each ~~inmate~~ ~~prisoner~~ who is detained overnight shall be provided with the following standard issue:

- (a) One (1) clean fire-retardant mattress in good repair;
- (b) One (1) clean mattress cover;
- (c) If pillows are provided, they shall be fire-retardant and a clean pillowcase shall be provided;
- (d) Sufficient clean blankets to provide comfort under existing temperature conditions; ~~and,~~
- (e) One (1) clean bath-size towel.

Applies to Types I, ~~and II, IV, and V.~~

- (6) ~~Facilities shall maintain An an~~ adequate supply of bedding and towels ~~shall be maintained~~ so that the following laundry or cleaning frequencies may be adhered to:

- (a) Sheets, pillowcases, mattress covers, and towels shall be changed and washed at least once a week;
- (b) All mattresses shall be disinfected quarterly ~~and documented; and,~~
- (c) Blankets shall be laundered ~~monthly and or otherwise~~ sterilized before re-issue.

Applies to Types I ~~and IV.~~

- (7) ~~Inmate~~ ~~Prisoner~~ clothing, whether personal or institutional, shall be exchanged and cleaned at least twice weekly unless work, climatic conditions or illness necessitate more frequent change.

Applies to Types I ~~and IV.~~

Authority: T.C.A. § 41-4-140.

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

1400-01-.16 Supervision Of Inmates Prisoners.

- (1) All inmates prisoners shall be personally observed by a staff member a facility employee at least once every hour on an irregular schedule. More frequent observation shall be provided for inmates prisoners who are violent, suicidal, mentally ill, intoxicated, and for inmates prisoners with other special problems or needs. The time of all such checks shall be logged, as well as the results.
- Applies to Types I, II, and III, IV, and V.
- (2) The facility shall have a system to physically count prisoners-inmates and record the results on a twenty-four (24) hour basis. At least one (1) formal count shall be conducted for each shift.
- Applies to Types I, II, and III, IV, and V.
- (3) Incidents which involve or endanger the lives or physical welfare of custodial-officers staff or inmates prisoners shall be recorded in a daily log and retained. Incidents shall include, at a minimum:
- (a) Death.
 - (b) Attempted suicide.
 - (c) Escape.
 - (d) Attempted escape.
 - (e) Fire.
 - (f) Riot.
 - (g) Battery on a staff member or prisonerinmate.
 - (h) Sexual-assault Serious infectious disease within facility; and.
 - (i) Serious-infectious-disease-within-facility Sexual assault.
 - 1. An investigation shall be conducted and documented whenever a sexual assault or threat is reported; and.
 - 2. Victims of sexual assault are referred under appropriate security provisions to a community facility for treatment and gathering of evidence.
- Applies to Types I, II, and III, IV, and V.
- (4) Facilities that are utilized for the confinement of females shall have a trained female officer on duty or on call when a female is confined in the facility, to perform the following functions:
- (a) Searches; and.
 - (b) Health and welfare checks.

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

Applies to Types I, II, and III, IV, and V.

- (5) Inmates Prisoners shall not be permitted to supervise, control, assume or exert authority over other inmates prisoners.

Applies to Types I and IV.

- (6) Nonsmoking inmates shall not be exposed to second-hand smoke.

Applies to Types I, II and III.

Authority: T.C.A. § 41-4-140.

1400-01-.17 Classification

- (1) There shall be a written plan for prisoner-inmate classification specifying criteria and procedures for classifying inmates prisoners in terms of level of custody required, housing assignment and participation in correctional programs. The plan shall include a process for review and appeal of classification decisions.

Applies to Types I, II, and III, IV, and V.

- (2) This plan ensures total sight, sound or physical contact separation between male and female inmates and between adults and juveniles being tried as adults.

Applies to Types I, II, and III, IV, and V.

- (3) Inmates with disabilities, including temporary disabilities, shall be housed and managed in a manner that provides for their safety and security. Housing used by inmates with disabilities, including temporary disabilities, shall be designed for their use and shall provide for integration with other inmates. Program and service areas shall be accessible to inmates with disabilities.

Applies to Types I, II, and III.

Authority: T.C.A. § 41-4-140.

Formatted: Font: (Default) Arial, 10 pt, Check spelling and grammar

Formatted: Font: (Default) Arial, 10 pt

**RULES
OF
THE TENNESSEE CORRECTIONS INSTITUTE**

**CHAPTER 1400-2
MINIMUM STANDARDS FOR NON-SECURE HOLDING FACILITIES FOR JUVENILES**

TABLE OF CONTENTS

1400-2-.01	Introduction	1400-2-.08	Supervision
1400-2-.02	Detention-Statutes	1400-2-.09	Training
1400-2-.03	Definitions	1400-2-.10	Services
1400-2-.04	Length-of-Stay	1400-2-.11	Security
1400-2-.05	Physical-Plant	1400-2-.12	Life-Safety
1400-2-.06	Admission	1400-2-.13	Administration/Management
1400-2-.07	Medical/Health	1400-2-.14	Personnel

1400-2-.01 INTRODUCTION:

- (1) ~~Purpose of Certification: The primary purpose of certification is protection. Protection has a triple focus which is that of (a) properly housing children; (b) protection of the community at large; and (c) reduce the liability for the facility and the staff. Minimum requirements seek to maintain adequate health, safety, and supervision of children while they are under the care of the court system, consistent with the charge of treatment, training, and rehabilitation called for in T.C.A. §37-1-101.~~
- (2) ~~Child Care Services: Under the direction of the court, child care service may be offered by either facilities directly owned by the county/municipality, or provided directly under contract with the county/counties/municipality.~~
- (3) ~~Legal Basis for Certification: Under the authority of T.C.A. §41-4-140, the Tennessee Corrections Institute is required to establish minimum standards for local detention facilities in the state and conduct an annual inspection of each facility.~~
- (4) ~~Local Child Care Facilities: These facilities are one of the initial steps in the housing of children involved with the court system and within them, those children receive their first impression of this system. Their experience will be a major force in their future development in the community.~~
- (5) ~~Temporary Holding Resource., A short-term (72 hours, exclusive of non-judicial days) placement alternative for children pending adjudication, or dispositional placement, or pending return to a dispositional placement.~~
- (6) ~~The Tennessee Corrections Institute: In carrying out its mission and responsibilities under the authority of T.C.A. §41-4-140, the Tennessee Corrections Institute opens communication with local agencies with the intent to upgrade the delivery of services to the children of Tennessee.~~
- (7) ~~Basic Information:~~
 - (a) ~~Statutory Authority. The standards contained in this document are a result of revisions of the 1985 Standards of the Tennessee Corrections Institute. These standards have been revised under the authority of T.C.A. §41-4-140.~~
 - (b) ~~The standards contained herein refer only to a non-secure temporary holding facility for children which may have secure capabilities. This facility is designed to provide a short term placement as an alternative to detention in an adult jail for children under the age of eighteen (18) who meet the criteria outlined by T.C.A. §37-1-114. Temporary Holding Resources located on the~~

RECEIVED
OFFICE OF THE
SECRETARY OF STATE
2014 OCT 29 PM 4:05

(Rule 1400-2-.01, continued)

~~same grounds or under the same roof as an adult jail must meet the requisites of separation as set forth by T.C.A. §37-1-116.~~

- ~~(c) This facility is designed primarily to house no more than eight (8) children, and be primarily a staff secure facility with a maximum of two (2) hardware secure rooms. At least half of the rooms in the facility shall be non-secure.~~
- ~~(d) This facility is designed to house children who:
 - 1. Are in need of legal temporary placement;
 - 2. Are pending adjudication; or
 - 3. Are awaiting disposition.~~
- ~~(e) Nothing contained in these standards shall be construed to prohibit a city, county, or city/county agency operating a facility from adopting standards governing its personnel and facility, provided such standards meet or exceed and do not conflict with the standards established and recorded herein. Nor shall the standards be construed as authority to violate any state fire safety standard, building standard, health or safety code, or any Department of Human Services licensure requirement.~~
- ~~(f) Notes. Any notes or recommendations following a standard are advisory in nature and will not be mandatory.~~
- ~~(g) Validity. If any article, section, sentence, clause, or phrase of the minimum standards established and recorded herein is for any reason held to be unconstitutional, contrary to statute, exceeding the authority of the Tennessee Corrections Institute, or otherwise inoperative, such decision shall not affect the validity of the remaining portion of the standards.~~

~~Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 16, 1986; effective May 16, 1986. Repealed and new rule filed November 10, 1992; effective March 1, 1993.~~

1400-2-.02 DETENTION STATUTES.

- ~~(1) T.C.A. §37-1-114 Detention or shelter care of child prior to hearing of petition.
 - ~~(a) A child taken into custody shall not be detained or placed in shelter care prior to the hearing on the petition unless there is probable cause to believe that:
 - 1. The child has committed the delinquent or unruly act with which he is charged; or
 - 2. The child is a neglected, dependent or abused child, and in either case his detention or shelter care is required because the child is subject to an immediate threat to his health or safety to the extent that delay for a hearing would likely result in severe or irreparable harm, or the child may abscond or be removed from the jurisdiction of the court, and, in either case, there is no less drastic alternative to removal of the child from custody of his parents, guardian, or legal custodian available which would reasonably and adequately protect the child's health or safety or prevent the child's removal from the jurisdiction of the court pending a hearing.~~
 - ~~(b) Children alleged to be unruly shall not be detained for more than twenty four (24) hours excluding non-judicial days unless there has been a detention hearing and a judicial determination that there is probable cause to believe the child has violated a valid court order, and in no event shall such child be detained for more than seventy two (72) hours exclusive of~~~~

(Rule 1400-2-.02, continued)

~~non-judicial days prior to an adjudicatory hearing. Nothing herein shall prohibit the court from ordering the placement of children in shelter care where appropriate, and such placement shall not be considered detention within the meaning of this section.~~

~~(e) — A child shall not be detained in any secure facility or secure portion of any facility unless:~~

~~1. — There is probable cause to believe the child has committed a delinquent offense constituting a crime against a person resulting in the serious injury or death of the victim or involving the likelihood of serious injury or death to such victim;~~

~~2. — There is probable cause to believe the child has committed a delinquent offense involving the likelihood of serious physical injury or death, or a property offense constituting a felony, and the child:~~

~~(i) — Is currently on probation;~~

~~(ii) — Is currently awaiting court action on a previous alleged delinquent offense;~~

~~(iii) — Is alleged to be an escapee or absconder from a juvenile facility, institution or other court-ordered placement; or~~

~~(iv) — Has, within the previous twelve (12) months, willfully failed to appear at any juvenile court hearing, engaged in violent conduct resulting in serious injury to another person or involving the likelihood of serious injury or death, or been adjudicated delinquent by virtue of an offense constituting a felony if committed by an adult;~~

~~3. — There is probable cause to believe the child has committed a delinquent offense and special circumstances in accordance with the provisions of subsection (a) indicate the child should be detained; however, in any such case the judge shall, within twenty-four (24) hours of the actual detention, excluding non-judicial days, issue a written order on a form prescribed by the Tennessee Council of Juvenile and Family Court Judges setting forth the specific reasons necessitating such detention; however, nothing in this item shall be construed as requiring a hearing or formal finding of fact except as otherwise required by T.C.A. §37-1-117;~~

~~4. — The child is alleged to be an escapee from a secure juvenile facility or institution;~~

~~5. — The child is wanted in another jurisdiction for an offense which, if committed by an adult, would be a felony in that jurisdiction.~~

~~6. — There is probable cause to believe the child is an unruly child who has violated a valid court order or who is a runaway from another jurisdiction; however, any detention of such a child shall be in compliance with subsection (b) above; and,~~

~~7. — In addition to any of the conditions listed above in subdivisions 1—6 of this subsection, there is no less restrictive alternative that will reduce the risk of flight or of serious physical harm to the child or to others, including placement of the child with a parent, guardian, legal custodian, or relative; use of any of the alternatives listed in T.C.A. §37-1-116(g); and/or, the setting of bail.~~

~~(2) — T.C.A. §37-1-116 — Place of detention.~~

~~(Rule 1400-2.02, continued)~~

~~(a) — Notwithstanding the provisions of this section to the contrary, in any facility which meets the following requisites of separateness, children who meet the detention criteria of T.C.A. §37-1-114(c) may be held in a juvenile detention facility which is in the same building or on the same grounds as an adult jail or lockup:~~

- ~~1. — Total separation between juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between child and adult residents in the respective facilities;~~
- ~~2. — Total separation in all juvenile and adult program activities within the facilities including recreation, education, counseling, health care, dining, sleeping, and general living activities;~~
- ~~3. — Separate child care and adult staff including management, security staff, and direct care staff such as recreational, educational, and counseling. Specialized services staff such as cooks, bookkeepers, and medical professionals who are not normally in contact with detainees or whose infrequent contacts occur under conditions of separation of children and adults can serve both; and~~
- ~~4. — In the event that state standards or licensing requirements for secure juvenile detention facilities are established, the juvenile facility must meet the standards and be licensed or approved as appropriate.~~

~~(b) — In determining whether the criteria set out in this subsection are met, the following factors will serve to enhance the separateness of child care and adult facilities:~~

- ~~1. — Child care staff are employees of or volunteers for a juvenile service agency or the juvenile court with responsibility only for the conduct of the child-serving operations. Child care staff are specially trained in the handling of children and the special problems associated with this group;~~
- ~~2. — A separate child care operations manual with written procedures for staff and agency reference specifies the function and operation of the program;~~
- ~~3. — There is minimal sharing between the facilities of public lobbies or office/support space for staff;~~
- ~~4. — Children do not share direct service or access space with adult offenders within the facilities including entrance to and exits from the facilities. All facility intake and admission processes take place in a separate area and are under the direction of the child care facility staff. Secure entrances (sally ports, waiting areas) are independently controlled by child care staff and separated from adult entrances. Public entrances, lobbies, and waiting areas for the detention program are also controlled by child care staff and separated from similar adult areas. Adult and children residents do not make use of common passageways between intake areas, residential spaces, and program/service spaces;~~
- ~~5. — The space available for children's living, sleeping, and the conduct of programs conforms to the requirements for secure detention specified by prevailing case law, prevailing professional standards of care, and by state code; and,~~
- ~~6. — The facility is formally recognized as a detention center by the state agency responsible for monitoring, review, and/or certification of detention facilities.~~

(Rule 1400-2-.02, continued)

Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 16, 1986; effective May 16, 1986. Repealed and new rule filed November 10, 1992; effective March 1, 1993.

1400-2-.03 DEFINITIONS.

- (1) ~~Supervisor: A person in direct attendance to the child.~~
- (2) ~~Search: A visual as well as hands on inspection of either a child or a location.~~
- (3) ~~Clothed body search: The method of having trained staff to "frisk" the clothed body of a child and thoroughly inspect that child for any contraband or weapons. All attempts will be made to guarantee the dignity of the child.~~
- (4) ~~Contraband* Any item possessed by the child or found within the facility that is illegal by law or that is expressly prohibited by those legally charged with the responsibility for administration and operation of the facility or program.~~
- (5) ~~Panic Hardware: A door latching assembly incorporating a device which releases the latch upon the application of force in the direction of exit travel. Tennessee Fire Marshall Standard Building Code 1114.2(1988).~~
- (6) ~~Secure Facility: A facility that is designed and operated to ensure that all entrances and exits are under the exclusive control of the facility's staff, thereby not allowing a child to leave the facility unsupervised or without permission.~~
- (7) ~~Child Detention Specialist: An employee of a county, local jurisdiction, or private agency who has chosen to successfully complete a one hundred and twenty (120) hour program of designated training as specified and monitored by the Tennessee Corrections Institute.~~
- (8) ~~Status Offenders: Children who are charged with or who have committed offenses that would not be criminal if committed by an adult.~~
- (9) ~~Non Offenders: Dependent and neglected children, abused, throw-away children, etc.~~
- (10) ~~Deinstitutionalization of Status Offenders (DSO) Violation: Federal and state law prohibit the secure detention or placement of status offenders or non-offenders for more than twenty four (24) hours exclusive of non-judicial days, unless there is probable cause to believe that the child has violated a valid court order. A status offender may be securely detained beyond the twenty four (24) hour grace period if a detention hearing held within the twenty four (24) hour period reveals that there is a probable cause to believe the child has violated a valid court order. In such instances, a hearing on the violation must be held within seventy two (72) hours exclusive of non-judicial days. A non-offender cannot be held for violating a valid court order.~~
- (11) ~~Valid Court Order: For the purpose of determining whether a valid court order exists and a juvenile has been found to be in violation of that valid order all of the following conditions must be present prior to secure incarceration:
 - (a) ~~The juvenile must have been brought into a court of competent jurisdiction and made subject to an order issued pursuant to proper authority. The order must be one which regulates future conduct of the juvenile.~~
 - (b) ~~The court must have entered a judgment and/or remedy in accord with established legal principles based on the facts after a hearing which observes proper procedures.~~~~

(Rule 1400-2-.03, continued)

- ~~(e) — The juvenile in question must have received adequate and fair warning of the consequences of violation of the order at the time it was issued and such warning must be provided to the juvenile and to his attorney and/or to his legal guardian in writing and be reflected in the court record and proceedings.~~
 - ~~(d) — All judicial proceedings related to an alleged violation of a valid court order must be held before a court of competent jurisdiction. A juvenile accused of violating a valid court order may be held in secure detention beyond the twenty four (24) hour grace period permitted by a non-
criminal juvenile offender under Office of Juvenile Justice and Delinquency Prevention monitoring policy, for protective purposes as prescribed by state law, or to assure the juvenile's appearance at the violation hearing, as provided by state law, if there has been a judicial determination based on a hearing during the twenty four (24) hour grace period that there is probable cause to believe the juvenile violated the court order. In such case, the juvenile may be held pending a violation hearing for such period of time as is provided by state law, but in no event should detention prior to a violation hearing exceed seventy two (72) hours exclusive of non-judicial days. A juvenile found in a violation hearing to have violated a court order may be held in a secure detention or correctional facility.~~
 - ~~(e) — Prior to and during the violation hearing the following full due process rights must be provided:
 - 1. — The right to have the charges against the juvenile in writing served upon him a reasonable time before the hearing;
 - 2. — The right to a hearing before a court;
 - 3. — The right to an explanation of the nature and consequences of the proceeding;
 - 4. — The right to legal counsel and the right to have such counsel appointed by the court if indigent;
 - 5. — The right to confront Witnesses;
 - 6. — The right to present witnesses;
 - 7. — The right to have a transcript or record of the proceedings; and
 - 8. — The right of appeal to an appropriate court.~~
 - ~~(f) — In entering any order that directs or authorizes disposition of placement in a secure facility, the judge presiding over an initial probable cause hearing or violation hearing must determine that all the elements of a valid court order and the applicable due process rights were afforded the juvenile and, in the case of a violation hearing, the judge must determine that there is no less restrictive alternative appropriate to the needs of the juvenile and the community.~~
 - ~~(g) — A non-offender such as a dependent or neglected child cannot be placed in secure detention or correctional facilities for violating a valid court order.~~
- (12) — Escapee: Any juvenile who:
- (a) — Is alleged or adjudicated to be delinquent;

(Rule 1400-2-.03, continued)

1. ~~Is confined to a secure detention or correctional facility designated, operated, or approved by the court; and~~
 2. ~~Abseonds or attempts to abseond from such facility may be charged with the offense of escape or attempted escape and a petition alleging such offense may be filed with the juvenile court of the county in which the alleged offense occurred;~~
- (b) ~~Is alleged or adjudicated to be delinquent; and~~
1. ~~Has been placed by the court in a secure detention or correctional facility, designated, operated, or approved by the court;~~
 2. ~~Is being transported to or from such facility; and~~
 3. ~~Abseonds or attempts to abseond from the custody of the person responsible for such transportation; may be charged with the offense of escape or attempt to escape.~~
- (13) ~~Runaway: An unruly child who is away from the home or residence of his parents or guardians without their consent. T.C.A. §37-1-102).~~
- (14) ~~Secure Detention Facility: Any public or private residential facility which:~~
- (a) ~~Includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and~~
 - (b) ~~Is used for the temporary placement of any juvenile who is accused of having committed an offense, of any non-offender, and of any other individual accused of having committed a eriminal offense. (JJDP Act §103-12)~~
- (15) ~~Secure Correctional Facility: Any public or private residential facility which:~~
- (a) ~~Includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and~~
 - (b) ~~Is used for the placement after adjudication and disposition, of any juvenile who has been adjudicated as having committed an offense, any non-offender, or any other individual convicted of a eriminal offense. (JJDP Act §103-13)~~

Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 16, 1986; effective May 16, 1986. Repealed and new rule filed November 10, 1992; effective March 1, 1993.

LENGTH OF STAY.

- (1) ~~Children shall be detained in the Temporary Holding Resource in accordance with T.C.A. §§37-1-114 and 37-1-116.~~
- (2) ~~Placement in Temporary Holding Resources shall be for as short a time as possible not to exceed a seventy-two (72) hour maximum length of stay, exclusive of non-judicial days.~~
- (3) ~~Children who are alleged to be delinquent and meet the criteria for secure detention of T.C.A. §37-1-214(e) may be placed in secure custody in a Temporary Holding Resource for as short a time as possible, not to exceed a seventy-two (72) hour maximum length of stay, exclusive of non-judicial days.~~

(Rule 1400-2-.04, continued)

- ~~(4) — As provided by T.C.A. §37-1-114(b), children who are alleged to be status offenders may not be placed in secure custody in a Temporary Holding Resource for more than twenty-four (24) hours, exclusive of non-judicial days, unless there is probable cause to believe the child has violated a valid court order.~~
- ~~(5) — Dependent/neglected children shall not be detained in secure custody.~~
- ~~(6) — Children placed in the Secure Room must meet the Criteria established in T.C.A. §§37-1-114 and 37-1-116.~~

~~Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 16, 1986; effective May 16, 1986. Repealed and new rule filed November 10, 1992; effective March 1, 1993.~~

~~1400-2-.05 PHYSICAL PLANT.~~

- ~~(1) — Secure Rooms shall be optional with a maximum of two (2). At least half of the rooms in the facility shall be non-secure.~~
- ~~(2) — Secure Rooms shall only be used as single occupancy and shall have a minimum of fifty (50) square feet of clear floor space if constructed after July 1, 1985. Facilities used for detention prior to July 1, 1985, shall have a minimum of forty five (45) square feet. This room shall have at a minimum the following features:
 - ~~(a) — A tamper-resistant light fixture;~~
 - ~~(b) — Unbreakable watercloset and lavatory with cut-off valve located outside the room; and~~
 - ~~(c) — Concrete bed, sixteen (16) inches off the floor with rounded edges.~~The room shall contain no structural projections which would allow the child to harm himself/herself.~~
- ~~(3) — Each facility shall have documentation of compliance with applicable sanitation and fire safety standards.~~
- ~~(4) — There must be access to natural lighting in the facility, i.e., the bedroom area or in the office/activity area.~~
- ~~(5) — Each child in placement overnight in the facility shall be provided with bedding, a fire retardant mattress, and a fire retardant pillow. The mattress, pillow and bedding shall be in good repair.~~
- ~~(6) — Space in the facility must be sufficient to accommodate the following activities:
 - ~~(a) — Interviews between child and court staff, attorneys, and other permitted by the court, including the capability of providing privacy, when necessary, for such interviews;~~
 - ~~(b) — Space for reading or other quiet activities;~~
 - ~~(c) — Eating;~~
 - ~~(d) — Sleeping; and~~
 - ~~(e) — Staff work assignments, i.e., paperwork, interviews, counseling, etc.~~~~

~~(Rule 1400-2-.05, continued)~~

- ~~(7) — There must be easy and unrestricted public access to the facility area for persons who have official business as designated by the court.~~
- ~~(8) — The facility shall have at least one (1) toilet and washbasin to every eight (8) children in the non-secure area.~~
- ~~(9) — There shall be at least one (1) operable shower in the facility for every eight (8) children.~~
- ~~(10) — Smoke detectors must be installed and operable in the facility.~~
- ~~(11) — Ceilings in the facility must be solid with no drop ceilings.~~
- ~~(12) — All glass in the facility area (windows, vision panels, etc.) shall be made of safety glass. All new construction, after January 1, 1991, shall have all windows, vision panels, etc., made of a mar-resistant poly-carbonate laminate.~~
- ~~(13) — All housing and activity areas shall provide at a minimum:
 - ~~(a) — Lighting of at least twenty (20) footcandles, to be measured three (3) feet off the floor, in the office/activities area;~~
 - ~~(b) — Lighting of at least 3 footcandles, to be measured three (3) feet off the floor, in all sleeping rooms, which are operable twenty-four (24) hours a day; and,~~
 - ~~(c) — A temperature of not less than sixty-five (65) degrees Fahrenheit and no more than eighty (80) degrees Fahrenheit.~~~~
- ~~(14) — The facility shall have emergency lights that are tested quarterly.~~
- ~~(15) — The facility shall have exit signs at all exits which are continuously illuminated.~~
- ~~(16) — Child care facilities located under the same roof or on the same grounds as an adult jail must meet the following criteria for separateness as outlined in T.C.A. §37-1-116(i).
 - ~~(a) — Total separation between child care and adult facility spatial areas such that there could be no haphazard or accidental contact between children and adult residents in the respective facilities;~~
 - ~~(b) — Total separation in all children's and adult's program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities;~~
 - ~~(c) — Separate child care and adult staff including management, security staff, and direct care staff such as recreational, educational, and counseling. Specialized services staff such as cooks, bookkeepers, and medical professionals who are not normally in contact with detainees or whose infrequent contacts occur under conditions of separation of children and adults can serve both; and~~
 - ~~(d) — A separate child care operations manual with written procedures for staff and agency reference specifying the function and operation of the child care program.~~~~
- ~~(17) — Plans for any new child care facility construction or renovation shall be in compliance with minimum standards recorded herein and be submitted to the Tennessee Corrections Institute and the State Fire Marshal's office for review prior to the start of construction.~~

(Rule 1400-2-.05, continued)

- ~~(18) Plans for any new child care facility construction or renovation shall include provisions for handicapped persons to have access to all facilities and services.~~

~~Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 16, 1986; effective May 16, 1986. Repealed and new rule filed November 10, 1992; effective March 1, 1993.~~

~~1400-2-.06 ADMISSION.~~

- ~~(1) The facility administrator shall designate staff who have responsibility for the provision of or arrangement for the following services:~~

- ~~(a) Admission on a twenty-four (24) hour basis;~~
- ~~(b) Food service for those in placement;~~
- ~~(c) Notification of parents when children are in placement;~~
- ~~(d) Notification of the juvenile court and other appropriate agencies when children are in placement;~~
- ~~(e) Assurance of the provision of due process rights and procedures for children in placement; and~~
- ~~(f) Explanation of facility rules and procedures and provision of written copy to children in placement.~~

~~Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 16, 1986; effective May 16, 1986. Repealed and new rule filed November 10, 1992; effective March 1, 1993.~~

~~1400-2-.07 MEDICAL/HEALTH.~~

- ~~(1) Admission Medical Screening shall be performed on all children prior to placement in the facility. The findings shall be recorded on a printed screening form. The child care worker performing this duty shall check for:~~
- ~~(a) A serious illness or communicable disease;~~
 - ~~(b) A comatose state;~~
 - ~~(c) Obvious wounds;~~
 - ~~(d) Prescribed medications; and~~
 - ~~(e) Homicidal/suicidal ideation.~~
- ~~(2) The provision of medical services for the facility shall be the responsibility of a designated medical authority such as a hospital, clinic, or physician. There shall be an agreement between the governmental funding agency responsible for the facility and the hospital/clinic/physician responsible for such services. A copy of the agreement shall be on file in the facility clearly designating the extent of the authority and the procedures to follow including procedures for dispensing and recording medication (standing orders).~~
- ~~(3) A first aid kit approved by a physician shall be provided.~~
- ~~(4) All meals shall be prepared (except when catered) and served under the direct supervision of staff.~~

(Rule 1400-2-.07, continued)

~~(5) Policies and Procedures shall provide for at a minimum:~~

- ~~(a) Documentation of all requests by children to access medical treatment, and~~
- ~~(b) Documentation of treatment received per request;~~
- ~~(c) Documentation of all injuries to children and staff.~~
- ~~(d) Documentation of authority to access medical care.~~

~~Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 16, 1986; effective May 16, 1986. Repealed and new rule filed November 10, 1992; effective March 1, 1993.~~

1400-2-.08 SUPERVISION.

~~(1) A female child care worker must be available when there are female children in the facility to conduct and document:~~

- ~~(a) Searches;~~
- ~~(b) Showers;~~
- ~~(c) Health checks; and~~
- ~~(d) Periodic observations (refer to No. 4 of this section).~~

~~(2) Child care staff must have direct visual access to children who are in placement.~~

~~(3) Child care staff shall be physically present at all times when children are in placement.~~

~~(4) Child care staff must provide continual supervision of all children in placement, including at a minimum the following levels of visual contact:~~

- ~~(a) Every fifteen (15) minutes for all incoming children for the first six (6) hours.~~
- ~~(b) Every fifteen (15) minutes for all children housed in the secure rooms;~~
- ~~(c) Every thirty (30) minutes for children in non-secure rooms;~~
- ~~(d) Children exhibiting homicidal/suicidal ideation should be under constant direct supervision or at a minimum shall be observed every fifteen (15) minutes:
 - ~~1. Referral to appropriate and pre-designated mental health practitioner shall be made and documented;~~
 - ~~2. Reasons for removal from the general population documented;~~
 - ~~3. Behavior of child during this period shall be clearly documented; and~~
 - ~~4. Authorization for release from constant supervision shall be made by licensed and designated authority.~~~~

(Rule 1400-2-.08, continued)

- ~~(e) The time of all supervision checks shall be logged as well as the documentation of the behavioral observations of the child.~~

~~Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 16, 1986; effective May 16, 1986. Repealed and new rule filed November 10, 1992; effective March 1, 1993.~~

~~1400-2-.09 TRAINING.~~

- ~~(1) Each full/part-time person who directly supervises children in placement in a facility must have successfully completed an accredited CPR and emergency techniques course. Within the first month, all staff must receive at least eight (8) hours of formal documented pre-service training designed to familiarize each person with the function and mission of the facility, as approved by the Tennessee Corrections Institute and shall include but not be limited to:~~

~~(a) Expected behavior of children upon detention;~~

~~(b) Active listening;~~

~~(c) Crisis intervention;~~

~~(d) Substance Abuse;~~

~~(e) Physical/sexual abuse and victimization;~~

~~(f) Cultural/ethnic awareness;~~

~~(g) Suicide detection and screening;~~

~~(h) Brief history and description of Jail Removal Services Project;~~

~~(i) Juvenile court process;~~

~~(j) Description of the purpose and operating policies and procedures of the facility; and~~

~~(k) Purpose and function of child care staff in regard to holding children in a non-hardware secure facility.~~

- ~~(2) The administrator, as well as each full-time child care staff who directly supervises children, must receive forty (40) hours of basic training for Child Care Workers provided by the Tennessee Corrections Institute within the first year of employment.~~

- ~~(3) The administrator, as well as each full-time child care staff who directly supervises children must receive, after the first year of employment, forty (40) hours of in-service training in working with children and not less than sixteen (16) hours of which are to be provided by the Tennessee Corrections Institute. The remaining twenty-four (24) hours may be provided by the facility if course content is approved and monitored by the Tennessee Corrections Institute.~~

- ~~(4) All training records shall be kept in both the facility files and in the individual files of each employee.~~

~~Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 16, 1986; effective May 16, 1986. Repealed and new rule filed November 10, 1992; effective March 1, 1993.~~

~~1400-2-10 SERVICES.~~

~~(1) Each facility shall provide directly or provide access to at a minimum:~~

~~(a) Admission services, available on a twenty-four (24) hour basis;~~

~~(b) Visitation;~~

~~(c) Family and individual counseling;~~

~~(d) Diagnostic services;~~

~~(e) Mental health services;~~

~~(f) Medical services;~~

~~(g) Legal counsel;~~

~~(h) Food services with three (3) meals each twenty-four (24) hour period, with a maximum of twelve (12) hours between each meal;~~

~~(i) Exercise; and~~

~~(j) Transportation.~~

~~(2) Each facility shall provide the following articles:~~

~~(a) Clean socks;~~

~~(b) Clean undergarments;~~

~~(c) Clean outer garments;~~

~~(d) Footwear;~~

~~(e) Clean personal clothing (if available) may be substituted for clothing provided by the facility at the discretion of the facility administrator;~~

~~(f) Soap;~~

~~(g) Toothbrush;~~

~~(h) Toothpaste;~~

~~(i) Comb;~~

~~(j) Toilet paper; and~~

~~(k) Feminine hygiene materials.~~

Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 16, 1986; effective May 16, 1986. Repealed and new rule filed November 10, 1992; effective March 1, 1993.

1400-2-11 SECURITY.

- ~~(1) Only child care staff shall control use of all entrances and exits.~~
- ~~(2) Facility policy and procedure shall require that all children be searched upon admission.~~
- ~~(3) Written policy shall provide that backup staff be available in the event of a need for emergency assistance. Name and phone numbers of emergency backup staff shall be conspicuously posted in the facility.~~

~~Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 16, 1986; effective May 16, 1986. Repealed and new rule filed November 10, 1992; effective March 1, 1993.~~

1400-2-12 LIFE SAFETY.

- ~~(1) Provisions shall be made for handicapped persons to have access to all facilities and services. This shall be accomplished through construction design in all new construction and affirmatively through policy and procedure in all existing facilities.~~
- ~~(2) Policy and procedure for emergency evacuation of the facility shall be developed in writing and posted in clear view throughout the area.~~
- ~~(3) Panic hardware shall be installed on all outside exits.~~

~~Authority: T.C.A. §41-4-140. Administrative History: Original rule filed November 10, 1992; effective March 1, 1993.~~

1400-2-13 ADMINISTRATION/MANAGEMENT.

- ~~(1) Each facility shall have written policies and procedures governing the facility's operations. They shall be reviewed and updated annually. These policies and procedures shall be given to all employees and receipt documented.~~
- ~~(2) There shall be a policy and procedure for the provision of admission services on a twenty-four (24) hour basis.~~
- ~~(3) Policies shall provide for visitation, mail, and phone calls.~~
- ~~(4) Policies shall establish the procedures for the delivery of or access to the following required services:
 - ~~(a) Admission services available on a twenty-four (24) hour basis;~~
 - ~~(b) Visitation;~~
 - ~~(c) Family and individual counseling;~~
 - ~~(d) Diagnostic services;~~
 - ~~(e) Mental health services;~~
 - ~~(f) Medical services;~~
 - ~~(g) Legal counsel;~~~~

(Rule 1400-2-.13, continued)

- ~~(h) — Food services with three (3) meals each twenty-four (24) hour period, no more than 12 hours apart;~~
- ~~(i) — Exercise; and~~
- ~~(j) — Transportation.~~
- ~~(5) — Policies shall provide for positively based sanctions and prohibit the use of food, chemical agents, or corporal punishment as disciplinary actions.~~
- ~~(6) — Written policies shall provide for immediate notification of parents, court, and other necessary agencies.~~
- ~~(7) — Written policies shall ensure that the length of stay of children is in accordance with T.C.A. §37-1-114.~~
- ~~(8) — Written policies and procedures shall provide for Admission Data Forms to be completed for each child in placement and shall contain the following information unless otherwise prohibited by statute:
 - ~~(a) — Date and time of admission and authority therefore;~~
 - ~~(b) — Name and aliases of child;~~
 - ~~(c) — Last known address;~~
 - ~~(d) — Specific charge(s);~~
 - ~~(e) — Sex;~~
 - ~~(f) — Age;~~
 - ~~(g) — Date of birth;~~
 - ~~(h) — Place of birth;~~
 - ~~(i) — Race;~~
 - ~~(j) — Employment;~~
 - ~~(k) — Education;~~
 - ~~(l) — Name and relationship of next of kin;~~
 - ~~(m) — Address of next of kin;~~
 - ~~(n) — Other key contact person(s) to notify in case of emergency (if different from above);~~
 - ~~(o) — Address of other key contact person(s) to notify in case of emergency;~~
 - ~~(p) — Legal custodian;~~
 - ~~(q) — Driver's license and social security number;~~
 - ~~(r) — Disposition of vehicle, where applicable;~~~~

(Rule 1400-2-.13, continued)

- ~~(e) — Notation of cash and property;~~
 - ~~(f) — Court date and time;~~
 - ~~(u) — Room assignment; and~~
 - ~~(v) — County of residence.~~
- ~~(9) — Policies shall provide for record keeping/documentation including at a minimum:~~
- ~~(a) — Due process compliance;~~
 - ~~(b) — Medication needs, medication dispensed, and precautions;~~
 - ~~(c) — Frequency of visual contacts between child care staff and children;~~
 - ~~(d) — Unusual behavior (i.e., extreme mood changes, suicide threats/gestures, prolonged depression, incoherence, withdrawals, etc.);~~
 - ~~(e) — Disciplinary actions;~~
 - ~~(f) — Unusual searches (i.e., strip searches, transport to medical for body cavity search, etc.);~~
 - ~~(g) — Contact such as visitors and telephone calls made and received by the child; and~~
 - ~~(h) — Physical restraint of an acting out child to include at a minimum:
 - ~~1. — Procedures to use prior to placing a hand on a child, and;~~
 - ~~2. — Procedures which have been designated by the facility, and in which staff have been continuously trained, and;~~
 - ~~3. — Are the least restrictive in nature.~~~~
- ~~(10) — Policies and procedures shall provide for documentation of all searches of children, to include at a minimum:~~
- ~~(a) — Clothed body searches at entry into the facility;~~
 - ~~(b) — Clear written policy regarding the use of a strip search of a child, when it is clearly indicated that:
 - ~~1. — The child may be carrying contraband which may either injure:
 - ~~(i) — That child;~~
 - ~~(ii) — Other children; or~~
 - ~~(iii) — Staff in the facility, and~~~~
 - ~~2. — The items would not be found doing a clothed body search.~~~~

(Rule 1400-2-.13, continued)

- ~~(c) — Explicit written policy regarding the transfer of a child to designated, licensed, and approved medical personnel to perform any needed body cavity searches when:
 - 1. — The behavior of the child indicates a need for immediate cavity/medical search for internally concealed drugs and/or weapons; or
 - 2. — There is any visible evidence of contraband in a body cavity of a child which is detected in a properly documented strip search; or
 - 3. — The child is too frightened or refuses to submit to a proper, documented search (clothed or stripped).~~

- ~~(11) — Policy and procedure shall provide for transportation guidelines which include but are not limited to the following:
 - (a) — A description of roles of youth services officers, law enforcement officials, and transportation providers in detaining and transporting children;
 - (b) — A procedure for determining that children meet the criteria as outlined in T.C.A. §37-1-114(e) and must be transported to an appropriate facility in another county;
 - (c) — A procedure to assure that the transportation provider is furnished with the required paper work for detention;
 - (d) — A procedure that enables the transportation provider to communicate any problems or needs of the child while in his/her custody to the care provider; and
 - (e) — A statement that a female child needing transportation shall be in the company of or custody of a female person/provider.~~

- ~~(12) — Policies and procedures shall provide that transportation providers shall meet the following specifications:
 - (a) — Be approved by the juvenile court;
 - (b) — Attend a minimum four (4) hour documented orientation training program approved or provided through the local juvenile court unless the provider is a previously trained law enforcement officer in which case training need only include information applicable to the transporting of children and the admission procedures of facilities receiving them;
 - (c) — Follow local Emergency Transportation Operations Manual of Policies and Procedures;
 - (d) — Be employed by the police department, sheriff's department, juvenile court, county or city government, or be any county official covered by liability insurance with said county;
 - (e) — Present a valid Class D with an F endorsement Tennessee driver's license, T.C.A. §55-50-102;
 - (f) — Carry automobile liability insurance or drive a government vehicle which is covered by liability insurance; and
 - (g) — Be covered by workers compensation insurance as a local government employee; however, this does not apply to counties which are self-insured.~~

(Rule 1400-2-.13, continued)

- (13) ~~Written policy shall specify the duties of the transportation providers to include but not be limited to:~~
- ~~(a) Furnish a vehicle that is appropriate and reliable;~~
 - ~~(b) Equip the vehicle to insure the safety of the passengers including an emergency first aid kit, snow tires, or chains (when appropriate), and portable or mobile radio communication (e.g., **Citizen Band Radio**);~~
 - ~~(c) Furnish an enclosed vehicle to provide protection from cold and inclement weather, which allows the operator a constant viewing capability of the child being transported; and~~
 - ~~(d) Provide the county an up-to-date copy of automobile liability insurance coverage for any personal automobile which provider shall use to transport any child.~~
- (15) ~~Written policy shall provide that each child housed be allowed to visit with his/her parents or guardian at least once a day during the hours of 12:00 noon until 6:00 p.m. unless visitation is specifically prohibited by the juvenile court judge. Other visitors or hours of visitation must be approved by the temporary holding resource administrator or juvenile court judge.~~
- (16) ~~Written policy shall provide that each child will be allowed to receive up to two (2) telephone calls a day from parents or guardian during the hours of 8:00 a.m. and 9:00 p.m. unless specifically prohibited by the juvenile court judge. Other callers or hours must be approved by the temporary holding resource administrator or juvenile court judge.~~
- (17) ~~Written policy shall provide that each child be permitted unrestricted and confidential access to his/her attorney at any reasonable hour.~~
- (18) ~~Written policy shall provide that mail received for a child in placement at the temporary holding resource will be opened in the presence of the child, searched for contraband, and given immediately to the child. Any mail from the child's attorney will be delivered immediately unopened to the child.~~
- (19) ~~Written policy shall provide for written notification to the Department of Human Services of any suspected or reported instances of either sexual or physical abuse within twenty four (24) hours of discovery.~~
- (20) ~~Written policy shall provide for written notification within twenty four (24) hours of discovery to the Department of Human Services, the Tennessee Corrections Institute, and the Tennessee Commission on Children and Youth of any report of or evidence of physical or sexual abuse or injury of a child in a facility while the child is in custody.~~
- (21) ~~Written policy shall provide for notification of the Tennessee Corrections Institute and the Tennessee Commission on Children and Youth of any deinstitutionalization of status offenders violation.~~
- (22) ~~Written policy shall provide for resident records to be safeguarded from unauthorized and improper disclosure.~~
- (23) ~~Written policy shall provide for records of children to be maintained until the child's 23rd birthday.~~
- (24) ~~Written policy shall provide for at a minimum:~~
- ~~(a) Documentation of all requests by children to access medical treatment, and~~
 - ~~(b) Documentation of treatment received per request;~~

(Rule 1400-2-.13, continued)

~~(e) — Documentation of all injuries to children and staff.~~

~~Authority: T.C.A. §41-4-140. Administrative History: Original rule filed November 10, 1992; effective March 1, 1993.~~

~~1400-2-.14 PERSONNEL.~~

- ~~(1) — Written policy shall indicate that there is an Affirmative Action based hiring plan to include at a minimum, a clear commitment to recognize and develop the abilities of all minorities, women, and handicapped persons in compliance with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and the "Americans with Disabilities Act" (P.L. 101-336) of 1990.~~
- ~~(2) — Written policy shall indicate that there is a clear commitment to recognize diversity in hiring.~~
- ~~(3) — Written personnel policy shall provide for a hiring procedure which shall include at a minimum:
 - ~~(a) — Background check with National Crime Information Center;~~
 - ~~(b) — Background check with the Sex Abuse Registry;~~
 - ~~(c) — Background check with local law enforcement officials;~~
 - ~~(d) — Grievance procedure; and~~
 - ~~(e) — Review.~~~~

~~Authority: T.C.A. §41-4-140. Administrative History: Original rule filed November 10, 1992; effective March 1, 1993.~~

**RULES
OF
TENNESSEE CORRECTIONS INSTITUTE
CORRECTIONAL FACILITIES INSPECTION**

**CHAPTER 1400-3
MINIMUM STANDARDS FOR JUVENILE DETENTION FACILITIES**

TABLE OF CONTENTS

1400-3-.01	Introduction	1400-3-.09	Sanitation/Maintenance
1400-3-.02	Detention Statutes	1400-3-.10	Food Services
1400-3-.03	Glossary	1400-3-.11	Mail and Visiting
1400-3-.04	Physical Plant	1400-3-.12	Programs and Activities
1400-3-.05	Administration/Management	1400-3-.13	Medical Services
1400-3-.06	Personnel	1400-3-.14	Admission, Records and Release
1400-3-.07	Security	1400-3-.15	Hygiene
1400-3-.08	Discipline	1400-3-.16	Supervision

1400-3-.01 INTRODUCTION:

- (1) ~~Purpose of Certification. The primary purpose of certification is protection. Protection has a triple focus which is that of: 1) properly housing children; 2) protection of the community at large; and 3) reducing the liability for the facility and the staff. Minimum requirements seek to maintain adequate health, safety, and supervision of children while they are under the care of the court system, consistent with the charge of treatment, training, and rehabilitation called for in T.C.A. §37-1-101.~~
- (2) ~~Legal Basis for Certification. Under the authority of T.C.A. §41-4-140, the Tennessee Corrections Institute is required to establish minimum standards for local detention facilities in the state and conduct an annual inspection of each facility.~~
- (3) ~~Local Juvenile Detention Facilities. These facilities are one of the initial steps in the housing of children involved with the court system and within them, those children receive their first impression of this system. Their experience will be a major force in their future development in the community. Services under the direction of the court may be offered by either facilities directly owned by the county/municipality, or provided directly under contract with the county (counties)/municipality.~~
- (4) ~~The Tennessee Corrections Institute. In carrying out its mission and responsibilities under the authority of T.C.A. 41-4-140, the Tennessee Corrections Institute opens communication with local agencies with the intent to upgrade the delivery of services to the children of Tennessee.~~
- (5) ~~Basic Information:~~
 - (a) ~~Statutory Authority. The standards contained in this document are a result of revisions of the 1985 Standards of the Tennessee Corrections Institute. These standards have been revised under the authority of T.C.A. §41-4-140.~~
 - (b) ~~The standards contained herein refer only to local juvenile detention facilities for children. This facility is designed to provide a short-term placement as an alternative to detention in an adult jail for children under the age of eighteen (18) who meet the criteria outlined by T.C.A. §37-1-114. Local juvenile detention facilities which may be located on the same grounds or under the same roof as an adult jail must meet the requisites of separation as set forth by T.C.A. §37-1-116.~~
 - (c) ~~This facility is designed to detain children who meet the criteria of T.C.A. §37-1-114 (c), and who:~~

(Rule 1400-3-.01, continued)

- ~~1. are in need of legal temporary placement;~~
 - ~~2. are pending adjudication; or~~
 - ~~3. are awaiting disposition and/or placement.~~
- ~~(d) Nothing contained in these standards shall be construed to prohibit a city, county, or city/county agency operating a facility from adopting standards governing its personnel and facility, provided such standards meet or exceed and do not conflict with the standards established and recorded herein. Nor shall the standards be construed as authority to violate any state fire safety standard, building standard, health or safety code, or any Dept. of Human Services licensure requirement.~~
- ~~(e) Notes. Any notes or recommendations following a standard are advisory in nature and will not be mandatory.~~
- ~~(f) Validity. If any article, section, sentence, clause, or phrase of the minimum standards established and recorded herein is for any reason held to be unconstitutional, contrary to statute, exceeding the authority of the Tennessee Corrections Institute, or otherwise inoperative, such decision shall not affect the validity of the remaining portion of the standards.~~
- ~~(7) Categories Covered by Standards: The minimum standards established and recorded herein will cover the following categories:~~
- ~~(a) Physical Plant~~
 - ~~(b) Administration/Management~~
 - ~~(c) Personnel~~
 - ~~(d) Security~~
 - ~~(e) Discipline~~
 - ~~(f) Sanitation/Maintenance~~
 - ~~(g) Food Services~~
 - ~~(h) Mail and Visiting~~
 - ~~(i) Programs and Activities~~
 - ~~(j) Medical Services~~
 - ~~(k) Admission, Records and Release~~
 - ~~(l) Hygiene~~
 - ~~(m) Supervision of Youth~~
- ~~(8) Validity: In determining the application of these minimum standards, the Tennessee Corrections Institute Board of Control has enacted the following:~~
- ~~(a) Standards contained herein shall apply to specific types of local juvenile detention facilities.~~

(Rule 1400-3-.01, continued)

- (b) ~~Detention facilities shall be classified according to construction date. Facilities constructed after January 1, 1991, shall be considered as new, while facilities constructed prior to that date shall be considered existing facilities.~~
- (c) ~~An existing facility must meet all applicable standards referring to such facilities and all other applicable standards. A new facility must comply with all applicable standards referring to such facilities and all other applicable standards.~~
- (d) ~~Any additions to existing facilities must comply with all applicable standards for new facilities.~~
- (9) ~~Certification of Facilities: Facilities which meet all applicable standards as determined by an annual inspection shall be recommended for certification by the inspector to the Tennessee Corrections Institute's Board of Control during the first board meeting following the completion of the inspection. Those facilities not meeting all applicable standards shall be recommended for non-certification. Facilities whose annual inspections are completed prior to the fifteenth (15) of the month shall be recommended for certification or non-certification to be effective on the first (1st) day of the month during which the inspection was completed. Facilities whose annual inspections are completed after the fifteenth (15th) of the month shall be recommended for certification or non-certification to be effective on the first (1st) day of the month following the month in which the inspection was completed. The Tennessee Commission on Children and Youth shall be immediately notified of any proposed change in facility status.~~

Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 7, 1993; effective July 28, 1993.

1400-3-.02 CITED STATUTES.

(1) ~~T.C.A. §37-1-101 Construction.~~

- (a) ~~This part shall be construed to effectuate the following public purposes:~~
 - 1. ~~to provide for the care, protection, and wholesome moral, mental and physical development of children coming within its provisions;~~
 - 2. ~~consistent with the protection of the public interest, to remove from children committing delinquent acts the taint of criminality and the consequences of criminal behavior and to substitute therefor a program of treatment, training and rehabilitation;~~
 - 3. ~~to achieve the foregoing purposes in a family environment whenever possible, separating the child from his parents only when necessary for his welfare or in the interest of public safety;~~
 - 4. ~~to provide a simple judicial procedure through which this part is executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced; and~~
 - 5. ~~to provide simple interstate procedures which permit resort to cooperative measures among the juvenile courts of the several states when required to effectuate the purposes of this part; and~~
 - 6. ~~to generally deinstitutionalize children who have not been found to be delinquent.~~
- (b) ~~It is the intention of the general assembly in the passage of this part to promulgate laws relative to children which are to be uniform in application throughout the state.~~

(Rule 1400-3-.02, continued)

~~(e) — Each of the juvenile courts in all the counties and municipalities of the state as described in 37-1-102 shall have all of the jurisdiction, authority, rights, powers and duties prescribed by the provisions of this part, and any additional jurisdiction, authority, rights, powers or duties conferred by special or private act upon any of the juvenile courts in the state are not intended to be invalidated or repealed by this part except where inconsistent or in conflict with any provisions of this part.~~

~~(2) — T.C.A. §37-1-114 — Detention or shelter care of child prior to hearing of petition.~~

~~(a) — A child taken into custody shall not be detained or placed in shelter care prior to the hearing on the petition unless there is probable cause to believe that:~~

~~1. — the child has committed the delinquent or unruly act with which he is charged; or~~

~~2. — the child is a neglected, dependent or abused child; and~~

~~3. — in either case his detention or shelter care is required because the child is subject to an immediate threat to his health or safety to the extent that delay for a hearing would likely result in severe or irreparable harm; or~~

~~4. — the child may abscond or be removed from the jurisdiction of the court; and,~~

~~5. — in either case, there is no less drastic alternative to removal of the child from custody of his parents, guardian, or legal custodian available which would reasonably and adequately protect the child's health or safety or prevent the child's removal from the jurisdiction of the court pending a hearing.~~

~~(b) — Children alleged to be unruly shall not be detained for more than twenty-four (24) hours excluding non-judicial days unless there has been a detention hearing and a judicial determination that there is probable cause to believe the child has violated a valid court order, and in no event shall such child be detained for more than seventy-two (72) hours exclusive of non-judicial days prior to an adjudicatory hearing. Nothing herein shall prohibit the court from ordering the placement of children in shelter care where appropriate, and such placement shall not be considered detention within the meaning of this section.~~

~~(c) — A child shall not be detained in any secure facility or secure portion of any facility unless:~~

~~1. — There is probable cause to believe the child has committed a delinquent offense constituting a crime against a person resulting in the serious injury or death of the victim or involving the likelihood of serious injury or death to such victim;~~

~~2. — There is probable cause to believe the child has committed a delinquent offense involving the likelihood of serious physical injury or death, or a property offense constituting a felony, and the child:~~

~~(i) — is currently on probation;~~

~~(ii) — is currently awaiting court action on a previous alleged delinquent offense;~~

~~(iii) — is alleged to be an escapee or absconder from a juvenile facility, institution, or other court-ordered placement; or~~

(Rule 1400-3-.02, continued)

- (iv) ~~has, within the previous twelve (12) months, willfully failed to appear at any juvenile court hearing, engaged in violent conduct resulting in serious injury to another person or involving the likelihood of serious injury or death, or been adjudicated delinquent by virtue of an offense constituting a felony if committed by an adult;~~
3. ~~There is probable cause to believe the child has committed a delinquent offense and special circumstances in accordance with the provisions of subsection (a) indicate the child should be detained; however, in any such case the judge shall, within twenty-four (24) hours of the actual detention, excluding non-judicial days, issue a written order on a form prescribed by the Tennessee Council of Juvenile and Family Court Judges setting forth the specific reasons necessitating such detention; however, nothing in this item shall be construed as requiring a hearing or formal finding of fact except as otherwise required by T.C.A. §37-1-117;~~
4. ~~The child is alleged to be an escapee from a secure juvenile facility or institution;~~
5. ~~The child is wanted in another jurisdiction for an offense which, if committed by an adult, would be a felony in that jurisdiction;~~
6. ~~There is probable cause to believe the child is an unruly child who has violated a valid court order or who is a runaway from another jurisdiction; however, any detention of such a child shall be in compliance with subsection (b) above; and~~
7. ~~In addition to any of the conditions listed above in subdivisions 1. - 6. of this subsection, there is no less restrictive alternative that will reduce the risk of flight or of serious physical harm to the child or to others, including placement of the child with a parent, guardian, legal custodian, or relative; use of any of the alternatives listed in T.C.A. §37-1-116(g); and/or, the setting of bail.~~

~~(3) T.C.A. §37-1-116 Place of detention.~~

- (a) ~~Notwithstanding the provisions of this section to the contrary, in any facility which meets the following requisites of separateness, children who meet the detention criteria of T.C.A. §37-1-114(c) may be held in a juvenile detention facility which is in the same building or on the same grounds as an adult jail or lockup:~~
1. ~~total separation between juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between child and adult residents in the respective facilities;~~
2. ~~total separation in all juvenile and adult program activities within the facilities including recreation, education, counseling, health care, dining, sleeping, and general living activities;~~
3. ~~separate child care and adult staff including management, security staff, and direct care staff such as recreational, educational, and counseling. Specialized services staff such as cooks, bookkeepers, and medical professionals who are not normally in contact with detainees or whose infrequent contacts occur under conditions of separation of children and adults can serve both; and~~
4. ~~In the event that state standards or licensing requirements for secure juvenile detention facilities are established, the juvenile facility must meet the standards and be licensed or approved as appropriate.~~

(Rule 1400-3-.02, continued)

- (b) ~~In determining whether the criteria set out in this subsection are met, the following factors will serve to enhance the separateness of child care and adult facilities:~~
- ~~1. Child care staff are employees of or volunteers for a juvenile service agency or the juvenile court with responsibility only for the conduct of the child-serving operations. Child care staff are specially trained in the handling of children and the special problems associated with this group;~~
 - ~~2. A separate child care operations manual with written procedures for staff and agency reference specifies the function and operation of the program;~~
 - ~~3. There is minimal sharing between the facilities of public lobbies or office/support space for staff;~~
 - ~~4. Children do not share direct service or access space with adult offenders within the facilities including entrance to and exits from the facilities. All facility intake and admission processes take place in a separate area and are under the direction of the child care facility staff. Secure entrances (sally ports, waiting areas) are independently controlled by child care staff and separated from adult entrances. Public entrances, lobbies, and waiting areas for the detention program are also controlled by child care staff and separated from similar adult areas. Adult and children residents do not make use of common passageways between intake areas, residential spaces, and program/service spaces;~~
 - ~~5. The space available for children's living, sleeping, and the conduct of programs conforms to the requirements for secure detention specified by prevailing case law, prevailing professional standards of care, and by state code; and~~
 - ~~6. The facility is formally recognized as a detention center by the state agency responsible for monitoring, review, and/or certification of detention facilities.~~

Authority: T.C.A. §41-4-140. *Administrative History:* Original rule filed April 7, 1993; effective July 28, 1993.

1400-3-.03 GLOSSARY.

- (1) ~~Admitting Area~~—The point of child's entry into a detention facility; the period when a child undergoes admission processing, which may include orientation and initial classification prior to regular assignment to the housing area.
- (2) ~~Adjudication~~—Finding of guilt or innocence.
- (3) ~~Admission Screening~~—A system of structured information-gathering to:
 - (a) ~~determine legal authority for detention; and~~
 - (b) ~~assess health and safety conditions for acceptance for detention.~~
- (4) ~~Attorney~~—One who is licensed to practice law and is authorized to act in the place or stead of another.
- (5) ~~Basic Training~~—Skill oriented introductory training provided by the Tennessee Corrections Institute which prepares a child detention staff with general and specific knowledge about the detention of youth in a local facility.

(Rule 1400-3-.03, continued)

- ~~(6) Censor—To read communications such as letters in order to delete material which might be considered harmful to the interests of the organizations or facility.~~
- ~~(7) Child Detention Staff—Any individual who is primarily responsible for the direct care of or supervision of a child for any period of time.~~
- ~~(8) Child Detention Specialist—An employee of a county, local jurisdiction, or private agency who has chosen to successfully complete a one hundred and twenty (120) hour program of designated training as specified and monitored by the Tennessee Corrections Institute.~~
- ~~(9) Classification—A process for determining the needs and requirements of those for whom detention has been ordered and for assigning them to living areas and programs according to their needs and existing resources.~~
- ~~(10) Clear Floor Space—Floor space that is free of obstructions such as beds, showers, commodes, and lavatories.~~
- ~~(11) Coma—A state of deep, prolonged unconsciousness, usually the result of injury, disease or ingestion of toxins.~~
- ~~(12) Communicable Disease—Any illness which may be transmitted through casual contact.~~
- ~~(13) Contraband—Any item possessed by the child or found within the facility that is illegal by law or that is expressly prohibited by those legally charged with the responsibility for administration and operation of the facility or program.~~
- ~~(14) Corporal Punishment—Any kind of punishment inflicted on the body, such as whipping.~~
- ~~(15) Corrosive—Capable of producing the process of dissolving or wearing away, especially of metals.~~
- ~~(16) Counseling—Providing advice or guidance.~~
- ~~(17) Daily Log—A record of all significant activities that take place during the course of a day.~~
- ~~(18) Dayroom—A secure area directly adjacent to living area, to which a child may be admitted for activities such as exercise, recreation and dining. Spaces originally designed for circulation, such as corridors, are not dayrooms.~~
- ~~(19) Deinstitutionalization of Status Offenders (DSO) Violation: Federal and state law prohibit the secure detention or placement of status offenders or non-offenders for more than twenty four (24) hours exclusive of non-judicial days, unless there is probable cause to believe that the child has violated a valid court order. A status offender may be securely detained beyond the twenty four (24) hour grace period if a detention hearing held within the twenty four (24) hour period reveals that there is probable cause to believe the child has violated a valid court order. In such instances, a hearing on the violation must be held within seventy two (72) hours exclusive of non-judicial days. A non-offender cannot be held for violating a valid court order.~~
- ~~(20) Detained Child—Any child confined in a local facility.~~
- ~~(21) Detention—The confinement of a child in a secure area.~~
- ~~(22) Detention Facility—This facility is designed to house children who meet the criteria of T.C.A. §37-1-114 (e), and who:~~

(Rule 1400-3-.03, continued)

- ~~(a) — are in need of legal temporary placement;~~
 - ~~(b) — are pending adjudication; or,~~
 - ~~(c) — are awaiting disposition and/or placement.~~
- ~~(23) — Disciplinary Action — An action taken upon a child that is intended to correct behavior.~~
- ~~(24) — Disciplinary Hearing — A non-judicial administrative procedure to determine if substantial evidence exists to find a child guilty of a facility rule violation.~~
- ~~(25) — Disciplinary Report — An account, or announcement that is prepared, presented or delivered, usually in formal or organized form based on the possibility of a facility rule violation.~~
- ~~(26) — Disinfect — To cleanse or rid of pathogenic microorganisms.~~
- ~~(27) — Disposition — Final adjudication by courts.~~
- ~~(28) — Document — To support with written sources.~~
- ~~(29) — Escapee: Any juvenile who:~~
- ~~(a) — Is alleged or adjudicated to be delinquent; is confined to a secure detention or correctional facility designated, operated, or approved by the court; and absconds or attempts to abscond from such facility may be charged with the offense of escape or attempted escape and a petition alleging such offense may be filed with the juvenile court of the county in which the alleged offense occurred;~~
 - ~~(b) — Is alleged or adjudicated to be delinquent; and has been placed by the court in a secure detention or correctional facility, designated, operated, or approved by the court; is being transported to or from such facility; and absconds or attempts to abscond from the custody of the person responsible for such transportation; may be charged with the offense of escape or attempt to escape. (T.C.A. §37-1-116)~~
- ~~(30) — Existing Facilities — Centers built prior to January 1, 1991.~~
- ~~(31) — Facility Administrator — Any official who has primary responsibility for managing and operating a local detention facility.~~
- ~~(32) — Fire Retardant — Material that will burn, but at a slow rate.~~
- ~~(33) — Flammable — Easily ignitable and capable of burning with great rapidity; highly combustible.~~
- ~~(34) — Flushable Drain — A pipe or channel which is cleaned by a rapid, brief gush of water.~~
- ~~(35) — Footcandle — A unit for measuring the intensity of illumination; the amount of light thrown on a surface one foot away from the light source.~~
- ~~(36) — General Population — A group of children confined in a facility that have no restrictions on them, such as segregation.~~
- ~~(37) — Infectious Disease — An illness that may be transmitted to others through either intimate contact or contact through the exchange of bodily fluids.~~

(Rule 1400-3-.03, continued)

- ~~(38) In Service Training—That training which is given to an employee on an annual basis to reinforce or add to their basic training.~~
- ~~(39) Infraction—A breach or violation of a facility rule.~~
- ~~(40) Legal Counsel—An attorney, or court authorized personnel responsible for advising a child.~~
- ~~(41) Living Area—A high-security, medium-security, or low security room, excluding holding, detoxification, infirmary, and segregation rooms.~~
- ~~(42) Medical Records—Records of medical examinations, diagnoses, treatments and physicians' orders.~~
- ~~(43) Medication Receipt System—A method that accounts for the administering of medications.~~
- ~~(44) Menu Pattern—The outline of food items to be included in each meal.~~
- ~~(45) Monitor—To keep watch over, supervise.~~
- ~~(46) New Facilities—Any structure built after January 1, 1991.~~
- ~~(47) Non Offenders—Dependent and neglected children, abused, throwaway children, etc.~~
- ~~(48) Panic Hardware—A door latching assembly incorporating a device which releases the latch upon the application of force in the direction of exit travel. Tennessee Fire Marshall Standard Building Code 1114.2 (1988).~~
- ~~(49) Petition~~
- ~~(a) Who may make: The petition may be made by any person including a law enforcement officer, who has knowledge of the facts alleged or is informed and believes that they are true. T.C.A. §37-1-119.~~
- ~~(b) Contents: The petition shall be verified and may be on information and belief. It shall set forth plainly:~~
- ~~1. the facts which bring the child within the jurisdiction of the court with a statement that it is in the best interest of the child and the public that the proceeding be brought and, if delinquency or unruly conduct is alleged, that the child is in need of treatment or rehabilitation;~~
 - ~~2. the name, age, and residence address, if any, of the child on whose behalf the petition is brought;~~
 - ~~3. the names and residence addresses, if known to petitioner, of the parents, guardian or custodian of the child and the child's spouse, if any; and~~
 - ~~4. if the child is in custody and, if so, the place of his detention and the time he was taken into custody. T.C.A. §37-1-120~~
- ~~(50) Physical Force—Any situation which requires a child care worker "lay hands" on a child or which subjects a child to pain, discomfort or physical incapacitation.~~
- ~~(51) Physical Plant—The building.~~

~~(Rule 1400-3-.03, continued)~~

- ~~(52) Policy—A statement of what is to be done in relation to a particular issue. It reflects the philosophy of the organization and defines the purpose for which the action is taken.~~
- ~~(53) Potentially Hazardous Food—Any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustaceans, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include clean, whole, uncracked, odor free shell eggs or foods which have a PH level of 4.6 or below or a water activity (aw) value of 0.85 or less.~~
- ~~(54) Pre-Service Training—Training accomplished prior to assignment of duty, which is intended to familiarize new employees with the operations of the particular facility to which they are to be assigned.~~
- ~~(55) Probable cause—shall be established in order to do a strip or body cavity search of a visitor. When probable cause exists, the search shall be documented.~~
- ~~(56) Procedure—A procedure provides a detailed description of how a policy is to be accomplished. It details the steps to be taken, the order in which they will be carried out, and by whom.~~
- ~~(57) Range of Sanctions—The various penalties for noncompliance of rules specified by the facility administrator.~~
- ~~(58) Rules—Those guidelines which govern a child's behavior while they are detained.~~
- ~~(59) Runaway—An unruly child who is away from the home or residence of his parents or guardians without their consent. (T.C.A. §37-1-102)~~
- ~~(60) Sally Port—An enclosure situated either in the perimeter wall or fence of the facility or within the interior of the facility, containing gates or doors at both ends, only one of which opens at a time. This method of entry and exit ensures there will be no breach in the perimeter or interior security of the facility.~~
- ~~(61) Search—A visual as well as hands on inspection of either a child or a location.~~
- ~~(62) Secure—Providing a degree of restriction of detainee movement within a detention facility.~~
- ~~(63) Secure Facility—A facility that is designed and operated to ensure that all entrances and exits are under the exclusive control of the facility's staff, thereby not allowing a child to leave the facility unsupervised or without permission.~~
- ~~(64) Secure Detention Facility—Any public or private residential facility which:~~
- ~~(a) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and~~
 - ~~(b) is used for the temporary placement of any juvenile who is accused of having committed an offense, of any non-offender, and of any other individual accused of having committed a criminal offense. (JJDP Act 103-12)~~
- ~~(65) Secure Correctional Facility: Any public or private residential facility which:~~
- ~~(a) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and~~

~~(Rule 1400-3-.03, continued)~~

- ~~(b) — is used for the placement, after adjudication and disposition, of any juvenile who has been adjudicated as having committed an offense, any non-offender, or any other individual convicted of a criminal offense. (JJDP Act 103-13)~~
- ~~(66) — Security Devices — Locks, gates, doors, bars, fences, screens, ceilings, floors, walls, and barriers used to confine and control detained youth. Also, electronic monitoring equipment, security alarm systems, security light units, auxiliary power supply, and other equipment used to maintain facility safety.~~
- ~~(67) — Security Perimeter — Outer portions of a facility which actually provide for secure confinement of detained youth. This perimeter may vary for individual facilities, depending upon their security classification.~~
- ~~(68) — Sick Call — A function which provides detained youth the opportunity to receive required medical attention.~~
- ~~(69) — Status Offenders — Children who are charged with or who have committed offenses that would not be criminal if committed by an adult.~~
- ~~(70) — Structural Projections — Some part of the construction that protrudes with sharp or pointed edges.~~
- ~~(71) — Supervisor — A person in direct attendance to the child.~~
- ~~(72) — Temporary Housing — Shall meet all standards for existing facilities and all other applicable standards and shall not be in use for more than eighteen (18) months.~~
- ~~(73) — Toxic — Poisonous, harmful, destructive or deadly.~~
- ~~(74) — Valid Court Order — For the purpose of determining whether a valid court order exists and a juvenile has been found to be in violation of that valid order, all of the following conditions must be present prior to secure incarceration:~~
- ~~(a) — The juvenile must have been brought into a court of competent jurisdiction and made subject to an order issued pursuant to proper authority. The order must be one which regulates future conduct of the juvenile.~~
- ~~(b) — The court must have entered a judgment and/or remedy in accord with established legal principles based on the facts after a hearing which observes proper procedures.~~
- ~~(c) — The juvenile in question must have received adequate and fair warning of the consequences of violation of the order at the time it was issued and such warning must be provided to the juvenile and to his attorney and/or to his legal guardian in writing and be reflected in the court record and proceedings.~~
- ~~(d) — All judicial proceedings related to an alleged violation of a valid court order must be held before a court of competent jurisdiction. A juvenile accused of violating a valid court order may be held in secure detention beyond the twenty-four (24) hour grace period permitted for a non-criminal juvenile offender under Office of Juvenile Justice and Delinquency Prevention monitoring policy, for protective purposes as prescribed by state law, or to assure the juvenile's appearance at the violation hearing, as provided by state law, if there has been a judicial determination based on a hearing during the twenty-four (24) hour grace period that there is probable cause to believe the juvenile violated the court order. In such case, the juvenile may be held pending a violation hearing for such period of time as is provided by state law, but in no event should detention prior to a violation hearing exceed seventy-two (72) hours exclusive of~~

~~(Rule 1400-3-.03, continued)~~

~~non-judicial days. A juvenile found in a violation hearing to have violated a court order may be held in a secure detention or correctional facility.~~

~~(e) Prior to and during the violation hearing the following full due process rights must be provided:~~

- ~~1. the right to have the charges against the juvenile in writing served upon him a reasonable time before the hearing;~~
- ~~2. the right to a hearing before a court;~~
- ~~3. the right to an explanation of the nature and consequences of the proceeding;~~
- ~~4. the right to legal counsel and the right to have such counsel appointed by the court if indigent;~~
- ~~5. the right to confront witnesses;~~
- ~~6. the right to present witnesses;~~
- ~~7. the right to have a transcript or record of the proceedings; and~~
- ~~8. the right of appeal to an appropriate court.~~

~~(f) In entering any order that directs or authorizes disposition of placement in a secure facility, the judge presiding over an initial probable cause hearing or violation hearing must determine that all the elements of a valid court order and the applicable due process rights were afforded the juvenile and, in the case of a violation hearing, the judge must determine that there is no less restrictive alternative appropriate to the needs of the juvenile and the community.~~

~~(g) A non-offender such as a dependent or neglected child cannot be placed in secure detention or correctional facilities for violating a valid court order.~~

~~(75) Work Stoppage—A halt by those employed by the facility; usually refers to a strike.~~

~~Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 7, 1993; effective July 28, 1993.~~

1400-3-.04 PHYSICAL PLANT.

~~(1) All facilities shall provide for at a minimum:~~

- ~~(a) In new and existing facilities, activity areas shall have lighting of at least twenty (20) footcandles, on the average, to be measured three (3) feet off the floor.~~
- ~~(b) New and existing facilities shall have forced air ventilation in sleeping and activity areas.~~
- ~~(c) Facilities constructed after January 1991 shall have access to natural light in sleeping areas.~~
- ~~(d) New and existing facilities shall have a temperature of not less than sixty-five (65) degrees Fahrenheit and no more than eighty (80) degrees Fahrenheit in sleeping and activity areas.~~
- ~~(e) Sleeping areas in new facilities shall have lighting of at least five (5) footcandles, on the average, to be measured three (3) feet off the floor.~~

(Rule 1400-3-.04, continued)

- (2) ~~For new facilities, the minimum size of a single occupancy room shall have fifty (50) square feet of clear floor space with an elevation of not less than eight (8) feet. All dimensions of room length and width for both single and multiple occupancy room shall allow for a reasonable amount of useable floor space for any in-room activities of youths. Any questions pertaining to sufficiency of room dimensions shall be decided by the Corrections Institute. Each room shall contain a bunk, toilet and lavatory. For existing facilities, the minimum size of a single occupancy room shall be forty five (45) square feet with a ceiling height of at least eight (8) feet. Each room shall contain a bunk, toilet and lavatory. If a detained youth who occupies a single occupancy room in an existing facility has regular access to additional living areas outside the room, this additional area may be added on a pro rata basis to the square footage available to the detained youth.~~
- (3) ~~Multiple occupancy rooms in new facilities shall not be designed to accommodate more than eight (8) youth. A minimum of forty (40) square feet of clear floor space for each youth must be provided in the sleeping areas, with a ceiling elevation of not less than eight (8) feet. In existing facilities, multiple occupancy rooms shall allow twenty five (25) square feet of floor space per youth, exclusive of the floor area occupied by the bunks, with a ceiling height of not less than eight (8) feet. If a youth who occupies a multiple occupancy room in an existing facility has regular access to additional living areas, the additional area may be added on a pro rata basis to the square footage available to a youth.~~
- (4) ~~New facilities shall have a dayroom for each cluster of rooms, which has a minimum of thirty five (35) square feet of floor space per youth. Existing facilities are not required to provide dayrooms.~~
- (5) ~~All facilities shall provide operable toilets and washbasins to detained youth on a ratio of at least one (1) toilet and washbasin to every eight (8) youth and one (1) toilet and washbasin accessible to occupants of any single occupancy room without their having to leave their room.~~
- (6) ~~Facilities shall have at least one (1) operable shower for every sixteen (16) detained youth which shall be accessible to youth without their having to leave their designated area.~~
- (7) ~~New facilities shall be provided with at least one (1) single room for the separation and control of problem youth. The room shall conform to the single occupancy room dimensions and shall have, at a minimum, the following features:~~
- (a) ~~high security light fixture;~~
 - (b) ~~unbreakable watercloset and lavatory with control valve located outside the room;~~
 - (c) ~~forced air ventilation;~~
 - (d) ~~concrete bed, sixteen (16) inches from the floor, with rounded edges.~~
- ~~The room shall contain no structural projections or furnishings that would allow the youth to harm himself/herself. The room shall be located to allow continuous monitoring by detention staff.~~
- (8) ~~all facilities shall have at least one (1) special purpose room to provide for the temporary detention of persons under the influence of intoxicants. This room shall conform to multiple occupancy room dimensions and capacity. These rooms shall have, at a minimum, the following features:~~
- (a) ~~unbreakable toilet and lavatory;~~
 - (b) ~~high security light fixture;~~
 - (c) ~~forced air ventilation;~~

(Rule 1400-3-.04, continued)

~~(d) — no structural projections.~~

~~New facilities shall also provide in this room a bed, sixteen (16) inches from the floor with rounded edges.~~

~~In new facilities this room shall be located so as to allow continuous monitoring by detention staff.~~

~~(9) — New facilities shall provide space inside the security perimeter, separate from living areas and administrative offices for the processing of youth as they are received and discharged from the facility. This space shall have the following components:~~

~~(a) — pedestrian sally port;~~

~~(b) — telephone facilities for detainee use;~~

~~(c) — temporary holding rooms which have fixed benches to seat youth;~~

~~(d) — a shower, toilet and washbasin.~~

~~Existing facilities shall be provided with space where youth are received, searched, showered, and issued clothing (if provided by the facility) prior to assignment to the living quarters.~~

~~(10) — Provisions shall be made for a visiting area.~~

~~(11) — Provisions shall be made for a private room to allow for discussions between clergy, attorneys and others authorized by the juvenile court of jurisdiction.~~

~~(12) — Each new facility shall have at least one (1) multipurpose room for education, recreation and other activities.~~

~~(13) — Each new facility shall provide a secure outdoor recreation area with dimensions of at least thirty (30) feet by thirty (30) feet or an indoor recreation area of the same dimensions which has access to natural light.~~

~~(14) — Space shall be provided where a health care professional may conduct sick call, examine patients in privacy and provide medical treatment.~~

~~(15) — Every facility shall be provided with a secure control center, staffed around the clock, through which telephone and other communications are channeled. The location of the control center shall provide good visibility or be equipped with a monitoring device. The control center shall monitor the operation of security and life safety systems.~~

~~(16) — Drinking fountains, with potable water, shall be located in all sleeping and activity areas of new facilities. In existing facilities, if the water from washbasins is potable, it will not be necessary to add drinking fountains but sanitary drinking cups must be available.~~

~~(17) — An emergency power source shall be provided to activate at times of power failure with sufficient capacity to operate security and evacuation electrical devices and equipment and to provide minimum lighting within the facility and its perimeter. The power source shall be checked for functional readiness quarterly and the dates logged.~~

~~(18) — Each facility shall provide for electric locks to be manually operated.~~

(Rule 1400-3-.04, continued)

- ~~(19) Each facility shall have exit signs at each exit which are distinctly marked and continuously illuminated. Exits shall be kept clear and in usable condition.~~
- ~~(20) Each facility shall have documentation of compliance with applicable sanitation and fire safety standards.~~
- ~~(21) All kitchens, dining rooms, multiple toilet areas and corridors shall contain operable floor drains.~~
- ~~(22) There shall be cells to accommodate the facility's classification plan. Facilities that house both males and females as well as juveniles and adults shall have provisions to separate accordingly. Such provisions shall not allow physical contact or sight and sound communication. Provisions shall also be made to separate minimum, medium and maximum security prisoners.~~
- ~~(23) Plans for any new facility construction or renovation shall be in compliance with minimum standards recorded herein and be submitted to the Tennessee Corrections Institute and the State Fire Marshal's Office for review. In planning a new facility it shall be necessary, at the outset, to determine clearly the function and purpose which the facility will serve. In essence, define whether or not its function will be for temporary holding or an institution for longer detention. Its primary function may encompass both of these functions. A plan for operating the facility shall be developed in the initial stages of planning the physical plant so that the facility can be designed around the operating plan, rather than the reverse. This approach will contribute to simplicity of design and effective use of operating controls.~~
- ~~(24) The capacity of each room or housing area as determined by the Tennessee Corrections Institute shall not be exceeded.~~
- ~~(25) The use of padlocks and chains to secure housing areas is prohibited.~~

Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 7, 1993; effective July 28, 1993.

1400-3-.05 ADMINISTRATION/MANAGEMENT.

- ~~(1) Each facility shall develop a mission statement and written policies and procedures governing the facility's operations. They shall be reviewed and updated annually. These policies and procedures shall be accessible to all employees at all times.~~
- ~~(2) There shall be written plans developed in advance for dealing with emergencies such as escape, disturbances, assaults on employees, hostage-taking, and emergency evacuation plans. These shall be incorporated into the facility's manual. Each employee shall be familiar with these plans.~~
- ~~(3) Written policy and procedure shall provide for each shift at a facility to have fire drills every six (6) months and document dates of said drills, participating staff and results.~~
- ~~(4) The facility administrator shall develop a list of articles and materials that shall be allowed in the living area. Detained youth shall be informed in writing of this list.~~
- ~~(5) The facility shall have a written and graphic evacuation plan posted in the living area, as well as any other specified locations.~~
- ~~(6) Written policy and procedure shall ensure that detained youth shall not be subjected to discrimination based on race, national origin, color, creed, sex, economic status, sexual orientation, or political belief.~~
- ~~(7) Juvenile facilities located under the same roof or on the same grounds as an adult jail must meet the following criteria for separateness, as outlined in T.C.A. §37-1-116 (i):~~

~~(Rule 1400-3-.05, continued)~~

- ~~(a) — total separation between juvenile and adult facility special areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities;~~
- ~~(b) — total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities;~~
- ~~(c) — separate juvenile and adult staff, including management, security staff, and direct care staff such as recreational, educational, and counseling. Specialized services staff such as cooks, bookkeepers, and medical professionals who are not normally in contact with detainees or whose infrequent contacts occur under conditions of separation of juveniles and adults, can serve both; and;~~
- ~~(d) — a separate juvenile operations manual, with written procedures for staff and agency reference, specifying the function and operation of the juvenile program.~~
- ~~(8) — New juvenile detention facilities should not be located under the same roof or on the grounds of an adult detention facility.~~
- ~~(9) — Written policy shall provide for written notification within twenty four (24) hours of discovery to the Dept. of Human Services, the Tennessee Corrections Institute, and the Tennessee Commission on Children and Youth of any report of or evidence of physical or sexual abuse of a child in a facility while the child is in custody.~~
- ~~(10) — Written policy shall provide for notification of the Tennessee Corrections Institute and the Tennessee Commission on Children and Youth of any deinstitutionalization of status offenders violation.~~

~~Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 7, 1993; effective July 28, 1993.~~

~~1400-3-.06 PERSONNEL.~~

- ~~(1) — The facility shall develop a personnel policy manual, to be distributed to each employee, which provides information on the following subjects:

 - ~~(a) — description of organizational structure~~
 - ~~(b) — position qualifications and specifications~~
 - ~~(c) — personnel rules and regulations~~
 - ~~(d) — recruitment procedures~~
 - ~~(e) — equal employment opportunity provisions~~
 - ~~(f) — work hours.~~
 - ~~(g) — personnel records~~
 - ~~(h) — employee evaluation~~
 - ~~(i) — in service training.~~~~
- ~~(2) — Each facility shall be required to provide personnel 40 hr. of pre service training before assuming individual job responsibilities. All employees who have not received this 40 hr. of training must be accompanied at all times by an employee who has received such training. There shall be documentation~~

(Rule 1400-3-.06, continued)

~~of topics covered and dates covered and class roster. Topics shall include but not limited to: hostage policy, crisis management, use of force, admission & release, security procedures, medical procedures, indicators of mental illness & potential for suicide, professional ethics & standards of conduct and cultural diversity.~~

- ~~(3) All personnel whose duties include the supervision, custody, or treatment of detained youth shall be required during the first year of employment to complete a basic juvenile training program consisting of a minimum of forty (40) hours and provided by or approved and monitored by the Tennessee Corrections Institute.~~
- ~~(4) All personnel whose duties include the supervision, custody, or treatment of youth shall be required to complete an annual in-service program designed to instruct them in specific skill areas of detention operations. This annual in-service shall consist of forty (40) hours to be approved and monitored by the Tennessee Corrections Institute. At least sixteen (16) of these hours may be provided by the Tennessee Corrections Institute.~~
- ~~(5) A minimum number of hours of training and any additional courses for basic and in-service training shall be complied with as established by the Tennessee Corrections Institute Board of Control.~~
- ~~(6) All detention personnel who are authorized to use chemical agents shall receive basic and ongoing in-service training in their use. All such training shall be recorded with the dates completed and kept in the employee's personnel training file.~~
- ~~(7) Each facility shall maintain records on the types and hours of training completed by each detention worker.~~

~~Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 7, 1993; effective July 28, 1993.~~

1400-3-.07 SECURITY.

- ~~(1) Procedure shall differentiate between the searches allowed (orifice, pat, or strip) and identify when these shall occur and by whom such searches may be made. All orifice searches shall be done by medical personnel. Youth shall be searched by facility personnel of the same sex, except in emergency situations involving an immediate threat to life, limb or property.~~
- ~~(2) Key control shall be established and the operator of the control center shall have knowledge of who has the keys in use and the location of duplicate keys. All day-to-day operations shall be centralized and controlled through the control center.~~
- ~~(3) There shall be one (1) full set of well-identified keys, other than those in use, secured in a place accessible only to facility personnel for use in the event of an emergency. These keys shall be notched for easy identification under adverse conditions.~~
- ~~(4) Written policy and procedure shall govern the availability, control and use of chemical agents. A written report shall be submitted to the facility administrator when such substances are used.~~
- ~~(5) Written policy and procedure shall require that chemical agents and related security and emergency equipment are inventoried and tested at least quarterly to determine their condition and expiration dates. This shall include regular inspection of ABC type fire extinguishers, smoke detectors, and other detection and suppression systems.~~
- ~~(6) All tools, toxic, corrosive and flammable substances and other potentially dangerous supplies and equipment shall be stored in a locked area which is secure and located outside the security perimeter of the confinement area.~~

(Rule 1400-3-.07, continued)

- ~~(7) Written policy and procedure shall require at least weekly inspection of all security facilities and documentation of said dates.~~
- ~~(8) Written policy and procedure shall provide for continuous inspection and maintenance of all locks.~~
- ~~(9) There shall be a written plan that provides for continuing operations in the event of a work stoppage or other job action. Copies of this plan shall be available to all supervisory personnel who are required to familiarize themselves with it.~~

Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 7, 1993; effective July 28, 1993.

1400-3-.08 DISCIPLINE.

- ~~(1) Written facility rules along with the corresponding range of sanctions for rule violations and disciplinary procedures to be followed shall either be posted conspicuously in the facility within security areas or given to each youth during the intake process. If rules are given during the intake process, a record shall be maintained of this transaction. Illiterate youth shall be assisted by staff members in understanding the rules.~~
- ~~(2) Disciplinary reports shall be prepared by staff members and must include, but are not limited to, the following information:
 - ~~(a) names of persons involved~~
 - ~~(b) description of the incident~~
 - ~~(c) specific rule(s) violated~~
 - ~~(d) staff or youth witnesses~~
 - ~~(e) any immediate action taken, including use of force~~
 - ~~(f) reporting staff member's signature, date and time report is made.~~~~
- ~~(3) Each facility shall develop written policies and procedures governing disciplinary and administrative actions.~~
- ~~(4) Written policies shall provide for disciplinary hearings to be held in cases of alleged violations of detainee conduct rules. These hearings shall include the following administrative due process guarantees:
 - ~~(a) Youth receives written notice of charges and time of hearing prior to hearing.~~
 - ~~(b) A brief period of time after the notice, no less than twenty-four (24) hours, shall be allowed for the youth to prepare for appearance before an impartial officer or board.~~
 - ~~(c) Youth has the right to call and cross-examine witnesses and present evidence in their own defense, when permitting them to do so will not be unduly hazardous to institutional safety or correctional goals.~~
 - ~~(d) The reasons for any limitations placed on testimony or witnesses shall be stated in writing by the hearing chairperson.~~~~

~~(Rule 1400 3 .08, continued)~~

- ~~(e) — There must be a written statement by the fact finders as to evidence relied on and reasons for the disciplinary action.~~
- ~~(f) — Appeals process is available.~~
- ~~(5) — Written policy provides for youth to receive a hearing prior to segregation, except in cases where the security of the facility is threatened, as determined by the facility administrator or their designee.~~
- ~~(6) — For segregated youth, a disciplinary hearing must be held within seventy two (72) hours of placement in segregation, excluding holidays, weekends and emergencies, and for other youth a disciplinary hearing must be held within seven (7) days of the write up if the youth is still present in the facility.~~
- ~~(7) — The youth receives a copy of the disciplinary decision and a copy is kept in the youth's record. The youth's legal guardian/custodian shall receive written notification of major disciplinary actions taken against the youth.~~
- ~~(8) — Written policy and procedure provide that the disciplinary reports are removed from all files on youth found not guilty of an alleged violation.~~
- ~~(9) — Appropriate, necessary force may be used to:

 - ~~(a) — overcome resistance~~
 - ~~(b) — repel physical aggression~~
 - ~~(c) — protect life~~
 - ~~(d) — retake detainees or property~~~~

~~Use of physical force shall be thoroughly documented with detailed account of who was involved, the force that was used and justification for its use. This report shall be submitted to the facility administrator.~~

~~Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 7, 1993; effective July 28, 1993.~~

~~1400 3 .09 SANITATION/MAINTENANCE.~~

- ~~(1) — Floors, walls and ceilings throughout the facility shall be kept clean, dry, and free of any hazardous materials or substance. All plumbing fixtures shall be clean and sanitary.~~
- ~~(2) — A member of the staff shall be assigned to make daily sanitation and safety inspections. Dates of inspections shall be recorded and conditions noted.~~
- ~~(3) — The facility shall provide for regularly scheduled disposal of waste and trash in accordance with local or state health regulations.~~
- ~~(4) — The facility shall provide for control of vermin and pests and shall remove youth from treated areas if there is a risk of illness.~~
- ~~(5) — Walls shall be kept clean and free of pictures or other objects which provide hiding places for vermin or create a fire hazard.~~

~~Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 7, 1993; effective July 28, 1993.~~

1400-3.10 FOOD SERVICES.

- (1) ~~Food service guidelines and a menu pattern approved by a dietician shall be used by each facility in the preparation of meals.~~
- (2) ~~Youth shall receive at least three (3) meals every twenty-four (24) hours with no more than fourteen (14) hours between any two meals. At least two (2) of these meals shall be hot.~~
- (3) ~~All meals shall be prepared (except when catered) and served under the direct supervision of staff.~~
- (4) ~~Written policy and procedure shall require that accurate records are maintained on the number of meals served per day, the actual food served, and meal schedule.~~
- (5) ~~Written policy shall require that food shall never be used as a reward or disciplinary measure.~~
- (6) ~~Modified diets shall be prepared for youth when requested by medical staff or by a physician's order, and all reasonable efforts shall be made to accommodate dietary needs of a religion.~~
- (7) ~~Proper storage of food shall assure that there will be minimal contamination of the food from any source. The temperature of potentially hazardous food shall be 45°F or below or 140°F or above at all times except as otherwise provided in the current edition of the USPHS Food Service Sanitation Manual.~~
- (8) ~~The preparation or storage of food shall not be permissible in the housing area.~~
- (9) ~~Refrigerators shall be clean and contain a thermometer. The temperature shall be 45°F or below.~~
- (10) ~~All food products shall be stored at least six (6) to eight (8) inches off the floor on shelves or in shatter proof containers with tight fitting lids.~~
- (11) ~~Insecticide, cleaning agents and poisonous substances shall be stored away from food and plainly labeled.~~
- (12) ~~Stoves shall be equipped with operable hooded exhaust systems and the filters shall be kept clean.~~

~~Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 7, 1993; effective July 28, 1993.~~

1400-3.11 MAIL AND VISITING.

- (1) ~~Written policy shall outline the facility's procedures governing youth's mail.~~
- (2) ~~Each facility shall develop written policy governing the censoring of mail. Any regulation for censorship must meet the following criteria:~~
 - (a) ~~The regulation must further an important and substantial governmental interest unrelated to the suppression of expression (e.g., detecting escape plans which constitute a threat to facility security and/or the well being of staff and/or prisoners); and~~
 - (b) ~~The limitation must be no greater than is necessary to the protection of the particular governmental interest involved.~~
- (3) ~~Incoming mail shall be inspected for contraband items prior to delivery, unless received from the courts, attorney of record, or public officials, where the mail shall be opened in the presence of the youth.~~

(Rule 1400-3-.11, continued)

- ~~(4) — Outgoing mail shall be collected and incoming mail shall be delivered without unnecessary delay.~~
- ~~(5) — A youth shall be notified if a letter is rejected, whether it is written by or addressed to him.~~
- ~~(6) — When a letter is rejected, the author must be given an opportunity to protest that decision to the facility administrator.~~
- ~~(7) — Written policy and procedure shall provide that the facility permits postage for at least two (2) free personal letters per week for youth. They shall also receive postage for all legal or official mail.~~
- ~~(8) — Written policy shall define the facility's visitation policies which shall include, at a minimum:
 - ~~(a) — a visitation schedule providing a minimum of one (1) hour of visitation each week for each youth with their parent/guardian unless specifically prohibited by the juvenile judge or his/her designee.~~
 - ~~(b) — the maintenance of a visitors log.~~
 - ~~(c) — visitors shall register before admission and may be denied admission for refusal to register, for refusal to consent to search, or for any violation of posted facility rules.~~
 - ~~(d) — notification of the possibility of visitor searches. Probable cause shall be established in order to do a strip or body cavity search of a visitor. When probable cause exists, the search shall be documented.~~~~
- ~~(9) — Written policy and procedure shall provide that youth be allowed to have confidential access to attorneys and/or their authorized representatives at any reasonable hour. The facility shall establish the hours during which attorneys may visit.~~

Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 7, 1993; effective July 28, 1993.

1400-3-.12 PROGRAMS AND ACTIVITIES.

- ~~(1) — Reading material shall be made available to all youth.~~
- ~~(2) — Written policy and procedure requires that the facility shall allow for youth to voluntarily participate in religious activity at least once a week.~~
- ~~(3) — Policy and procedure shall provide for the youths' reasonable access to a telephone. Such procedure, including any limitations, shall be in writing and posted so as to be conspicuous to youth. The procedure shall include, at a minimum:
 - ~~(a) — the hours during which such access shall generally be provided~~
 - ~~(b) — a statement regarding the privacy of telephone communication.~~
 - ~~(c) — a statement that limitations will be imposed to ensure that charges for the call are correctly billed.~~~~
- ~~(4) — Every youth shall have unrestricted and confidential access to the courts. Youth shall have the right to present any issue before a court of law or governmental agency.~~
- ~~(5) — The facility shall provide or make available the following minimum services and programs to adjudicated and preadjudicated juveniles:~~

(Rule 1400-3-.12, continued)

~~an education program;
visiting with parents/guardians;
private communication with visitors and staff;
counseling;
continuous supervision of living units;
medical services;
food service;
recreation and exercise; and reading materials.~~

- ~~(6) Programs and services shall be initiated for all juveniles as soon as they are admitted to living units.~~
- ~~(7) Educational opportunities shall be available to all juveniles except when there is substantial evidence to justify otherwise.~~
- ~~(8) Written policy and procedure shall provide a recreation and leisure time plan that includes, at a minimum, at least one hour per day of physical exercise/large muscle activity outside the room and one hour per day of structured leisure time activities.~~
- ~~(9) Detained juveniles shall be afforded access to religious, mental health counseling and crisis intervention services in accordance with their needs.~~
- ~~(10) There shall be a system for juveniles and staff to communicate with one another at all times.~~
- ~~(11) When information is requested by the counselor or probation officer assigned by the court to supervise a juvenile in the community, it shall be supplied promptly by facility staff.~~
- ~~(12) Juveniles shall not be permitted to perform any work prohibited by state and federal regulations and statutes pertaining to child labor.~~
- ~~(13) Work assignments do not conflict with education program.~~

Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 7, 1993; effective July 28, 1993.

1400-3-.13 MEDICAL SERVICES.

- ~~(1) The facility shall be responsible for arranging medical services and/or designating a medical authority such as a hospital, clinic, or physician. The designated medical authority must be notified in instances where a youth may be in need of medical treatment and the facility shall document this notification. Any medical record or information shall be confidential.~~
- ~~(2) First aid kits shall be available with a physician approving the number, contents, and location of such kits. Documentation of such approval must be in the facility's permanent records or attached to the kit itself.~~
- ~~(3) Receiving screening shall be performed on all youth upon admission to the facility and before their placement in the general housing area. The findings shall be recorded on a printed screening form. The juvenile care worker performing this duty shall check for:~~
- ~~(a) a serious illness/communicable disease or condition~~
- ~~(b) a comatose state~~
- ~~(c) obvious wounds~~

(Rule 1400-3-.13, continued)

- ~~(d) — prescribed medications~~
 - ~~(e) — intoxication — alcohol/drug use~~
 - ~~(f) — pregnancy (last; menstrual cycle)~~
 - ~~(g) — physical or sexual abuse.~~
- ~~(4) — A more complete examination shall be completed on youth within fourteen (14) days of their initial confinement date. This examination shall be performed by a physician or a person who has been designated by a physician as capable of performing such examination. If a designee performs the examination he/she must do so under supervision of a physician and with a protocol or set of instructions and guidelines from the physician. This examination shall include:~~
- ~~(a) — inquiry into current illness and health problems, including those specific to women;~~
 - ~~(b) — inquiry into medications taken and special health requirements;~~
 - ~~(c) — screening of other health problems designated by the responsible physician;~~
 - ~~(d) — behavioral observation, including state of consciousness and mental status;~~
 - ~~(e) — notification of body deformities, trauma markings, bruises, lesions, jaundice, ease of movement, etc.;~~
 - ~~(f) — condition of skin and body orifices, including rashes and infestations;~~
 - ~~(g) — disposition/referral of youth to qualified medical personnel on an emergency basis.~~
- ~~(5) — Sick call, conducted by a physician or other person designated by a physician as capable of performing such duty, shall be available to each youth according to written procedure for sick call. The youth shall be informed of these procedures upon admission.~~
- ~~(6) — At least one (1) person per shift, assigned to work at the facility, shall be trained in First Aid, as defined by the American Red Cross. Training shall also cover:~~
- ~~(a) — awareness of potential emergency situations;~~
 - ~~(b) — transfer to appropriate medical provider;~~
 - ~~(c) — recognition of symptoms of illness most common to the youth;~~
 - ~~(d) — giving medication to youth;~~
 - ~~(e) — confidentiality of medical records and information.~~
- ~~(7) — Dental treatments, not limited to extractions, shall be provided when the health of the youth would otherwise be adversely affected during confinement, as determined by a physician or dentist.~~
- ~~(8) — All medications in possession of a youth at the time of admission to the facility shall be taken from him/her and the identification of and the need for such medication shall be verified by a physician before it is administered.~~

(Rule 1400-3-.13, continued)

- ~~(9) There shall be strict control of medications to be issued to youth. All medications shall be given only upon a doctor's written orders, and they shall be kept in a secure place within the administrative offices in the facility. An officer shall be responsible to see that the medicine is taken as directed.~~
- ~~(10) All medications shall be issued by a physician or their designee at the time of use and a medication receipt system established. This shall include controlled drugs and injections.~~
- ~~(11) Medical records shall be kept, in a separate file from other records, on the youth's physical condition on admission, during confinement, and at discharge. The record shall indicate all medical orders issued by the facility physician and/or any other medical personnel who are responsible for rendering medical services. These records shall be retained until the youth's nineteenth (19th) birthday.~~
- ~~(12) In case of medical emergencies, there shall be specific information readily accessible to all employees, such as telephone numbers and names of persons to be contacted, so that professional medical care can be received. There shall also be available the names and telephone numbers of persons to contact in case of death.~~
- ~~(13) Notify Department of Human Services if physical or sex abuse alleged or suspected.~~

~~Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 7, 1993; effective July 28, 1993.~~

1400-3-.14 ADMISSION, RECORDS AND RELEASE.

- ~~(1) An intake form(s) shall be completed for every youth admitted to the facility and shall contain the following information, unless otherwise prohibited by statute:~~
- ~~(a) date and time of admission and authority~~
 - ~~(b) name and aliases of youth~~
 - ~~(c) last known address~~
 - ~~(d) specific charge(s)~~
 - ~~(e) sex~~
 - ~~(f) age~~
 - ~~(g) date of birth~~
 - ~~(h) place of birth~~
 - ~~(i) race~~
 - ~~(j) employment~~
 - ~~(k) education~~
 - ~~(l) name, relationship and address of next of kin~~
 - ~~(m) other key contact person(s) and addresses to notify in case of emergency~~
 - ~~(n) legal guardian~~

(Rule 1400-3-.14, continued)

- ~~(o) — driver's license and social security numbers~~
 - ~~(p) — status: pre/post adjudication~~
 - ~~(q) — notation of cash and property~~
 - ~~(r) — bonding company~~
 - ~~(s) — amount of bond~~
 - ~~(t) — court date and time~~
 - ~~(u) — room assignment~~
- ~~(2) — The admitting worker shall assure themselves that each youth received is committed under proper legal authority.~~
 - ~~(3) — At the time of admission, a telephone shall be available within the receiving or security area. The detainee shall be allowed to complete at least one (1) telephone call.~~
 - ~~(4) — Cash and personal property shall be taken from the youth upon admission, listed on a receipt form in duplicate, and securely stored pending the youth's release. The receipt shall be signed by the receiving worker and the youth, the duplicate given to the youth, and the original kept for the record. If the youth is unable or unwilling to participate in the process, there shall be at least one witness to verify this transaction.~~
 - ~~(5) — Written policy and procedure shall ensure that detainee records are current and accurate.~~
 - ~~(6) — Written policy and procedure shall ensure that detained youth's records shall be maintained confidentially.~~
 - ~~(7) — Written policy and procedure shall specify when a youth is released into the custody of another agency, appropriate credentials must be reviewed. Positive identification of a youth shall be made by the releasing personnel before discharge or release.~~
 - ~~(8) — All youth released from the facility shall sign a receipt for property, valuables and cash returned at the time of release. All items shall be carefully inventoried on the receipt and witnessed by the releasing personnel. The receipt shall be kept in the permanent records of the facility.~~

Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 7, 1993; effective July 28, 1993.

~~1400-3-.15 HYGIENE.~~

- ~~(1) — The standard clothing issue for anyone detained longer than forty-eight (48) hours in a facility for both males and females shall include the following:
 - ~~(a) — clean socks~~
 - ~~(b) — clean undergarments~~
 - ~~(c) — clean outergarments~~
 - ~~(d) — footwear~~~~

~~(Rule 1400-3.15, continued)~~

- ~~(2) Clean personal clothing (if available) may be substituted for institutional clothing at the discretion of the facility administrator.~~
- ~~(3) Provisions shall be made so that detainees can regularly obtain the following hygiene items supplied by the facility:
 - ~~(a) soap/shampoo~~
 - ~~(b) toothbrush~~
 - ~~(c) toothpaste or toothpowder~~
 - ~~(d) comb~~
 - ~~(e) toilet paper~~
 - ~~(f) hygiene materials for women~~
 - ~~(g) deodorant~~~~
- ~~(4) Any haircuts for detained youth shall be made available at the discretion of the facility.~~
- ~~(5) Detainees shall be permitted to take a hot shower daily.~~
- ~~(6) Each youth who is detained overnight shall be provided with the following standard issue:
 - ~~(a) one (1) clean fire retardant mattress in good repair~~
 - ~~(b) one (1) clean mattress cover~~
 - ~~(c) If pillows are provided, they shall be fire retardant and a clean pillowcase shall be provided.~~
 - ~~(d) sufficient clean blankets to provide comfort under existing temperature conditions~~
 - ~~(e) one (1) clean bath size towel.~~~~
- ~~(7) An adequate supply of bedding and towels shall be maintained so that the following laundry or cleaning frequencies, may be adhered to:
 - ~~(a) Sheets, pillowcases, mattress covers, and towels shall be changed and washed at least once a week.~~
 - ~~(b) Mattresses shall be disinfected quarterly.~~
 - ~~(c) Blankets shall be laundered or otherwise sterilized before reissue.~~~~
- ~~(8) Clothing, whether personal or institutional, shall be exchanged and cleaned at least twice weekly unless work, climatic conditions or illness necessitate more frequent change.~~

Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 7, 1993; effective July 28, 1993.

1400-3-16 SUPERVISION OF RESIDENTS.

- (1) ~~Staff shall provide continual supervision of all youth in placement, including at a minimum the following levels of visual contact:~~
 - (a) ~~every 15 minutes for all incoming youth for the first six (6) hours~~
 - (b) ~~every 30 minutes for youth detained beyond six (6) hours~~
 - (c) ~~Youth who are violent, suicidal, mentally ill, intoxicated or with other special problems or needs shall be observed every fifteen (15) minutes.~~
 - (d) ~~The time of all supervision checks shall be logged as well as the documentation of the behavioral observations of the youth.~~
- (2) ~~The facility shall visually count youth and record the results on a twenty-four (24) hour basis.~~
- (3) ~~Incidents which involve or endanger the lives or physical welfare of facility staff or youth or which involve escape or attempted escape shall be documented and such documentation retained.~~
- (4) ~~Facilities that are utilized for the confinement of females shall have female staff on duty when a female is confined in the facility, to perform at a minimum the following functions:~~
 - (a) ~~searches~~
 - (b) ~~health and welfare checks~~
- (5) ~~Youth shall not supervise, control, assume or exert authority over other youth.~~

Authority: T.C.A. §41-4-140. Administrative History: Original rule filed April 7, 1993; effective July 28, 1993.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Bill Oldham	X				
Armando Fontes	X				
Derrick Schofield	X				
Brian McCormack	X				
Dan Hughes	X				
Buddy Lewis	X				
VACANT SEAT				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Correction Institute's Board of Control on 09/03/14, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 07/09/14

Rulemaking Hearing(s) Conducted on: (add more dates). 09/03/14

Date: 10/14/2014

Signature: Joseph M. Underwood

Name of Officer: Joseph M. Underwood

Title of Officer: Chief Counsel for Fire Prevention and Law Enforcement



Subscribed and sworn to before me on: October 14, 2014

Notary Public Signature: Ann Jones

My commission expires on: June 21, 2016

All rulemaking hearing 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.

Herbert H. Slatery III
 Herbert H. Slatery III
 Attorney General and Reporter
October 28, 2014
 Date

Department of State Use Only

RECEIVED
 2014 OCT 28 PM 4:05
 SECRETARY OF STATE

Filed with the Department of State on: 10-29-14

Effective on: 1-27-15

Tre Hargett
 Tre Hargett
 Secretary of State