

**RULES
OF THE
TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE**

TENNESSEE CORRECTIONS INSTITUTE

**CHAPTER 1400-04
CRITERIA FOR WAIVERS**

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1400-04-.01 SUBMISSION OF WAIVER REQUEST. A request for waiver of pre-employment requirements must be submitted by the prospective employing agency prior to the employment of the person requiring the waiver. Requests must be submitted no later than thirty (30) days prior to the next scheduled meeting of the Board of Control. Request for waiver filed/submitted by an individual will not be accepted by the Board of Control. The requesting department shall be represented by its designee before the Board of Control. Once a waiver has been granted for a previous pre-employment requirement for a particular employee, that requirement shall be considered waived for future applications for certification.

Authority: T.C.A. §§ 41-7-106 and 41-4-144. **Administrative History:** Emergency rule filed September 6, 2012; effective through March 5, 2013. Emergency rule expired effective March 5, 2013; rule reverted to reserved status on March 6, 2013. New rule filed September 17, 2014; effective December 16, 2014.

1400-04-.02 WAIVER OF PRE-EMPLOYMENT REQUIREMENTS. A waiver of pre-employment requirements may be granted under the following circumstances:

- (1) No person may be employed as a jail or workhouse administrator, jailer, corrections officer or guard in any county jail or workhouse, who requires a waiver under this section, until such waiver is granted.
 - (a) Military History - The Board of Control may waive pre-employment requirements relating to the military history on an individual basis and depending on the circumstances.
 1. Waivers may be granted from pre-employment requirements for the following separations from military service:
 - (i) Entry Level Separation;
 - (ii) Uncharacterized Discharge; or,
 - (iii) General Discharge under Honorable Conditions.
 2. Waivers shall not be granted from pre-employment requirements for the following separation from military service:
 - (i) Dishonorable Discharge or Dismissal;
 - (ii) Bad Conduct Discharge; or,
 - (iii) General Discharge under Other Than Honorable Conditions.

(Rule 1400-04-.02, continued)

- (b) Criminal Activity - The Board of Control may consider a waiver from pre-employment requirements relating to criminal activity on an individual basis and depending on the circumstances.
1. Waivers may be granted if the officer has been convicted of or pleaded guilty to or entered a plea of nolo contendere to any misdemeanor charge or misdemeanor violation of any federal or state law or city ordinance (excluding domestic violence) relating to force, violence, theft, dishonesty, gambling, liquor, controlled substances or controlled substances analogues (as defined in the Tennessee Drug Control Act compiled in Title 39, Chapter 17, Part 4).
 2. Waivers shall not be granted if a person has been convicted of, pleaded guilty to or entered a plea of nolo contendere to domestic assault or to a felony.
 3. The employing agency requesting waiver must present a copy of the final court disposition of the case.
 4. Some of the factors to be considered when determining whether to grant a waiver shall be:
 - (i) Amount of time since the offense;
 - (ii) Amount of time since completion of the sentence;
 - (iii) Type, circumstances and severity of the offense;
 - (iv) Applicant's activities since the offense; and
 - (v) Applicant's ability to carry a firearm pursuant to federal and state law.
- (c) Mental Impairment – A waiver shall not be granted from pre-employment requirements for a mental impairment that would affect the person's ability to perform an essential function of the job, with or without a reasonable accommodation.

Authority: T.C.A. §§ 41-4-144 and 41-7-106. **Administrative History:** Emergency rule filed September 6, 2012; effective through March 5, 2013. Emergency rule expired effective March 5, 2013; rule reverted to reserved status on March 6, 2013. New rule filed September 17, 2014; effective December 16, 2014.