



**State of Oklahoma**  
Office of Management and Enterprise Services

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**HCM 13-01**

**DATE:** March 11, 2013  
**TO:** All Appointing Authorities  
**FROM:** Lucinda Meltabarger, Administrator  
**SUBJECT:** **Public Hearing on Proposed Permanent 2013 Amendments to the Merit Rules – Part I**

A public hearing for comments has been scheduled in regard to proposed 2013 permanent amendments to the Merit Rules (please see attachment).

I hope that you or your representative will be able to attend this hearing:

**Merit Rules (Part I)**  
**10:30 a.m.**  
**Monday, March 25, 2013**  
**HCM Conference Room B-84**  
**Jim Thorpe Building (Basement)**  
**2101 North Lincoln Boulevard**  
**Oklahoma City, OK 73105**

Please advise if there are questions or if additional information is needed.

Attachment

A handwritten signature in black ink, appearing to read "Lucinda Meltabarger".

**Title 530. Office of Personnel Management  
Chapter 10. Merit System of Personnel Administration Rules**

**Subchapter 1. General Provisions**

**Part 1. General Provisions**

**530:10-1-1. Purpose**

(a) **Application to the classified service.** The Merit System of Personnel Administration Rules, which are also known as the Merit Rules for Employment and the Merit Rules, are the administrative rules which govern classified employment with the State of Oklahoma. They outline many of the rights and responsibilities of applicants, employees, supervisors, administrators and others who are subject to the Oklahoma Merit System of Personnel Administration.

(b) **Application to the unclassified service.** A number of rules also apply to officers, employees, positions and agencies which are not subject to the Merit System of Personnel Administration, that is, the exempt unclassified or non-merit service. Such rules often contain references as to their applicability.

(c) **Rulemaking entities.** The ~~Administrator of the Office of Personnel Management~~ Director of the Office of Management and Enterprise Services has promulgated the Merit System of Personnel Administration Rules which are included in this Chapter. The Merit Protection Commission has promulgated the Merit System of Personnel Administration Rules which are in OAC 455:10.

(d) **Statutory authority for the Merit Rules.** The authority for the Merit System of Personnel Administration Rules is found in the Oklahoma Statutes which are Oklahoma laws. The primary basis for the Merit Rules is the Oklahoma Personnel Act, which is found in Sections 840-1.1 et seq. of Title 74 of the **Oklahoma Statutes**.

(e) **Changes in the rules and interpretation of rules.** Rules may be changed on an emergency or permanent basis as situations and needs demand. New federal or state laws may replace or affect the interpretation of the Merit Rules.

(f) **Effect of other laws on Merit Rules.** Some laws govern a specific personnel practice that applies only to a certain agency or in a certain situation. The provisions of all of these specialized laws are not referenced in the Merit Rules. There may be cases where such a law will replace a rule or part of a rule in a certain agency or situation.

(g) **Legal cites.** Some of the Merit Rules in this Chapter restate or exactly repeat language from laws. Italic type means the language **exactly repeats** language from a law or other legal instrument. The specific reference appears in brackets following the language in Italics. Language from laws or other legal instruments which is restated **in other words** is also followed by a reference in brackets, but it is not printed in Italics.

**530:10-1-2. Definitions**

In addition to terms defined in OAC 455:10 1 2, the following words and terms, when used in the Merit Rules, shall have the following meaning, unless the context clearly indicates otherwise.

"**Absence without leave**" and "**unauthorized absence**" means any absence of an employee from duty without specific approval.

**"Absolute preference veteran"** means a veteran eligible for placement at the top of registers for appointment to the classified service because of a service-connected disability of 30% or more.

**"Act"** means the Oklahoma Personnel Act.

**"Administrator"** means the ~~appointing authority of the Oklahoma Office of Personnel Management~~ Director of the Office of Management and Enterprise Services [74:840-1.3]. As the term is used in the Merit Rules, the term includes employees and the Administrator of the Human Capital Management Division of the Office of Management and Enterprise Services ~~of the Office of Personnel Management~~ to whom the Administrator has lawfully delegated authority to act on his or her behalf. The term, as used in the Merit rules, may also include Appointing Authorities to whom the Administrator has delegated authority under a duly executed delegation agreement.

**"Adverse impact"** or **"disparate impact"** means a substantially different rate of selection in hiring, promotion, or other employment decision which works to the disadvantage of members of a race, sex, or ethnic group. A common yardstick for determining adverse impact is the **"4/5ths rule"** which indicates adverse impact if the selection rate for any protected group is less than 4/5ths (80%) of the selection rate of the group with the highest selection rate.

**"Agency"** means any office, department, board, commission or institution of the executive branch of state government [74:840 1.3].

**"Allocation"** or **"Position allocation"** means the process by which the ~~Office of Personnel Management~~ Human Capital Management Division designates a position to an established job family. A position is allocated on the basis of duties, authority, responsibilities, classification guides, and other appropriate factors.

**"Appointing authority"** means the chief administrative officer of an agency [74:840 1.3]. As the term is used in the Merit Rules, the term includes employees of an agency to whom the Appointing Authority has lawfully delegated authority to act on his or her behalf.

**"Assignment"** or **"Position assignment"** in the context of position allocation means the process by which an Appointing Authority designates a position to an established job family level.

**"Balanced and representative work force"** means a work force whose composition at all levels approximates the composition of the relevant civilian labor force in terms of race, sex, and ethnicity.

**"Base pay", "base rate", or "base salary"** means the hourly rate or salary established for a job performed. It does not include shift differentials, benefits, overtime, incentives, longevity, or any other pay elements.

**"Break in service"** means a period of time in excess of thirty (30) days during which an employee is not present at work and is not in paid leave status or on approved leave without pay.

**"Career progression"** means a type of intra-agency promotion in which an employee is advanced from one level of a job family to a higher non-supervisory level in the same job family.

**"Certification"**, in the context of initial classified appointments, means the submission of available names of eligibles from the appropriate register to an Appointing Authority. Such a list is called a **"certificate"** or **"e-list"**. Individuals whose names appear on the certificate are said to be "certified". In the context of all other types of appointments, certification means the determination by the Office, or by an Appointing Authority to whom the Administrator has

delegated authority, that a candidate possesses permanent classified status or is eligible for reinstatement to permanent classified status, and meets requirements for appointment to a specified job in the classified service.

**"Classification" means:**

(A) *the process of placing an employee into an appropriate job family and level within the job family, consistent with the allocation of the position to which the employee is assigned, or*

(B) *an employee's job family and the level at which work is assigned [74:840 1.3].*

**"Classification plan"** means *the orderly arrangement of positions within an agency into separate and distinct job families so that each job family will contain those positions which involve similar or comparable skills, duties and responsibilities [74:840 1.3].*

**"Classified employee"** means an employee in the classified service, or an employee currently on leave from the classified service in accordance with established Merit Rules governing leave.

**"Classified service"** means *state employees and positions under the jurisdiction of the Oklahoma Merit System of Personnel Administration [74: 840 1.3].*

**"Commission"** means *the Oklahoma Merit Protection Commission [74:840 1.3].*

**"Compensation plan"** means a schedule of salaries or hourly wages established for the jobs recognized in the agency classification plan so that all positions of a given job within an agency may be paid the same salary range established for the job.

**"Consider"** means a reasonable judgment based on job related criteria and on an individual's fitness for duties for initial or internal appointment.

**"Demotion"** means the reclassification of a classified employee to a different job with a lower pay band assignment or to a lower level within the same job family. Demotion may be voluntary or involuntary.

**"Direct reclassification"** means a change made in a classified employee's classification by an Appointing Authority as a result of the adoption of a new or revised job family descriptor.

**"Discharge"** is defined in 455:10 11 3.

**"Displacement" or "displace"** means the process of an employee accepting an offer of employment to an occupied or funded vacant position [74:840-2.27B].

**"EEO Job Categories"**, as used in the context of affirmative action/equal employment opportunity, means the following occupational categories:

(A) **Officials and Administrators:** Occupations in which employees set broad policies, exercise overall responsibility for execution of these policies, or direct individual departments or special phases of the agency's operations, or provide specialized consultation on a regional, district, or area basis.

(B) **Professionals:** Occupations which require specialized and theoretical knowledge which is usually acquired through college training or through work experience and other training which provides comparable knowledge.

(C) **Technicians:** Occupations which require a combination of basic scientific or technical knowledge and manual skill which can be obtained through specialized post-secondary school education or through equivalent on-the-job training.

(D) **Protective Service Workers:** Occupations in which workers are entrusted with public safety, security and protection from destructive forces.

(E) **Paraprofessionals:** Occupations in which workers perform some of the duties of a professional or technician in a supportive role, which usually require less formal training and/or experience normally required for professional or technical status.

(F) **Administrative Support (Including Clerical and Sales):** Occupations in which workers are responsible for internal and external communication, recording and retrieval of data and/or information and other paperwork required in an office.

(G) **Skilled Craft Workers:** Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs.

(H) **Service-Maintenance:** Occupations in which workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or which contribute to the upkeep and care of buildings, facilities or grounds of public property.

**"Eligible"** means a person who has met all requirements for appointment to a given job.

*"Employee" or "state employee" means an elected or appointed officer or employee of an agency unless otherwise indicated [74:840 1.3].*

*"Entrance examination" means any employment test used by the ~~Office of Personnel Management~~ Office of Management and Enterprise Services to rank the names of applicants who possess the minimum requirements of education, experience, or licensure for a job or group of similar jobs on a register of eligibles established by the ~~Office of Personnel Management~~ Office of Management and Enterprise Services [74:840-1.3].*

*"Executive Director" means the appointing authority of the Oklahoma Merit Protection Commission [74:840 1.3].*

**"FEPA"** means the Oklahoma Fair Employment Practices Act, Section 840 4.12 of the Oklahoma Personnel Act.

**"FLSA"** means the federal Fair Labor Standards Act.

**"FLSA exempt"** means employees performing work which is considered to be exempt from the overtime payment provisions of the FLSA.

**"FLSA non-exempt"** means employees performing work which is considered to be under the overtime payment provisions of the FLSA.

**"Hiring range"** means a range within a pay band within which an Appointing Authority may establish the initial rate of pay for a given job.

**"Hiring rate"** means the initial rate of pay for a given job within the pay band assigned to the job family level.

**"Hiring rule"** refers to the names of the top 10 available eligibles certified to an Appointing Authority by the Administrator.

**"Human Capital Management Division"** as used within the Merit Rules means the Human Capital Management Division of the Office of Management and Enterprise Services.

**"Initial appointment" or "original appointment"** means the act of an Appointing Authority hiring a person, usually from a certificate, for a probationary period. Contrast the meaning of these terms with "internal action" and "internal appointment" which are also defined in this Section.

*"Interagency transfer" means an action in which an employee leaves employment with one agency and enters employment with another agency while continuously employed with the state [74:840 1.3].*

**"Internal action" or "Internal appointment"** means the reclassification of a current employee or the reinstatement, recall or reemployment from a Priority Reemployment Consideration Roster of a former employee.

**"Intra-agency transfer"** means moving an employee from one position to another position with the same agency either with or without reclassification [74:840 1.3].

**"Job"** means a position or job family level in a job family [74:840-1.3].

**"Job family"** means:

- (A) jobs which require similar core skills and involve similar work, and
- (B) a logical progression of roles in a specific type of occupation in which the differences between roles are related to the depth and breadth of experience at various levels within the job family and which are sufficiently similar in duties and requirements of the work to warrant similar treatment as to title, typical functions, knowledge, skills and abilities required, and education and experience requirements [74:840-1.3].

**"Job family descriptor"** means a written document that:

- (A) describes a job family, including, but not limited to, the basic purpose, typical functions performed, various levels within the job family, and the knowledge, skills, abilities, education, and experience required for each level, and
- (B) identifies the pay band assigned for each level [74:840-1.3].

**"Job family level" or "level"** means a role in a job family having distinguishable characteristics such as knowledge, skills, abilities, education, and experience [74:840-1.3].

**"Job-related organization"** means a membership association which collects annual dues, conducts annual meetings and provides job-related education for its members and which includes state employees, including any association for which payroll deductions for membership dues are authorized pursuant to paragraph 5 of subsection B of Section 7.10 of Title 62 of the Oklahoma Statutes [74:840 1.3].

**"Lateral transfer"** means the reassignment of an employee to another state job with the same pay band assignment as the job family level in which the employee was classified prior to the lateral transfer [74:840 1.3].

**"Leave of absence without pay"** means leave or time off from duty granted by the Appointing Authority, for which period the employee receives no pay.

**"Manifest imbalance"** means representation of females, Blacks, Hispanics, Asian/Pacific Islanders and American Indians/Alaskan natives in specific job groups or EEO job categories within the agency's work force that is substantially below its representation in the appropriate civilian labor force.

**"Merit Rules" or "Merit Rules for Employment" or "Merit System of Personnel Administration Rules"** means rules adopted by the ~~Administrator of the Office of Personnel Management~~ Director of the Office of Management and Enterprise Services or the Oklahoma Merit Protection Commission pursuant to the Oklahoma Personnel Act [74:840 1.3]. Merit Rules adopted by the Administrator are in OAC 530:10, and Merit Rules adopted by the Commission are in OAC 455:10.

**"Merit System"** means the Oklahoma Merit System of Personnel Administration [74:840 1.3].

**"Minimum qualifications"** means the requirements of education, training, experience and other basic qualifications for a job.

**"Minority"** means a person who appears to belong, identify with, or is regarded in the community as belonging to one of the following racial or ethnic groups:

- (A) **"Black"**, meaning all persons having origins in any of the Black racial groups of Africa;
- (B) **"Hispanic"**, meaning all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;
- (C) **"Asian or Pacific Islander"**, meaning all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.
- (D) **"American Indian or Alaskan Native"**, meaning all persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition. For affirmative action purposes, persons who are reported as American Indian shall verify tribal affiliation by providing a certificate of Degree of Indian Blood from the U.S. Department of Interior, Bureau of Indian Affairs, or by providing the name and address of tribal officials who can verify tribal affiliation [74:840 2.1].

**"New position"** means a position not previously existing.

**"Noncompetitive appointment"** means the appointment of a person to a noncompetitive job level within a job family [74:840 1.3].

**"Noncompetitive job"** means an unskilled or semiskilled job designated by the Office of Personnel Management as noncompetitive. Noncompetitive jobs do not require written examinations for placement on registers of eligibles [74:840 1.3].

**"Office"** means the ~~Office of Personnel Management~~ Office of Management and Enterprise Services [74:840 1.3].

**"Office of Management and Enterprise Services"** as used within the Merit Rules, includes the Human Capital Management Division of the Office of Management and Enterprise Services.

**"Oklahoma Personnel Act"** means Sections 840 1.1 et seq. of Title 74 of the Oklahoma Statutes, creating the Merit System of Personnel Administration and any amendments or supplements.

**"Part-time employee"** means an employee who works less than full time.

**"Pay band"** means the pay range assigned to a job family level.

**"Payline"** means the relationship between the rate of pay of a particular job family level and the assigned job evaluation points for the same job family level.

**"Permanent employee"** means a classified employee who has acquired permanent status in the classified service according to the Act and the Merit Rules.

**"Position"** means a group of specific duties, tasks and responsibilities assigned by the Appointing Authority to be performed by one person; a position may be part time or full time, temporary or permanent, occupied or vacant.

**"Priority reemployment consideration"** means the requirement that Appointing Authorities consider eligible former state employees who were separated as a result of a reduction-in-force whose names appear on Priority Reemployment Consideration Rosters before any vacant position is filled by any eligible initially appointed from an employment register.

**"Probationary employee"** means a classified employee who has not acquired permanent status in the classified service in accordance with the Act and the Merit Rules.

**"Probationary period"** means a working test period during which a classified employee is required to demonstrate fitness for the job to which appointed by the satisfactory performance of the duties and responsibilities of the job.

**"Promotion"** means the reclassification of a classified employee to a different job with a higher pay band assignment or to a higher level within the same job family.

*"Promotional examination" means any employment test designated by the ~~Office of Personnel Management~~ Human Capital Management Division to determine further the qualifications of a permanent classified employee of a state agency for employment in a different job for which the employee possesses the minimum qualifications of education, experience, or licensure within that agency [74:840 1.3].*

**"Reallocation"** or **"Position reallocation"** means the process of reassigning an established position, occupied or vacant, from one job family to another.

**"Recall right"** means the entitlement of an eligible person to be offered reappointment to the job family level from which removed by a reduction-in-force before any other person may be appointed, except by recall.

*"Reclassification" means the process of changing a classified employee from one job family to another job family or from one job family level to another job family level in the same job family, resulting in a change in the employee's assigned job code [74:840 1.3].*

**"Register"** means a list of eligibles for original probationary appointment to a job.

**"Regular and consistent"** means, in connection with an employee's work assignments, the employee's usual and normal work assignments, excluding incidental, casual, occasional tasks, and activities the employee assumes without direction to do so. Temporary work assignments of less than 60 days in any 12 month period are not considered regular and consistent.

*"Regular unclassified service employee" means an unclassified service employee who is not on a temporary or other time-limited appointment [74:840-1.3].*

**"Reinstatement"** means the reappointment of a former permanent classified employee as provided in the Merit Rules or the replacing of an eligible's name on a register.

**"Resignation"** means an employee's voluntary termination of his or her employment with the state. In the case of a classified employee, it includes the forfeiture of status in the classified service.

**"Salary administration plan"** means the plan adopted by an Appointing Authority and submitted to the Administrator for approval which establishes hiring ranges for positions. Components of a salary administration plan may include but are not limited to conditions for hiring above the midpoint of a pay range, skill-based pay programs, and other pay movement mechanisms authorized by Section 840-2.17 of the Oklahoma Personnel Act.

**"Senior EEO Investigator"** means a person who has been designated by the Administrator to provide advice and support to persons completing the training requirements for discrimination complaints investigators as described in 530:10 3 22.

**"Successor job family level"** means a job family level that takes the place of another job family level.

*"Supervisor" means a classified or unclassified employee [within the executive branch, excluding employees within The Oklahoma State System of Higher Education 74:840 3.1] who has been assigned authority and responsibility for evaluating the performance of [other state employees] 74:840 1.3].*

**"Trial period"** means a working test period after promotion, voluntary demotion, or intra-agency lateral transfer during which a classified employee is required to demonstrate satisfactory performance in the job to which promoted, voluntarily demoted, or transferred before acquiring permanent status in the job.

*"Unclassified service" or "exempt service" means employees and positions excluded from coverage of the Oklahoma Merit System of Personnel Administration [74:840 1.3].* Such



employees and positions are subject to various provisions of the Oklahoma Personnel Act and the Merit Rules.

**"Veteran"** means a person who has been honorably discharged from the Armed Forces of the United States and who has been a resident of Oklahoma for at least 1 year before the date of examination [74:840 1.3].

### **530:10-1-6. Violations; penalties**

(a) The Administrator shall issue orders directing agencies to comply with provisions of the Oklahoma Personnel Act, the Merit Rules, or written communications issued to agencies explaining the Oklahoma Personnel Act, the Merit Rules, and any other matter relating to the Merit System of Personnel Administration. [74:840-1.6A]

(b) *The Oklahoma Merit Protection Commission or the ~~Administrator of the Office of Personnel Management~~ Office of Management and Enterprise Services may levy an administrative fine not to exceed Five Thousand Dollars (\$5,000.00) against any person, whether subject to the provisions of the merit system or in unclassified service, who after proper notice fails or refuses, within a reasonable period of time, to implement a written order of the Oklahoma Merit Protection Commission or the ~~Administrator of the Office of Personnel Management~~ Office of Management and Enterprise Services. Such fine shall be assessed against the person who violates the order and shall not be paid by any monies of the employing entity in which the person is employed or serves. [74:840-6.9(A)]*

(c) *Any person against whom an administrative fine is levied who continues the violation for an unreasonable period of time, as determined by the Oklahoma Merit Protection Commission or ~~Administrator of the Office of Personnel Management~~ Office of Management and Enterprise Services, shall forfeit his or her position and shall be ineligible for appointment to or employment in state government for a period of five (5) years [74:840-6.9(B)].*

(d) *Any fines collected pursuant to this section shall be deposited to the revolving fund of the respective entity which levies the fine [74:840-6.9(C)].*

### **530:10-1-11. Employee roster**

The Office of Personnel Management shall establish and maintain a roster of all employees in the classified service, showing for each employee the title, salary, date of employment and such other employment data as is deemed pertinent. Also, for the purpose of identifying employees and positions, for payroll certification, the Human Capital Management Division of the Office of Management and Enterprise Services shall maintain a list of unclassified personnel.

### **530:10-1-12. Review of records of the ~~Office of Personnel Management~~ Office of Management and Enterprise Services.**

OAC 530:1-1-14 contains the standards for review of ~~Office of Personnel Management~~ Human Capital Management Division records.

## **Part 3. Delegation Of Human Resource Functions**

### **530:10-1-30. Delegation authorization**

The ~~Administrator of the Office of Personnel Management~~ Director of the Office of Management and Enterprise Services, or his or her designee may approve applications from Appointing Authorities to be delegated the authority to administer human resources functions normally conducted by the ~~Office of Personnel Management~~ Human Capital Management Division as provided in Section 840-1.15 of Title 74 of the Oklahoma Statutes.

**530:10-1-31. Functions which may be delegated**

Upon the request of a state agency, and at the discretion of the Administrator, the Administrator may delegate any human resources functions normally conducted by the ~~Office of Personnel Management~~ Human Capital Management Division. [74:840-1.15(A)] Human resources functions that are under the jurisdiction of the Oklahoma Merit Protection Commission as described in 74:840-1.9 and Title **455** of the Oklahoma Administrative Code may not be delegated pursuant to the rules in this Part.

**530:10-1-39. Training requirements**

Each employee who will exercise delegation authority or who will participate in the support of delegated functions shall participate in initial training provided by the ~~Office of Personnel Management~~ Human Capital Management Division staff on standards and procedures concerning delegated functions. The Administrator shall establish training requirements for employees based on previous training and the employee's duties and responsibilities related to delegated functions. The Administrator may require employees to participate in additional training during the life of a delegation agreement.

**530:10-1-51. Termination or partial revocation of delegation authority**

(a) A delegation agreement may be terminated at the discretion of the Administrator or at the request of the Appointing Authority. Some infractions of Merit Rules, applicable laws, or the delegation agreement may result in partial revocation or termination of the agreement. The Administrator shall provide the Appointing Authority with reasonable notice of termination or partial revocation of the agreement and the effective date of the action. The Administrator may terminate or partially revoke authorization for delegation for any of the following reasons:

(1) The Appointing Authority fails to comply with corrective action ordered by the Administrator.

(2) Delegation functions are not administered in accordance with the delegation agreement, the Oklahoma Personnel Act, other applicable laws, the Merit Rules, or ~~Office of Personnel Management~~ Office of Management and Enterprise Services requirements, policies, directives, standards, guidelines, or practices.

(3) Problems or circumstances occur that affect either the ~~Office of Personnel Management~~ Office of Management and Enterprise Services or the agency in fulfilling its defined responsibilities.

(b) On the effective date of the termination or partial revocation of the delegation agreement, the authority and responsibility for delegated human resource functions that have been terminated or partially revoked shall be returned to the Administrator, together with records and documents related to the delegated functions. However, unless otherwise specified by the

Administrator, delegated actions initiated before the effective date of the termination or partial revocation of the agreement may be completed under the terms of the agreement.

### **530:10-1-53. Evaluation**

The Administrator shall evaluate the overall results and effects of delegation agreements at least annually for the first three years of an agreement and subsequently at least once every five years. Evaluations shall include but not be limited to an assessment of the results and effects (including costs) of the delegation authorization by various stakeholders. Anyone, including the Administrator, may provide comments, but the Administrator shall extend invitations to do so to the Appointing Authority of the delegation agency, the personnel professional responsible for the delegated function in the agency, and delegation coordinators with the ~~Office of Personnel Management~~ Office of Management and Enterprise Services, and employees of the delegation agency. The Administrator shall analyze, compile, and summarize the responses and make the report of the results available for public inspection.

## **Subchapter 3. Affirmative Action and Equal Employment Opportunity**

### **Part 2. Discrimination Complaints Investigations**

#### **530:10-3-22. Training requirements for discrimination complaints investigators**

(a) Unless otherwise provided by state or federal law, all persons who are designated to investigate complaints of employment discrimination in executive branch agencies shall be subject to the following initial training and initial certification provisions:

(1) completion of four days of initial discrimination complaints investigator training either conducted by the ~~Office of Personnel Management~~ Human Capital Management Division or approved by the Administrator. The initial discrimination complaints investigator training shall provide participants with a current knowledge of:

- (A) equal employment opportunity laws and rules;
- (B) theories of discrimination and burdens of proof;
- (C) planning and conducting complete and impartial investigations;
- (D) techniques for interviewing witnesses;
- (E) collecting relevant evidence;
- (F) documenting the record of investigation; and
- (G) preparing the written report of investigation.

(2) a person who has completed the EEO Training for New Investigators conducted by the U.S. EEOC Training Institute shall not be subject to the initial training requirements of (a)(1) of this section.

(3) In addition to the requirements referenced in (a)(1) of this Section a minimum of one investigation must be completed under the guidance of a senior EEO investigator, designated by the Administrator. The senior EEO investigator shall advise and support the investigator in developing competency in investigating complaints of discrimination.

(4) a person who has completed the initial training requirements established in (a)(1) of this Section and who is conducting an investigation under the guidance of a senior EEO investigator required in (a)(2) of this Section shall be considered as conditionally meeting the training

requirements of the Administrator and shall be considered to be in compliance of this Part for that investigation.

(5) the Administrator will certify that a person has completed the training requirements for investigating complaints of discrimination after the Administrator:

(A) determines the person has completed the initial training requirements established in (a)(1) of this Section, and

(B) receives recommendation from the senior EEO investigator under whose guidance one or more investigations have been conducted as required in (a)(2) of this Section that the person seeking certification has demonstrated competency in conducting investigations; or the Administrator waives the recommendation requirement.

(6) the Administrator shall send notice of certification to the person certified and to the certified person's Appointing Authority if the person is a state employee.

(b) All persons who are designated to investigate complaints of employment discrimination in executive branch agencies shall be subject to the following continuing education training requirements:

(1) A minimum of six hours of classroom instruction or 0.6 Continuing Education Units (CEUs) in training related to the subjects listed in (b)(2) of this section each calendar year or other annual training that may be announced by the Administrator. Investigators who complete annual training shall submit proof of completion that is acceptable to the Administrator no later than December 31st of each year.

(2) Discrimination complaints investigator annual training shall provide participants with a current knowledge of:

(A) equal employment opportunity laws and rules; including the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., and Section 504 of the Federal Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq., and court cases;

(B) theories of discrimination and burdens of proof;

(C) planning and conducting complete and impartial investigations;

(D) techniques for interviewing witnesses;

(E) collecting relevant evidence;

(F) documenting the record of investigation; and

(G) preparing the written report of investigation.

(H) investigating discrimination complaints;

(I) personnel practices and procedures;

(J) alternative dispute resolution; or

(K) diversity and multi-culturalism.

(3) Discrimination complaints investigators who do not complete the annual training described in (b)(1), or who fail to report such training by January 30<sup>th</sup> of the following year, will be placed on an "inactive" list and shall not conduct discrimination complaints investigations until the training requirement for the previous year has been met and reported.

### **530:10-3-26. Discrimination complaint investigation training program or course approval**

(a) The Administrator may approve training that is not conducted by the ~~Office of Personnel Management~~ Human Capital Management Division as meeting the four days of initial discrimination complaints investigator training required in 530:10-3-22.

(b) To request approval of discrimination complaints investigation training, an Appointing Authority shall submit the following course information to the Administrator for review:

- (1) Course title and a brief description;
- (2) Classroom hours or Continuing Education Units (CEUs); and
- (3) Course outline.
- (c) ~~The Office of Personnel Management~~ Human Capital Management Division shall maintain lists of approved discrimination complaint investigation training courses, and may withdraw its approval of courses by notifying employing agencies.
- (d) Persons who complete approved training courses shall submit proof of completion on a form that is prescribed or approved by the Administrator.
- (e) The Administrator shall send notice of the acceptability of training to a person submitting proof of completion. If the person is a state employee, the Administrator shall also send the notice to the Appointing Authority.

### **Part 3. Affirmative Action**

#### **530:10-3-30. Purpose**

~~The purposes of the rules in this Part are to [i]mplement state affirmative action policies, and assure equal employment opportunity [74:840 1.6A(7)] and to implement Sections 840 2.1 through 840 2.4 of the Oklahoma Personnel Act. The Administrator intends for these rules to provide a set of specific and results oriented programs to which an Appointing Authority commits himself or herself to apply every good faith effort to achieve prompt and full utilization of women and minorities at all levels and in all segments of the work force where deficiencies exist [74:840 2.1(J)].~~

#### **530:10-3-31. Adoption of affirmative action plans**

~~Each agency in all branches of state government, except institutions within The Oklahoma State System of Higher Education, shall develop and adopt a written affirmative action plan [74:840 2.1]. Affirmative action plans for executive branch agencies, except institutions within The Oklahoma State System of Higher Education, shall conform to the requirements established by the Act and the Merit Rules and shall be subject to the approval of the Administrator [74:840-2.1(B)].~~

- ~~(a) The provisions of this Section and 530:10-3-33.1 through 530:10-3-33.11 comprise the standards for agency affirmative action plans.~~
- ~~(b) All agencies, boards, commissions, departments, and offices of each branch of state government, except institutions within The Oklahoma State System of Higher Education, shall submit an affirmative action plan to the Office of Personnel Management annually no later than September 1 following the end of the fiscal year ending June 30 [74:840 2.1(A)]. **Appointing Authorities should submit plans as soon as possible following the end of the fiscal year.**~~
- ~~(c) An Appointing Authority shall submit a corrected plan within 30 days after the date of notice from the Administrator that a previously submitted plan does not meet one or more specified standards.~~
- ~~(d) Affirmative action plans for executive branch agencies authorized 15 or more full-time equivalent employees shall meet all of the required standards described in 530:10-3-33 through 530:10-3-33.11.~~

~~(e) Affirmative action plans for executive branch agencies authorized fewer than 15 full-time equivalent employees shall contain the required standards described in 530:10-3-33 through 530:10-3-33.4 and 530:10-3-33.8 through 530:10-3-33.10.~~

#### **530:10-3-33.1. Equal employment opportunity policy statement**

~~All affirmative action plans shall contain an equal employment opportunity policy statement signed annually by the Appointing Authority. This policy shall include but not be limited to:~~

- ~~(1) A statement and affirmation or reaffirmation of the Appointing Authority's equal employment opportunity policy;~~
- ~~(2) The Appointing Authority's directions for employment decisions; and~~
- ~~(3) A statement of the Appointing Authority's personal acceptance of overall responsibility for equal employment opportunity and affirmative action.~~

#### **530:10-3-33.2. Responsibility for affirmative action and equal employment opportunity**

~~All affirmative action plans shall include identification of persons responsible for equal employment opportunity within the agency and a description of their equal employment opportunity responsibilities. The list shall include but not be limited to:~~

- ~~(1) **The Appointing Authority.** The affirmative action plan shall describe the Appointing Authority's personal overall responsibility for equal employment opportunity and affirmative action within the agency;~~
- ~~(2) **The primary equal employment opportunity officer and assistants.** The affirmative action plan shall include names and job titles of persons who have primary responsibility for affirmative action plan implementation and equal employment opportunity within the agency according to 530:10-3-72;~~
- ~~(3) **Managers and Supervisors.** The Appointing Authority shall describe the responsibility managers and supervisors have for assuring equal employment opportunity in all personnel decisions. The Appointing Authority may identify specific managers and supervisors or various levels of managers and supervisors with specific responsibilities for assuring equal employment opportunity is considered in making personnel decisions within the agency; and~~
- ~~(4) **Employees.** The Appointing Authority shall describe the responsibility of all agency employees to contribute to equal employment opportunity within the agency.~~

#### **530:10-3-33.3. Dissemination of affirmative action plans**

~~All affirmative action plans shall include a description of the methods to be used for internal and external dissemination of the affirmative action plan.~~

#### **530:10-3-33.4. Present staffing report**

~~All affirmative action plans shall include a report of the distribution of employees among the EEO job categories as of June 30 immediately before the beginning of the new affirmative action plan period. On the Present Staffing form prescribed by the Administrator, the Appointing Authority shall list the total number of full-time employees within each EEO job category.~~

#### **530:10-3-33.5. Job group analysis**

~~Affirmative action plans for agencies authorized 15 or more full-time equivalent employees shall include an analysis of the racial or ethnic and sexual composition of the present workforce by job groups. Job groups shall be based on similar work content, advancement opportunities, and rate of pay. Appointing Authorities shall:~~

- ~~(1) Use the EEO job categories as a basis for job group analysis; however an Appointing Authority may subdivide an EEO job category into several job groups;~~
- ~~(2) Assign all jobs to job categories using the EEO job category listing published by the Administrator unless the level of assigned responsibility for the job family within the agency matches the description for another category better than the category listed in the Administrator's publication;~~
- ~~(3) List the number of employees and the total number of male, female, total minority and individual employees in each job group; and~~
- ~~(4) Complete the Job Group Analysis form prescribed by the Administrator to record job group analysis data.~~

### **530:10-3-33.6. Availability analysis**

~~Affirmative action plans for agencies authorized 15 or more full-time equivalent employees shall include an analysis of the number of minorities and females available to the workforce of the agency. An Appointing Authority shall:~~

- ~~(1) Prepare an availability analysis for each job group;~~
- ~~(2) Use the civilian labor force information identified by the Administrator to obtain the raw availability percentage of minorities and females in the workforce, unless more appropriate data is available;~~
- ~~(3) Consider the following availability factors when taking into account how individuals are usually selected for employment within each job group:
  - ~~(A) Percentage of minorities or females having requisite skills in the reasonable recruitment area. The reasonable recruitment area is defined as the geographical area from which the agency usually seeks or reasonably could seek workers to fill the positions in question;~~
  - ~~(B) Percentage of minorities or females promotable, transferable, and trainable within the agency's organization. Trainable refers to those employees within the agency who, with appropriate training that the Appointing Authority is reasonably able to provide, could become promotable or transferable during the plan year. Unless a greater weight is approved by the Administrator, the weight for this factor shall not exceed 15%; and~~
  - ~~(C) Other relevant factors if approved by the Administrator;~~~~
- ~~(4) Determine the appropriate geographic area for each factor used. This shall include the recruitment area from which most employees are drawn;~~
- ~~(5) Weight each factor used. The weight shall represent the percentage of all employees in the job group who come from the source referenced in a particular factor, and the total of all factors used shall always equal 100%; and~~
- ~~(6) Complete the Availability Analysis form prescribed by the Administrator to record availability analysis.~~

### **530:10-3-33.7. Utilization analysis**

~~(a) Affirmative action plans for agencies authorized 15 or more full-time equivalent employees shall include an analysis of the utilization of minorities and females in the agency's workforce as of June 30th of each year.~~

~~(b) Appointing Authorities shall use a commonly recognized statistical method to determine if underutilization exists, i.e., there are fewer minorities or women in a particular job group than would reasonably be expected by their availability.~~

~~(1) Agencies authorized less than 200 full-time equivalent employees shall use the "80% method" to determine underutilization, unless another method is approved by the Administrator. The "80% method" declares underutilization to exist if the females or minorities in a job group are less than 80% of their availability or if the number of females or minorities in a job group is zero.~~

~~(2) Agencies authorized 200 or more full-time equivalent employees may use the "80% method" as described in paragraph (1) of this subsection, or one of the following methods:~~

~~(A) The "whole person" method. When this method is used, underutilization is declared if the number of females or minorities is as much or more than one person below the number that would cause the job group representation percentage to match exactly the availability percentage.~~

~~(B) The "two standard deviation" method. When this method is used, underutilization is declared if the number of females or minorities in a job group is more than two standard deviations below availability.~~

~~(C) Another method approved by the Administrator.~~

~~(c) Appointing Authorities shall complete the Utilization Analysis and Annual Goals form prescribed by the Administrator to show a comparison of the actual employment of minorities and women with their relative availability in the applicable job groups.~~

~~(d) A declaration of underutilization in an affirmative action plan shall not constitute an admission of wrongdoing or a determination that discriminatory practices are occurring in the agency.~~

### **530:10-3-33.8. Personnel transaction report**

~~All affirmative action plans shall include a report of personnel transactions. The report shall be an agency wide summary of personnel transactions showing the progress made toward achieving any affirmative action goals for the preceding year. An Appointing Authority shall:~~

~~(1) List the total number of employees and the total number of male, female, individual minority, and total minority employees present at the beginning of the preceding plan period and the corresponding numbers at the end of the period. If the numbers for the beginning of the period are inconsistent with the numbers submitted in the preceding plan, the Appointing Authority shall include an explanation for the differences;~~

~~(2) List the number of male, female, individual minority, and total minority employees affected by the following types of personnel transactions during the period;~~

~~(A) **New hires.** This type includes new full-time appointments, transfers in, reinstatements, and recalls, but does not include temporary, part-time, or time-limited appointments;~~

~~(B) **Promotions.** In addition to promotions, this type includes direct reclassifications resulting in a higher rate of pay, and any other transactions~~



~~resulting in an employee being reclassified to a different state job with a higher pay band assignment or to a higher level within the same job family;~~

~~—— (C) **Demotions.** This group includes both voluntary and involuntary demotions, direct reclassifications to a job with a lower pay band, and any other transactions resulting in an employee being assigned to a lower pay band or to a lower level in the same job family;~~

~~—— (D) **Separations.** This group includes discharges, resignations, transfers out, retirements, reduction in force, or other voluntary or involuntary separation from full time employment with the agency, but not including the separation of persons on temporary, part-time, or time limited appointments;~~

~~(3) List summary information on the Personnel Transactions Report form prescribed by the Administrator.~~

### **530:10-3-33.9. Evaluation of preceding years' AA and EEO efforts**

~~(a) All affirmative action plans shall include a narrative evaluation of affirmative action and equal employment opportunity. The narrative shall include but not be limited to descriptions of:~~

~~—— (1) good faith efforts to achieve any goals and timetables established in the preceding plan;~~

~~—— (2) actions taken to correct any problem areas identified in the preceding year; and~~

~~—— (3) the status of recruitment, hiring, and promotion of females, males, and minorities within job categories.~~

~~(b) All affirmative action plans shall include a list of the number of new hires for the past 3 years on the Evaluation of Previous EEO Efforts (NEW HIRES) form prescribed by the Administrator.~~

### **530:10-3-33.10. Identification and analysis of problem areas; corrective action**

~~All affirmative action plans shall include identification and analysis of any problem areas. This shall include but not be limited to, a summary of a review of all personnel policies, procedures, and practices that may influence the effectiveness of equal employment opportunity and affirmative action efforts. For each problem area identified, the Appointing Authority shall include:~~

~~—— (1) a clear description of the problem;~~

~~—— (2) a general statement of commitment to lessen the problem;~~

~~—— (3) a description of results-oriented action plans to correct the problem;~~

~~—— (4) a timetable for correcting the problem; and~~

~~—— (5) assignment of responsibility for corrective action.~~

### **530:10-3-33.11. Goals and timetables**

~~(a) Affirmative action plans for agencies authorized 15 or more full-time equivalent employees shall include flexible goals and timetables for job groups in the agency's workforce that show underutilization. Agencies using the "80% method" are not required to establish hiring goals for females and each minority group that is underutilized within a job group. For each job group in which underutilization is found for minorities or females, an Appointing Authority shall consider affirmative action to increase the representation of the group that is underutilized. An Appointing Authority shall:~~

~~\_\_\_\_\_ (1) List job groups that show underutilization during the affirmative action plan period; and~~

~~\_\_\_\_\_ (2) Complete the Utilization Analysis and Annual Goals form prescribed by the Administrator.~~

### **530:10-3-34. Workforce data requirements**

~~Each agency shall maintain data reflecting the composition of its workforce by race or ethnic group and gender for the purpose of complying with state and federal reporting requirements. Each agency shall submit this information to the Office of Personnel Management at the request of the Administrator.~~

### **530:10-3-35. Affirmative action plan periods; continuation of**

~~Affirmative action plan reporting periods shall be from July 1 of one year through June 30 of the following year. However, approved affirmative action plans shall be effective from the date of approval through the following August 31. The Administrator may extend the effective date of approved affirmative action plans through December 31.~~

### **530:10-3-36. Review of affirmative action plans by Affirmative Action Review Council and the Administrator**

~~(a) Affirmative action plans submitted by executive branch agencies, except institutions within The Oklahoma State System of Higher Education, shall be subject to the approval of the Administrator [74:840 2.1(B)]. The Administrator shall submit all plans received by September 1 to the Affirmative Action Review Council for the Council's review before December 1.~~

~~(b) The Council shall review plans for compliance with the standards adopted by the Administrator in 530:10-3-33 through 530:10-3-33.11 [74:840 2.1(H)(4)(b)].~~

~~\_\_\_\_\_ (1) The Administrator shall notify an Appointing Authority in writing a minimum of 7 calendar days before the meeting at which the Council is scheduled to review the Appointing Authority's affirmative action plan.~~

~~\_\_\_\_\_ (2) If an agency is authorized 15 or more full-time equivalent employees, the Appointing Authority, or a designee of the Appointing Authority, shall appear at the meeting of the Council at which the Council is scheduled to review the affirmative action plan. Failure by the Appointing Authority or designee to attend such meeting may result in a recommendation by the Council that the Administrator reject the agency's affirmative action plan.~~

~~\_\_\_\_\_ (3) The Council shall, by affirmative vote of a majority of a quorum of the members present, recommend that the Administrator reject any affirmative action plan that is not in compliance with one or more of the standards for agency affirmative action plans in 530:10-3-33 through 530:10-3-33.11.~~

~~(c) The Administrator shall reject the affirmative action plan of any executive branch agency which is not in compliance with the standards in 530:10-3-33 through 530:10-3-33.11 and the rules in this Subchapter upon recommendation of the Council and shall so notify the Appointing Authority of the agency. By December 31, the Administrator shall approve any plan which has been reviewed by the Council and which is in compliance with the standards in 530:10-3-33 through 530:10-3-33.11 and the rules in this Subchapter. The Administrator shall notify the Appointing Authority of the approval or rejection of the agency's affirmative action plan.~~

**530:10-3-39. Preparation of the annual status report on equal employment opportunity and affirmative action in state government**

~~(a) On or before March 1 of each year, the Administrator shall submit a report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor. The report shall state the efforts and progress made by state agencies, except institutions within The Oklahoma State System of Higher Education, in the area of affirmative action, including the status of recruitment, hiring, and promotion of women, men, and minorities within job categories [74:840-2.1(C)].~~

~~(b) The Council shall assist the Administrator in preparing the annual status report on equal employment opportunity and affirmative action in state government [74:840-2.1(H)(1)].~~

**Part 5. Noncompliance, Investigations, Hearings, And Remedies**

**530:10-3-52. Failure to submit an affirmative action plan on time**

~~(a) If the Appointing Authority fails to submit or resubmit an affirmative action plan as required in 530:10-3-33, the Administrator shall take the following actions unless the Administrator finds compelling reasons why they should not be taken.~~

~~(1) If an affirmative action plan is not received within 30 days following September 1 or any established deadline for resubmission, the Administrator shall submit written notice to the Appointing Authority, any governing body of the agency, the appropriate Cabinet Secretary, and the Affirmative Action Review Council that the affirmative action plan is late.~~

~~(2) If an affirmative action plan is not received within 60 days following September 1 or any established deadline for resubmission, the Administrator shall submit written notice to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives that the affirmative action plan is late.~~

~~(b) Failure to submit or resubmit an affirmative action plan by the established deadline may result in the Appointing Authority being recorded in the report described in 530:10-3-39 as being in noncompliance with the Oklahoma Personnel Act and standards for affirmative action plans.~~

**530:10-3-54. Failure to make significant progress; pattern of noncompliance**

~~(a) If, after notice and a hearing pursuant to Article II of the Administrative Procedures Act [75:308a et seq.], the Administrator finds that an agency has failed to make significant progress toward affirmative action goals or has a pattern of noncompliance with affirmative action goals, the Administrator may:~~

~~—— (1) Require the *noncomplying appointing authority to participate in programs for special recruiting efforts* [74:840-2.1(G)(1)(a)];~~

~~—— (2) Develop *training programs to enhance promotability of minorities within agencies and supervisory training in equal employment opportunity employment, affirmative action, managing workplace diversity* [74:840-2.1(G)(1)(b)];~~

~~—— (3) Require *mandatory review and approval of all hiring decisions by an appointing authority by the Administrator if the Administrator can document a pattern of noncompliance in previous remedial actions pursuant to this subsection or appointment of a full-time affirmative action officer to any agency in noncompliance with affirmative action remedies* [74:840-2.1(G)(1)(c)].~~

~~(b) If the Administrator determines that none of the remedies in subsection (a) of this Section are appropriate, the Administrator may remove personnel function(s) relating to recruitment, hiring, or promotion from the appointing authority and place that function with the Administrator of the Office of Personnel Management. Removal of personnel functions under this subsection shall require:~~

~~—— (1) A determination by the Administrator that a pattern of noncompliance with affirmative action goals exists at an agency;~~

~~—— (2) A determination by the Administrator that the Office of Personnel Management has sufficient resources;~~

~~—— (3) Documentation by the Administrator of a pattern of noncompliance with the affirmative action plan;~~

~~—— (4) A vote by two thirds of the Affirmative Action Council recommending that the Administrator remove personnel functions.~~

~~(c) Removal of personnel functions under subsection (b) shall terminate one calendar year from the removal of the function unless the Administrator is able to demonstrate that the restoration of personnel functions to the appointing authority will result in further noncompliance with the affirmative action plan. A vote of two thirds of the Affirmative Action Council shall be necessary to continue the removal of personnel functions for each additional year.~~

## **Part 7. Affirmative Action And Civil Rights Personnel**

### **530:10-3-78. Training requirements for affirmative action personnel**

~~(a) Individuals who are designated by Appointing Authorities to serve as full-time or part-time affirmative action officers in the executive branch agencies shall complete a minimum of 6 hours of classroom instruction or 0.6 Continuing Education Units (CEU's) in training per calendar year in one of the following areas:~~

~~(1) EEO/Affirmative action laws, including the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., and Section 504 of the Federal Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq., and court cases;~~

~~(2) Investigating discrimination complaints;~~

~~(3) Personnel practices and procedures;~~

~~(4) Alternative dispute resolution; and~~

~~(5) Diversity and multi-culturalism.~~

~~(b) Individuals may request approval from the Administrator for training in other areas not listed above.~~

~~(c) Completion of training requirements must be reported to the Administrator by December 31st of each year.~~

~~(d) Appointing authorities will be notified of individuals failing to complete the training requirements.~~

~~(e) Employees of the Human Rights Commission and Merit Protection Commission are exempt from this section.~~

~~(f) Persons investigating complaints of discrimination must complete the training requirements for discrimination complaints investigators and be certified by the Administrator under 530:10-3-22.~~

## Subchapter 5. Position Allocation and Employee Classification System

### Part 1. General Provisions

#### **530:10-5-2. Authority and responsibility of the ~~Office of Personnel Management~~ Office of Management and Enterprise Services**

(a) The ~~Office of Personnel Management~~ Office of Management and Enterprise Services shall develop and maintain a classification system [74:840-1.6A] in which all positions within a job family and level are sufficiently similar in duties and responsibilities that:

- (1) the same descriptive title may be used to designate each position; and
- (2) essentially the same selection requirements and procedures may be used to select employees; and
- (3) under like working conditions, the same pay band may be applied.

(b) The ~~Office of Personnel Management~~ Office of Management and Enterprise Services shall be responsible for the adoption, revision and abolishment of job family descriptors; for the audit of positions to determine the proper job family to which a position is allocated [74:840-4.3]; and for the assignment of position identification codes.

#### **530:10-5-3. Authority and responsibility of Appointing Authorities**

(a) Appointing Authorities have control of positions within their agency and have the authority to organize their agencies, to create positions, to abolish positions and to prescribe or change the duties and responsibilities assigned to any position or employee at any time. Appointing Authorities shall determine the level within a job family at which duties and responsibilities are assigned [74:840-4.3]. Appointing Authorities have the authority to reclassify employees in accordance with other provisions of the Merit Rules.

(b) Appointing Authorities are responsible for ensuring that:

- (1) job family descriptors are reviewed at least annually and the ~~Office of Personnel Management~~ Human Capital Management Division is notified of any recommended changes in job family descriptors;
- (2) managers and supervisors assign work to employees on a regular and consistent basis that conforms with the employee's classification;
- (3) employees are classified in accordance with the work they are assigned on a regular and consistent basis as an integral part of their normal job [74:840-4.3];
- (4) managers and supervisors cooperate in position allocation audits and classification grievance audits by supplying timely and accurate information about positions being audited;
- (5) all records relied on by the Appointing Authority in making changes to the job family level are maintained; and
- (6) each employee is given a copy of the:
  - (A) job family descriptor for the job family to which the position occupied by the employee is allocated if the employee requests a copy;
  - (B) list of accountabilities to be used in evaluating the employee's performance, as required in 530:10-17-31; and
  - (C) Position Description Questionnaire for the position if one exists and the employee requests a copy.

### **530:10-5-6. Notice of creation of positions, changes in positions and abolishment of positions**

- (a) After a position is created, the Appointing Authority shall furnish the ~~Office of Personnel Management~~ Human Capital Management Division with a completed Position Description Questionnaire form. OAC 530:10-5-55 describes this form.
- (b) The supervisor and the manager of a position shall review the Position Description Questionnaire each time the position becomes vacant to ensure that the duties assigned to the position are in substantial agreement with the job family descriptor and that both continue to identify the work the Appointing Authority wants assigned to the position.
- (c) An Appointing Authority may change the duties and responsibilities of positions at any time. When there is a significant change in a position or if there is reason to believe the position is not properly allocated, the Appointing Authority shall request an audit of the position in accordance with 530:10-5-50.
- (d) An Appointing Authority shall promptly notify the ~~Office of Personnel Management~~ Human Capital Management Division when a position is abolished.

### **530:10-5-7. Filling of vacant positions prohibited**

- (a) No newly created position shall be filled by initial or internal appointment or otherwise encumbered until the position has been initially allocated by the ~~Office of Personnel Management~~ Human Capital Management Division.
- (b) An Appointing Authority shall not fill a vacant position being audited until the audit has been completed and the final allocation decision has been made. This prohibition does not apply during the conduct of survey audits of positions pursuant to 530:10-5-57.

### **530:10-5-8. Job family descriptors**

- (a) **Purpose and use of job family descriptors.** Job family descriptors shall be used to distinguish one job family from another as clearly and definitively as possible [74:840-4.3]. Job family descriptors shall also be used as a basis for:
  - (1) allocating positions to job families [74:840-4.3];
  - (2) selecting employees to fill positions;
  - (3) assigning jobs to pay bands;
  - (4) ensuring that employees are properly classified [74:840-4.3]; and
  - (5) assigning positions to levels by the Appointing Authority.
- (b) **Format and content of job family descriptors.** The ~~Office of Personnel Management~~ Human Capital Management Division shall determine the format to be used in preparing job family descriptors.
  - (1) A job family descriptor shall consist of:
    - (A) a title and code, including a code for each level in the job family descriptor;
    - (B) a basic purpose describing duties, and responsibilities of employees in the job family;
    - (C) typical functions performed;
    - (D) knowledge and skills necessary to perform work at each level; and
    - (E) the minimum qualifications, such as those for education and experience, that are required for initial or internal appointment to a job included in the job family.
  - (2) A job family descriptor may also include identification information and other information, such as position allocation standards, which facilitates the allocation of positions to job families, the selection of qualified employees, and the assignment of appropriate pay bands.

(c) **Adoption, revision and abolishment of job family descriptors.** After the initial conversion of classes to job families on November, 1, 1999, the Administrator shall have a public hearing before adopting a new job family descriptor or revising a job family descriptor to the extent that the allocation of positions or the pay band for the job family is affected, so that interested persons will have an opportunity to express their views. However, the Administrator may make other revisions to job family descriptors and may abolish unused job families as the need to do so is identified.

(d) **Distribution of job family descriptors.**

(1) Before the effective date of the adoption or revision of a job family descriptor for which positions in an agency have been allocated, the ~~Office of Personnel Management~~ Human Capital Management Division shall provide the Appointing Authority with a copy of the job family descriptor.

(2) The ~~Office of Personnel Management~~ Human Capital Management Division shall provide all agencies with a summary of all job family descriptors adopted, revised, or abolished within 1 month after the action.

(3) Appointing Authorities shall give employees notice of new and revised job family descriptors and give copies of job family descriptors to employees in the job family and their supervisors upon request.

### **Part 3. Allocation Of Positions**

#### **530:10-5-31. Authority for allocation of positions**

The ~~Office of Personnel Management~~ Office of Management and Enterprise Services has the authority to allocate a position to the appropriate job family. The ~~Office of Personnel Management~~ Human Capital Management Division shall audit both vacant and occupied positions in accordance with Part 5 of this Subchapter, to determine if positions are properly allocated and shall reallocate positions if it is necessary.

#### **530:10-5-33. Source of information for allocation of positions**

The ~~Office of Personnel Management~~ Office of Management and Enterprise Services shall allocate positions on the basis of relevant information supplied by the Appointing Authority. *An incumbent employee will be given an opportunity to respond; however, the ~~Office of Personnel Management~~ Office of Management and Enterprise Services will rely on the appointing authority for an official listing of the duties and responsibilities of the position [74:840-4.3(A)].* Except in processing classification reviews according to 530:10-5-51, the ~~Office of Personnel Management~~ Human Capital Management Division shall not make a determination about what duties and responsibilities have been assigned to an employee in the past. The ~~Office of Personnel Management~~ Human Capital Management Division shall not make a determination about what duties and responsibilities should be assigned to an employee in the future.

#### **530:10-5-34. Determination of appropriate job family**

(a) Job family descriptors shall be used in the determination of the allocation of positions. In determining the job family to which a position shall be allocated, a Position Description Questionnaire and a job family descriptor shall be interpreted and applied as a composite picture of positions the job family includes [74:840-4.3].

- (b) Relevant information about the position shall be considered. This may include, but is not limited to, individual position descriptions, information submitted by the Appointing Authority and employee, job audit reports, organizational charts, and lists of accountabilities to be used in appraising performance in the position.
- (c) Consideration shall be given to the specific tasks and duties, levels of authority and responsibility, supervision received and exercised, discretion and judgment required, management of work processes and programs, organizational relationships to other positions, and any other factors which assist in the proper allocation of the position.
- (d) The ~~Office of Personnel Management~~ Human Capital Management Division may consider the relationship of positions to gain a better understanding of the duties and responsibilities of a position being allocated. However, comparisons among positions are not the basis for the allocation of a position to a job family.
- (e) The fact that all of the tasks of a position do not appear in the job family descriptor to which the position has been allocated shall not be taken to mean that the position is necessarily excluded from the job family, nor shall any one example of a typical task, taken without relation to the other parts of the job family descriptor, be construed as determining that a position should be allocated to the job family.
- (f) If a job family descriptor which clearly encompasses the duties and responsibilities of a position does not already exist, the ~~Office of Personnel Management~~ Human Capital Management Division shall allocate the position to the most appropriate existing job family, revise an existing job family descriptor, or prepare a new job family descriptor to describe the position.

#### **Part 4. Assignment Of Job Family Levels**

##### **530:10-5-41. Authority for assignment of positions**

Appointing Authorities have the authority to assign a position to the appropriate job family level, consistent with the job family allocation made by the ~~Office of Personnel Management~~ Human Capital Management Division. Appointing Authorities will be responsible for maintaining appropriate records to track and monitor the level assigned and any changes based on significant changes in duties and responsibilities.

#### **Part 5 - Audits Of Positions**

##### **530:10-5-50. Initiation of audits**

- (a) The ~~Office of Personnel Management~~ Office of Management and Enterprise Services may initiate audits of individual positions or survey audits of positions as any need to do so is identified.
- (b) Audits of positions shall be conducted by the ~~Office of Personnel Management~~ Human Capital Management Division at the written request of an Appointing Authority [74:840-4.3]. The written request shall include a Position Description Questionnaire completed according to 530:10-5-55.
- (c) Audits of positions shall be conducted by the ~~Office of Personnel Management~~ Human Capital Management Division at the written request of the Executive Director of the Merit Protection Commission in connection with a complaint filed with the Commission.



(d) The ~~Office of Personnel Management~~ Human Capital Management Division shall conduct audits on receipt of a Classification Dispute Review Request form completed according to 530:10-5-55.

**530:10-5-51. Classification disputes**

(a) *An employee has the right and responsibility to file a classification grievance, as provided by law and rule, when duties performed on a regular and consistent basis do not conform to the job family descriptor [74:840-4.3].* The ~~Office of Personnel Management~~ Human Capital Management Division shall not accept classification grievances directly from employees. A formal classification grievance shall be filed with the employing agency according to the rules for filing classification grievances promulgated by the Merit Protection Commission (OAC 455:10-19-1 et seq.). An internal classification grievance must be concluded within the agency before an employee may file a Classification Dispute Review Request form with the ~~Office of Personnel Management~~ Human Capital Management Division. If the resolution decision by the Appointing Authority is to advise the employee to complete an ~~Office of Personnel Management~~ Human Capital Management Division Classification Dispute Review Request form (OPM-70), as provided in OAC 455:10-19-35, the form will be submitted through appropriate supervisory channels to the agency office responsible for human resources functions.

(b) Upon receipt of a Classification Dispute Review Request form submitted through appropriate supervisory channels, the agency office responsible for human resources functions will review it along with any other appropriate records, including the internal grievance file, to determine the nature and scope of the grievance. If the grievance concerns only the job family level to which the position is assigned, a position audit will be conducted by a designated agency representative who has been assigned the responsibility to complete positions audits, to determine the proper job family level. If an Appointing Authority has been delegated position allocation authority in accordance with OAC 530:10-1-30, designated agency representatives will also be responsible for conducting classification grievance audits to determine both the appropriate job family and job family level. In conducting these audits, consideration shall be given to all relevant information concerning the position according to OAC 530:10-5-34.

(c) If the review of the Classification Dispute Review Request and other related information indicates that the grievance includes the job family to which the position is allocated, and the agency has not been delegated position allocation authority, the form will be forwarded within **20** days to the ~~Office of Personnel Management~~ Human Capital Management Division requesting that a position audit be completed. The ~~Office of Personnel Management~~ Human Capital Management Division will then be responsible for completing the audit and determining an appropriate job family for the position. Upon receipt of the allocation decision made by the Office of Personnel Management, a designated agency representative will be responsible for determining the proper job family level for the position.

(d) If an incumbent employee does not agree with the job family level assigned to a position by the Appointing Authority after completion of a grievance audit, the employee may request a review by the ~~Office of Personnel Management~~ Human Capital Management Division. The employee shall submit the request to the agency office responsible for the agency's human resources management functions within **20** calendar days of the date of the notice of the final decision by the agency. Within **7** calendar days of receipt, the agency shall attach all documents considered by the agency in determining the job family level to the request for review and submit it to the ~~Office of Personnel Management~~ Human Capital Management Division. Within **14**

calendar days of receipt, the ~~Office of Personnel Management~~ Human Capital Management Division will review the information submitted and make a final decision concerning the proper level of assignment. Such decision shall be based solely on a review of the written documentation submitted.

(e) An employee may request an OPM review of the job family to which a position has been allocated by an agency which has delegated position allocation authority. The request for review must be received in the agency office responsible for the agency's human resource management functions no later than **20** calendar days after the date of the final notice of the decision by the agency.

(f) *An employee is entitled to the compensation assigned to the job family level for which duties were performed on a regular and consistent basis [74:840-4.3].*

(g) If a classification grievance or a classification dispute review indicates an employee has not received the compensation assigned to the job family level for which duties were performed on a regular and consistent basis, the Appointing Authority shall compensate an employee for the difference between the employee's actual rate of pay and the rate of pay the employee would have received on promotion to the job family level that was consistent with the duties and responsibilities of the employee. Back pay shall be limited to the date the employee filed the classification grievance pursuant to Section 840-6.2 of the Oklahoma Personnel Act.

#### **530:10-5-52. Demotion resulting from position audit or reclassification**

*If an employee in the classified service is demoted as a result of a position audit or reclassification, the agency shall provide notice, to include all position description documentation, of such demotion to the ~~Office of Personnel Management~~ Office of Management and Enterprise Services. The ~~Office of Personnel Management~~ Office of Management and Enterprise Services shall review the findings of the agency prior to such demotion occurring, to ensure compliance with the law. The ~~Office of Personnel Management~~ Office of Management and Enterprise Services shall complete the review and respond within ten (10) business days of receipt of notice. The provisions of this subsection shall not apply to demotions that are a result of a position audit or reclassification performed by the ~~Office of Personnel Management~~ Office of Management and Enterprise Services. [74:840-6.5(B)]*

#### **530:10-5-53. Effect when an occupied position is vacated during an audit**

If a position being audited is vacated, the person who filled the position will no longer have any involvement in the audit or the allocation of the position. The ~~Office of Personnel Management~~ Human Capital Management Division will complete the audit and allocate the position on the same basis as any other vacant position.

#### **530:10-5-54. Collection and exchange of information about positions**

(a) In addition to the forms described in 530:10-5-55, the ~~Office of Personnel Management~~ Human Capital Management Division may request other information from the Appointing Authority and from the employee if the position is occupied. Additionally, the ~~Office of Personnel Management~~ Human Capital Management Division may collect information through on-site job audits, meetings or other methods. Only the ~~Office of Personnel Management~~ Human Capital Management Division shall have authority to determine when an on-site audit is appropriate.

- (b) A list of accountabilities to be used in the appraisal of an employee's work performance in the position in accordance with 530:10-17-31, does not by itself contain sufficient information to make a determination of appropriate allocation for the position.
- (c) Upon completion of an audit and the allocation of a position in accordance with 530:10-5-56, the ~~Office of Personnel Management~~ Human Capital Management Division shall send one copy of the allocated Position Description Questionnaire (or the Classification Dispute Review Request Form) to the Appointing Authority and one copy to the employee if the position is occupied. Other materials submitted to, or collected by, the ~~Office of Personnel Management~~ Human Capital Management Division which were considered in the allocation of the position shall become the property of the ~~Office of Personnel Management~~ Office of Management and Enterprise Services and shall not be returned. All such documents are open to the public.
- (d) The ~~Office of Personnel Management~~ Human Capital Management Division shall determine those records which are relevant to the proper allocation of a specific position and may refuse or return other records, such as, training manuals, operations manuals, evaluations of individual employee performance, work samples, magnetic tapes and disks, photographs, clippings, etc.
- (e) Throughout the process that leads to the allocation of a position, the Appointing Authority shall give the employee who occupies the position being audited copies of any completed Position Description Questionnaire (if the audit was initiated by the Appointing Authority, the ~~Office of Personnel Management~~ Human Capital Management Division, or the Executive Director of the Commission) and any additional written material about the position or the audit before the agency submits the material to the ~~Office of Personnel Management~~ Human Capital Management Division.
- (f) Any employee who occupies the position being audited shall provide written comments through appropriate supervisory channels in the agency. The employee shall send a copy of any Classification Dispute Review Request form (if the audit was initiated by a classification grievance) and any additional written material about the position or the audit through appropriate supervisory channels in the agency to the ~~Office of Personnel Management~~ Human Capital Management Division. The Appointing Authority shall not alter the statements made by the employee and shall forward materials submitted by the employee to the ~~Office of Personnel Management~~ Human Capital Management Division.
- (g) Appointing Authorities shall ensure that employees occupying positions being audited are informed about appropriate supervisory channels in the agency, including when and where to submit information concerning the audit.

### **530:10-5-55. Forms used to describe positions**

(a) **Position Description Questionnaire.** The basic document for the collection of information about positions is the Position Description Questionnaire (OPM 39), a form prescribed by the ~~Office of Personnel Management~~ Human Capital Management Division. This form shall be completed by the Appointing Authority or a person designated by the Appointing Authority who is familiar with the duties and responsibilities the Appointing Authority has assigned to the position to be audited. The completed form shall be submitted to the ~~Office of Personnel Management~~ Human Capital Management Division according to this Section. The purpose of the Position Description Questionnaire is to help the person completing the form supply the information about a position that is needed to properly allocate the position.

- (1) The form contains instructions for its completion and for it to be accompanied by an organization chart showing the relationship of the position to other positions.
- (2) The form contains spaces for the Appointing Authority or the Appointing Authority's designee to:
  - (A) identify himself or herself, the position described, any employee who occupies the position, and the agency where the position is located;
  - (B) indicate the reasons for completion of the form;
  - (C) describe the position, including but not limited to duties, supervision exercised and received, decision-making, work guidelines, equipment operated, personal contacts, fiscal impact of work, travel and other special requirements; and
  - (D) sign and date the form.
- (3) The form contains spaces for any employee occupying the position to indicate having read the completed form.
- (4) The form contains spaces for the ~~Office of Personnel Management~~ Human Capital Management Division to record the:
  - (A) allocation of the position;
  - (B) staff member making the allocation; and
  - (C) date of the allocation.

(b) **Classification Dispute Review Request form.** A completed Classification Dispute Review Request form (OPM 70) shall be used as the basis for the allocation and assignment of a position instead of a Position Description Questionnaire if the audit is initiated as a result of a classification dispute according to 530:10-5-51. This form shall be completed by the employee who occupies the position and is the only form authorized for use in completing an audit or review of a position as a result of a classification grievance. The completed form shall be submitted to the ~~Office of Personnel Management~~ Human Capital Management Division according to this Section. The purposes of the Classification Dispute Review Request form are to help the employee completing the form supply the information about his or her duties and responsibilities, to help the Appointing Authority in comparing what the employee does or has done with what the Appointing Authority wants done, and to help persons who are allocating the position or reviewing the classification of the employee to make the correct decision.

- (1) The form contains instructions for completing the form which require it to be accompanied by an organization chart showing the relationship of the position to other positions.
- (2) The form contains spaces for the incumbent employee to:
  - (A) identify himself or herself, the position occupied, and the agency where the position is located;
  - (B) indicate the reasons for completion of the form;
  - (C) describe his or her position, including but not limited to duties, supervision exercised and received, decision-making, work guidelines, equipment operated, personal contacts, fiscal impact of work, travel and other special requirements; and
  - (D) sign and date the form.
- (3) The form contains spaces for the Appointing Authority or a person designated by the Appointing Authority to respond to the employee's statements.

(4) The form contains spaces for the ~~Office of Personnel Management~~ Human Capital Management Division to record the:

- (A) allocation of the position or the classification of the duties and responsibilities;
- (B) staff member making the decision; and
- (C) date of the decision.

(c) **Supplemental Position Description Questionnaire.** An additional document for the collection of information about positions is the Supplemental Position Description Questionnaire (OPM 39A). This form is designed primarily for the collection of information concerning significant changes in the duties and responsibilities assigned to a position since it was last audited and may be used by agencies in conducting reviews related to the job family level to which a position is assigned to determine whether assignment to another level is appropriate. This form will be completed by the Appointing Authority or a person designated by the Appointing Authority who is familiar with the duties and responsibilities the Appointing Authority has assigned or wishes to be assigned to the position. Agencies may also use other forms or methods for collecting the information needed, if desired.

#### **530:10-5-56. Conduct of position audits**

(a) The conduct of an audit of a position begins when a properly completed Position Description Questionnaire (OPM 39) or a Classification Dispute Review Request form (OPM 70) is received in the ~~Office of Personnel Management~~ Human Capital Management Division. The ~~Office of Personnel Management~~ Human Capital Management Division reserves the right to refuse to accept incomplete or improperly completed forms.

(b) The ~~Office of Personnel Management~~ Human Capital Management Division shall send a written notice of the allocation of the position and its effective date to the Appointing Authority and the employee if the position is occupied. If the ~~Office of Personnel Management~~ Human Capital Management Division finds that an allocation shall not be made within **30** calendar days after the receipt of a properly completed form according to (a) of this Section, both the Appointing Authority and the employee shall be sent written notice of the expected date of allocation. If the audit is conducted at the request of the Executive Director of the Merit Protection Commission, a notice shall be sent to the Executive Director.

(c) After an allocation has been made by the ~~Office of Personnel Management~~ Human Capital Management Division, the Appointing Authority shall assign an appropriate level to the position based on the duties and responsibilities assigned. If the position is occupied, the Appointing Authority shall send a written notice of the level assignment and its effective date to the employee within **20** calendar days of receipt of the OPM allocation.

(d) Position audits by an agency, either to determine the proper job family level or to determine an appropriate allocation under a position allocation delegation agreement, shall begin upon receipt of a properly completed Position Description Questionnaire (OPM 39), Classification Dispute Review Request (OPM 70), Supplemental Position Description Questionnaire (OPM 39A), or other information prescribed by the agency. These audits shall be completed within **30** calendar days after the receipt of required information, or the requesting official and the incumbent employee shall be provided written notice of the expected date of completion.

### **530:10-5-57. Conduct of classification survey audits**

(a) The ~~Office of Personnel Management~~ Human Capital Management Division may conduct audits of positions within job families to resolve internal inequities in the allocation of positions and to determine the need to adopt, revise or abolish job family descriptors. While survey audits are being conducted, the timing and methods for collection of information and issuance of notices provided for individual audits shall not apply. The ~~Office of Personnel Management~~ Human Capital Management Division shall notify Appointing Authorities and employees of the procedures to be followed during survey audits as survey audits are conducted.

(b) The allocation of positions may be delayed by the ~~Office of Personnel Management~~ Human Capital Management Division until after the completion of the survey audit and the effective date of adoption, revision or abolishment of job family descriptors as appropriate. At such time, the provisions of 530:10-5-56 shall become applicable.

## **Part 9. Status Of Employees When Positions Are Reallocated**

### **530:10-5-90. Status of incumbent when job family is adopted or revised**

(a) Direct reclassification does not require individual position audit or promotional posting. In all cases where licensure, certification, or examination is required by law, the requirement shall be met by the employee within any time limits prescribed by law. Otherwise, the employee shall not be required to possess the minimum qualifications or be examined for the successor job family level.

(b) An Appointing Authority shall directly reclassify a probationary or permanent employee in a position which has been reallocated to the job family level to which the position was reallocated, if the:

(1) ~~Office of Personnel Management~~ Human Capital Management Division determines that the duties and responsibilities corresponding with an employee's job family level are identified as part of a new or revised job family descriptor; and

(2) employee had status in the former job family level on a regular basis, that is, not on detail to special duty; however, direct reclassification shall not cancel or otherwise affect a probationary period with the agency or a trial period after promotion.

(c) Direct reclassification shall take place within **30** calendar days after the effective date of the adoption of the new or revised job family descriptor.

(d) If the employee is ineligible for direct reclassification and the Appointing Authority does not or cannot directly reclassify, promote, demote, or transfer the employee, or detail the employee to special duty, the applicable provisions in the Merit Rules for reductions-in-force shall apply.

## **Subchapter 7. Salary and Payroll**

### **Part 1. Salary And Rate Of Pay**

#### **530:10-7-6. Sign-on pay incentive**

(a) Appointing Authorities may implement a pay incentive for the following individuals who are appointed to positions in job families for which there are critical recruitment and retention problems as identified by the Appointing Authority [74:840-1.6A(11)]:

(1) individuals not currently employed in state government;

- (2) Carl Albert Executive Fellows and other professional trainees and students employed pursuant to paragraphs 10 and 11(a) and (b) of Section 840-5.5(A) of Title 74 of the Oklahoma Statutes; and
- (3) individuals employed pursuant to the Cooperative Engineering Trainee Program.
- (b) Appointing Authorities who choose to implement the pay incentive shall file a plan with the ~~Administrator of the Office of Personnel Management and the Director of the Office of State Finance~~ Office of Management and Enterprise Services which contains information related to the implementation of the pay incentive within the agency. The plan shall provide documentation of the critical recruitment and retention problems and shall include a project description, specific prerequisites that each employee shall meet in order to receive the pay incentive, and information concerning the funding of the incentive from the agency's existing budget. The plan shall be signed by the Appointing Authority, and this signature requirement may not be delegated. No payment shall be made under this Section until the plan has been reviewed and accepted by the Administrator.
- (c) The pay incentive shall not exceed \$5,000.00 and is payable to eligible individuals as a lump sum payment or in two equal payments during the first six months of state employment. Former state employees may be eligible for the pay incentive following a break-in-service of at least 180 days.
- (d) To receive the pay incentive, an eligible individual shall be required to sign an agreement form acknowledging that the individual is obligated to repay the entire incentive, including tax withholdings on the incentive, if the individual leaves state employment or accepts employment with another state agency within 1 year after he or she receives the pay incentive. Appointing Authorities may use the agreement form developed by the Administrator or any other agreement form which is consistent with the provisions of this Section.
- (e) An individual may receive only one sign-on pay incentive during his or her state employment.

### **530:10-7-12. Payment of overtime**

- (a) An Appointing Authority shall neither require nor allow FLSA Non-Exempt employees to work in excess of 40 hours a week without establishing and implementing a comprehensive policy for compensation. Such policy shall be in compliance with the Fair Labor Standards Act (29 U.S.C. 201 et seq.). The policy shall be made available by the Appointing Authority to interested persons upon request and the Appointing Authority shall so notify employees. Copies of such policy shall be forwarded to the ~~Office of Personnel Management~~ Human Capital Management Division. This section is not a comprehensive listing of the provisions of the Fair Labor Standards Act (29 U.S.C, 201 et seq.) and regulations promulgated thereunder, and is not intended to conflict with either the Act or the regulations.
- (b) FLSA Non-Exempt (as defined by the Fair Labor Standards Act) employees shall be paid 1 1/2 times their regular hourly rate for each overtime hour worked.
- (c) The Executive Branch of the State of Oklahoma is one employer for FLSA purposes; therefore, concurrent employment in more than one agency is considered joint employment. Employees working in one or more nonexempt positions in Executive Branch agencies and who work more than 40 total hours per week shall be eligible for overtime. Employees shall be required to notify their current agency upon accepting employment with another Executive Branch agency. It will be the responsibility of all agencies involved to insure that all FLSA requirements associated with multiple agency appointments are met.

(d) Compensatory time in lieu of overtime payment at the rate of time and one-half may be given to FLSA Non-Exempt employees (as defined by the Fair Labor Standards Act) subject to the following conditions:

(1) Prior to the performance of overtime work, the Appointing Authority and the employee shall agree in writing that the employee may be required to take compensatory time in lieu of overtime pay. A written agreement is not required with respect to employees hired prior to April 15, 1986, if the employer had a regular practice in effect on April 15, 1986, of granting compensatory time off in lieu of overtime pay (29 U.S.C. 553.23).

(2) An employee shall be permitted to use accrued compensatory time within 180 days following the pay period in which it was accrued. The balance of any unused compensatory time earned but not taken during this time period shall be paid to the employee. An Appointing Authority may request an extension of this time period for taking compensatory time off up to an additional 180 days providing the Appointing Authority submits proper documentation to the ~~Office of Personnel Management~~ Human Capital Management Division justifying the extension. Agencies shall not be allowed to extend the initial 180-day time period for employees working in an institutional setting as defined by 74:840-2.15(D) [74:840-2.15(C)]. All extensions are subject to the approval of the ~~Office of Personnel Management~~ Human Capital Management Division.

(3) The maximum compensatory time which may be accrued by a FLSA Non-Exempt employee shall be 480 hours for those employees engaged in a public safety or firefighting activity and 240 hours for all other FLSA Non-Exempt employees.

(4) An employee who has accrued the maximum number of compensatory hours shall be paid overtime compensation for any additional overtime hours worked at the rate of 1 1/2 times their regular hourly rate of pay for each overtime hour worked.

(5) Payment for accrued compensatory time upon termination of employment with the agency shall be calculated at the average regular rate of pay for the final 3 years of employment, or the final regular rate received by the employee, whichever is the higher.

(6) Overtime and compensatory time is accrued by work period, as defined by the FLSA.

(7) Compensatory time shall not be transferred from one agency to another agency.

(8) An Appointing Authority shall approve an employee's request to take compensatory time off on a particular day, unless the employee's taking compensatory time off on that day disrupts agency operations or endangers public health, safety, or property.

(9) Accrued compensatory time shall be exhausted before the granting of any annual leave for a non-exempt employee except when the employee may lose accrued leave under 530:10 15 10 and 530:10 15 11(b)(5).

(10) Adjustments in scheduled work time may be made on an hour-for-hour basis within the work period.

(e) Appointing Authorities may provide compensatory time off to FLSA Exempt (as defined by the Fair Labor Standards Act) employees with the following stipulations:

(1) The compensatory time off shall be taken within time periods and policy outlined in 530:10-7-12(d)(2). Unused compensatory time shall be taken off the books if not taken by the end of the time periods and policy outlined in 530:10-7-12(d)(2).

(2) Compensatory time shall only be given on an hour-for-hour basis, 1 hour off for each hour worked overtime. The maximum compensatory time which may be accrued by an FLSA exempt employee shall be the same as that outlined in 530:10-7-12(d)(3).

(3) Payments shall not be made for compensatory time accrued by an employee on FLSA Exempt status for any reason, except as provided for in (f) of this Section.



(f) After submitting written notice to the ~~Office of Personnel Management~~ Human Capital Management Division, an Appointing Authority may provide overtime payments to persons in FLSA Exempt classes based on a prevailing market condition.

### **530:10-7-21. Relocation Incentive**

(a) Appointing Authorities may implement a pay incentive plan intended to encourage employees to relocate when it is determined that there is difficulty recruiting qualified candidates for the position. The plan must be approved by the ~~Administrator of the Office of Personnel Management~~ Human Capital Management Division and must identify the job family or families to which the incentive will be applicable. The plan will also identify factors that establish the need for the incentive, which may include, but need not be limited to, one or more of the following:

- (1) Recent turnover in similar positions in the locality involved;
- (2) Employment trends and labor-market factors that may affect the agency's ability to recruit candidates for the locality involved;
- (3) Special or unique qualifications required for the position;
- (4) Failure of non-pay authorities, such as special training or work scheduling flexibilities, to resolve difficulties in recruiting candidates;
- (5) The desirability of the duties, work or organizational environment, or geographic location of the position; and
- (6) Other supporting factors.

(b) The plan must contain a certification that the additional costs associated with the proposed incentive can be accommodated within the agency's existing budget. The plan shall be signed by the Appointing Authority, and this signature requirement may not be delegated. No payment shall be made under this Section until the plan has been reviewed and accepted by the Administrator.

(c) A position is considered to be in a different geographic area if the worksite of the new position is 50 or more miles from the worksite of the position held by the employee immediately before the move. The employee must establish a residence in the new geographic area before an appointing authority may pay a relocation incentive.

(d) The relocation pay incentive shall not exceed 20% of the employee's base pay in the new position. The determination to pay a relocation incentive must be made before the employee enters on duty in the position. An agency may pay a relocation incentive:

- (1) As an initial lump-sum payment at the commencement of a 2-year service period required by a service agreement;
- (2) In installments throughout the 2-year service period; or
- (3) As a final lump-sum payment upon the completion of the 2-year service period.

(e) To receive the incentive, employees shall be required to sign an agreement form acknowledging they are obligated to repay the entire incentive, including tax withholdings on the incentive, if they leave state employment or accept employment with another state agency prior to the expiration of 2-year service period.

(f) An employee may receive no more than two relocation pay incentives during his or her state employment. A relocation pay incentive will not be approved if an earlier relocation pay incentive was approved within the previous five-year period.

### Part 3. Payroll

#### 530:10-7-31. Certification of payrolls

(a) **Certification.** No state disbursing or auditing officer shall make, approve or take part in making or approving any payment for personal service to any person holding a position in the classified service, unless the payroll voucher or account of such pay bears the certification of the Appointing Authority that the persons named therein have been appointed and employed in accordance with the provisions of the Oklahoma Personnel Act and the Merit Rules [74:840-1.18(D)].

(b) **Withholding of certification.** The Appointing Authority may for proper cause withhold certification from an entire payroll or from any specific item or items [74:840-1.18(D)]. Whenever the ~~Office of Personnel Management~~ Office of Management and Enterprise Services finds that any person is employed or is proposed to be paid as an employee in the classified service in any amount not provided for under the provisions of the Oklahoma Personnel Act and the Merit Rules, the ~~Office of Personnel Management~~ Office of Management and Enterprise Services shall notify the concerned state disbursing or auditing officer. After such notice, the concerned state disbursing or auditing officer shall not approve any payment to such person except in accordance with the provisions of the Act or the Merit Rules.

(c) **Suit to restrain disbursement.** Any citizen may maintain a suit to restrain a disbursing officer from making any payment in contravention of any provision of the Oklahoma Personnel Act or the Merit Rules [74:840-1.18(D)].

(d) **Recovery of erroneous payments.** Any sum paid contrary to any provision of the Oklahoma Personnel Act or the Merit Rules may be recovered in an action maintained by any citizen, from any officer who made, approved or authorized such payment or who signed or countersigned a voucher, payroll, check or warrant for such payment, or from the sureties on the official bond of any such officer [74:840-1.18(D)]. *All monies recovered in any such action shall be paid into the State Treasury* [74:840-1.18(D)].

(e) **Right of action by employees employed in contravention to the Merit Rules.** Any person appointed or employed in contravention of any provision of the Oklahoma Personnel Act or the Merit Rules and who performs service for which unpaid, may maintain an action against the officer or officers who purported to appoint or employ the person in order to recover the agreed pay for such services, or the reasonable value thereof if no pay was agreed upon. [74:840-1.18(D)] *No officer shall be reimbursed by the state at any time for any sum paid to such person on account of such services* [74:840-1.18(D)].

(f) **Action to compel payroll certification.** If the Appointing Authority wrongfully withholds certification of the payroll voucher or account of any employee, such employee may maintain an action or proceeding in the courts to compel the Appointing Authority to certify such payroll voucher or account [74:840-1.18(D)].

### Subchapter 9. Recruitment and Selection

#### Part 1. General Provisions

##### 530:10-9-5. Applications

An application for employment shall be made on a form prescribed by the Administrator and shall be considered part of the examination. The application form solicits information from the

applicant regarding residence, veterans preference, education, training, experience and other eligibility information. The form may also ask for demographic information, such as race, sex, and ethnicity, for statistical analysis and state and federal record keeping and reporting requirements. Demographic information may also be used for special employment programs specifically authorized by law. Information provided by applicants shall be subject to verification. All applications shall be signed in writing or by electronic signature by the applicant certifying the truth of all statements he or she made in the application. Applications must be filed with the ~~Office of Personnel Management~~ Human Capital Management Division on or before the closing date specified in the announcements or postmarked before midnight on that date.

### **530:10-9-9. Disqualifications**

(a) Except as provided in 530:10-9-131, an Appointing Authority or the Administrator may permanently or temporarily refuse to certify, disqualify or remove a person's name from a register if:

- (1) the person lacks any of the education, experience, or certification requirements for the job.
- (2) the person lacks any other requirement established by Oklahoma statute or federal law for the job.
- (3) the person fails any part of an Appointing Authority's background investigation.
- (4) the person made a false statement of material fact in an application for employment or otherwise misrepresented himself or herself during the application process.
- (5) the person has used or attempted to use political pressure or bribery to secure an advantage in the examination or appointment process.
- (6) even with reasonable accommodation, the person is unable to perform the duties of the job or position(s) or is unable to do so without risk to himself or herself, the agency, or others, beyond that risk normally associated with such duties.
- (7) the person has obtained information regarding examinations to which an applicant is not entitled, or the person has taken part in the development, administration, or correction of the examinations.
- (8) the person is in possession of unauthorized materials or electronic device during an examination.
- (9) the person has failed to submit an application correctly or within the prescribed time limits.
- (10) the person has failed to maintain a record of current address at the ~~Office of Personnel Management~~ Human Capital Management Division evidenced by the return of a letter by the U.S. Post Office, if properly addressed to the last address of record.
- (11) the person has, within 2 years prior to the date of certification, been discharged for delinquency, misconduct, absenteeism, inability to perform the same type job for which applying or other disciplinary reason or has resigned in lieu of such dismissal from any public or private employer. The Appointing Authority may extend the 2-year restriction for good cause.
- (12) the agency has exercised a selective qualification as established in 530:10-9-74.
- (13) an individual is ineligible for employment due to citizenship or residence requirements as prescribed in 530:10-9-75.

(b) Action initiated by an Appointing Authority under (a)(1), (a)(7), and (a)(9) of this Section shall be subject to the approval of the Administrator. Any person who is disqualified shall be

notified in writing of this action and the reason for it. At the appropriate time, the Administrator shall notify an individual of the right to appeal. The party initiating the action, whether the Administrator or an Appointing Authority, shall be independently responsible for justifying the action, for both the nature and accuracy of the supporting information, and for the retention of that information pending appeal of the action.

### **Part 3 - Written And Performance Tests**

#### **530:10-9-32. Proficiency certificates**

(a) The Administrator shall accept certificates of proficiency issued within the last 12 months by accredited private or public schools, colleges, or the Oklahoma Employment Security Commission in lieu of typing and key entry tests [74:840-4.12]. The proficiency certificate solicits information about the applicant, the typing and/or key entry test upon which the applicant has demonstrated proficiency, and the name and address of the certifying official and agency or school.

(b) The proficiency certificate shall be based on the results of a performance test which is comparable to the ~~Office of Personnel Management~~ Human Capital Management Division performance test for the same job.

#### **530:10-9-38. Reviewing examinations**

Applicants shall be entitled to inspect their own rating and examination papers maintained in the ~~Office of Personnel Management~~ Human Capital Management Division up to 30 days after the date of the examination. Such inspection shall be permitted only during regular business hours at the ~~Office of Personnel Management~~ Human Capital Management Division and shall include only those materials which would not compromise the security of the selection procedure. Any person who reviews an examination may not participate in the same examination for one year from the date of the review.

### **Part 5. Registers**

#### **530:10-9-50. Establishment of registers**

The ~~Office of Personnel Management~~ Human Capital Management Division shall establish and maintain registers as necessary to provide an adequate supply of qualified eligibles for positions in the classified service. The names of such persons shall be placed on the register in the order of their final score except as provided by law for veterans. Registers shall not be open for public inspection.

#### **530:10-9-52. Removal of names from registers**

(a) In addition to the reasons set forth in 530:10-9-9, when a written request which states the reason for such action is received from an Appointing Authority or based upon an action of the ~~Office of Personnel Management~~ Human Capital Management Division, the ~~Office of Personnel Management~~ Human Capital Management Division may temporarily or permanently remove an eligible from a register for any of the following reasons:

- (1) Removal requested by eligible applicant.
- (2) Appointment through certification to fill a permanent position in the same job.

- (3) Failure to respond within 7 calendar days exclusive of the date of mailing of a written inquiry by the Appointing Authority relative to availability for appointment. Such inquiry shall include the date and time by which the eligible must contact the Appointing Authority.
- (4) Failure to respond within 72 hours to an electronic message from the Appointing Authority relative to availability for appointment. Such inquiry shall include the date and time by which the eligible must contact the Appointing Authority and must be sent to the contact information provided by the eligible.
- (5) Failure to appear for a scheduled interview.
- (6) Declination of further consideration for selection.
- (7) Declination of appointment.
- (8) Failure to report for duty within the time specified by the Appointing Authority. (See 530:10-9-94.)
- (9) Abolition of register by the ~~Office of Personnel Management~~ Human Capital Management Division.

(b) Any person so affected shall be notified of this action and the reason for it.

**530:10-9-55. Statement of availability**

It shall be the responsibility of eligibles to notify the ~~Office of Personnel Management~~ Human Capital Management Division of any change in address or other change affecting availability for employment. Whenever an eligible notifies the ~~Office of Personnel Management~~ Human Capital Management Division of conditions which restrict his or her availability or limit the locations where employment will be accepted, the eligible's name shall be withheld from all certificates which do not meet the stated conditions and locations. At any time, an eligible may file a new statement of conditions under which he or she will be available for employment.

**Part 7. Certification**

**530:10-9-70. Request for certification**

When a new employee is needed to fill a vacancy in a classified position, the Appointing Authority may submit a request for certification to the ~~Office of Personnel Management~~ Human Capital Management Division. The Appointing Authority may submit such a request only after the position has been allocated. The request shall include information necessary in order to issue a certificate, such as job family level and code, type of job, location of work, and certification method requested by the Appointing Authority. With the approval of the Administrator, the Appointing Authority may request certification as provided in 530:10-9-71.

**530:10-9-74. Selective qualifications**

Selective qualifications are job-specific requirements authorized by the ~~Administrator~~ Human Capital Management Division for positions within a particular job family which are consistent with the duties and responsibilities of the particular position being filled. These qualifications may include special experience, education, or measurable competency in a non-English language. When requesting a certificate for a job family, an Appointing Authority may, upon written request to and approval by the ~~Administrator~~ Human Capital Management Division, use any ~~OPMHCM~~-approved selective qualifications for that job for filling a particular position within that job family. Selective qualifications approved by the ~~Administrator~~ Human Capital

Management Division for any job or position shall not reduce or add to the quantity of experience or education in the minimum qualifications established for that job family level.

## **Part 9. Classified Appointments**

### **530:10-9-92. Appointments from certificates**

After receipt of a certificate, the Appointing Authority may consider and select anyone whose name is within the hiring rule, i.e. the top **10** available eligibles, or anyone whose name is tied with the lowest ranked eligible within the hiring rule [74:840-4.13]. In selecting persons from among those certified, the Appointing Authority shall have the right, and is encouraged to examine applications, reports of investigations and interview eligibles.

(1) The Appointing Authority shall interview in person any Absolute Preference Veteran(s) within the hiring rule in order to allow the veteran(s) to demonstrate any transferable skills acquired in the military service [74:840-4.14(D)].

~~(4)~~(2) The Appointing Authority shall not deny employment to, and pass over, an available Absolute Preference Veteran except as provided in the Act and this Section and in 530:10-9-131.

(3) If the Appointing Authority passes over an available Absolute Preference Veteran(s) as provided in the Act and Section in 530:10-9-131, the Appointing Authority shall interview in person any available veteran(s) who are within the hiring rule in order to allow the veteran(s) to demonstrate any transferable skills acquired in the military service [74:840-4.14(D)].

~~(2)~~(4) The Appointing Authority may give preference in all cases to persons who have resided in Oklahoma for at least 1 year prior to the date of examination [74:840-4.13].

~~(3)~~(5) The Appointing Authority need not consider any eligible who is currently in probationary status in the classified service, or permanent status with that agency in a job with the same or a higher pay band assignment.

~~(4)~~(6) The Appointing Authority may take action to remove eligibles from consideration only as permitted and provided in the statutes or Merit Rules.

~~(5)~~(7) If the Administrator has certified the names of eligibles in addition to those within the hiring rule, and if 1 or more eligibles initially within the hiring rule are removed from consideration in accordance with the Merit Rules, then the next lower eligible(s) may be added to fill in the hiring rule and anyone tied with the lowest such eligible may be considered and selected.

~~(6)~~(8) The Appointing Authority is responsible for making the final selection.

### **530:10-9-95. Appointments to noncompetitive classes**

(a) An Appointing Authority of an agency having unskilled, semi-skilled, or similar jobs designated by the Administrator as noncompetitive, may appoint qualified veterans or non-veterans to such jobs in accordance with 530:10-9-71 and 530:10-9-92.

(b) On certificates issued for noncompetitive jobs, an Appointing Authority may appoint persons not certified by the ~~Office of Personnel Management~~ Human Capital Management Division if the scores of such persons would place them within the hiring rule among those certified. An Appointing Authority shall not deny employment to, and pass over, an Absolute Preference Veteran except as provided in the Act, 530:10-9-92, and 530:10-9-131.

(c) Applicants for such positions may apply directly to agencies having such positions. Records of applicants shall be maintained by the Appointing Authority in accordance with U.S. Equal Employment Opportunity Commission's guidelines. The Appointing Authority shall notify the ~~Office of Personnel Management~~ Human Capital Management Division of a noncompetitive appointment and enclose a completed application within **30** calendar days after the appointment.

**530:10-9-96. Project indefinite appointments**

If the staff of an agency increases as a result of a project contract with another governmental agency or special purposes grant funds, the Appointing Authority shall select such personnel in accordance with 530:10-9-92. These persons shall be informed in writing at the time of appointment as to the terms and conditions of the appointment and the specific contract or grant funding this position. This information will be forwarded to the ~~Office of Personnel Management~~ Human Capital Management Division with the appointment certification. These employees will be appointed for a regular probationary period and upon successful completion of such period shall be subject to all conditions, and eligible for all benefits, set forth in these Rules for permanent employees except that should the project be canceled or completed in less than **3** years, probationary and permanent Project Indefinite Appointment employees shall be released before regular probationary and permanent employees. Such action shall be subject to reduction-in-force in accordance with 530:10-13-3. Only upon completion of **3** years of Project Indefinite Appointment status, shall these employees become permanent career employees. No employee shall be maintained on a Project Indefinite Appointment for more than **3** years.

**530:10-9-100. Optional Program for Hiring Applicants with Disabilities**

(a) Appointing Authorities may employ persons with severe disabilities who are legal residents of Oklahoma through the Optional Program for Hiring Applicants with Disabilities ("Program") [74:840-4.12]. Program participants shall meet all minimum qualifications of education and experience, but shall be exempt from entrance examinations and hiring procedures administered by the ~~Office of Personnel Management~~ Human Capital Management Division [74:840-4.12]. Program participants shall be certified as having disabilities in accordance with the standards and procedures in subsection (b) of this Section [74:840-4.12]. Persons with severe disabilities are not required to participate in this Program, and they may elect to be considered for employment through regular selection procedures [74:840-4.12].

(b) The Department of Rehabilitation Services shall certify an applicant as having disabilities according to the definition for "individual with severe disability" in OAC 612:10-1-2, which the Administrator has established as the standard for disability certification, and shall provide electronic or written verification to the applicant and to the ~~Office of Personnel Management~~ Human Capital Management Division.

(c) The Administrator shall give each Program applicant certified according to (b), a letter of notification of all job family levels for which the applicant has applied and possesses the minimum qualifications of education and experience.

(d) Letters of notification as described in (c) shall be valid for an initial 12-month period. Applicants may renew eligibility every 12 months by reapplying with the ~~Office of Personnel Management~~ Human Capital Management Division.

(e) An applicant for the Program may apply directly to employing agencies. In order to be eligible for appointment to fill a vacant position, an applicant shall be a legal resident of Oklahoma. The applicant shall submit to the Appointing Authority of the employing agency a

current letter from the Administrator as described in subsections (c) and (d) indicating the applicant possesses the qualifications of education and experience for the vacancy.

(f) Persons with severe disabilities hired pursuant to this Program shall be subject to the Merit Rules [74:840-4.12].

### **530:10-9-102. Reinstatement to the classified service**

(a) A permanent employee who leaves the classified service is eligible for reinstatement for a period of time equal to the total period of service in a probationary and subsequently permanent status. Previous part-time employment shall be prorated.

(b) If a permanent employee leaves a classified position to accept a regular unclassified position within **30** calendar days, the period of time the person is eligible for reinstatement shall begin on the date the employee is separated from the unclassified service. The unclassified service shall not add to the period of time the person is eligible for reinstatement.

(c) If an Appointing Authority elects to appoint a person who is eligible for reinstatement, the person shall be certified according to 530:10-9-10. A test may be required under 530:10-9-35 before his or her reinstatement.

(d) The Appointing Authority may place the person in probationary status with the agency for the maximum period required for original appointments or for a shorter period. The Appointing Authority may not extend the probationary period. If the Appointing Authority requires a probationary period, the Appointing Authority shall notify the reinstated employee and the ~~Office of Personnel Management~~ Human Capital Management Division in writing of the length of the probationary period before the employee's entry on duty. The Appointing Authority may cancel the probationary period at any time and grant permanent status to the employee.

(e) Permanent and probationary employees who have been separated as a result of a reduction-in-force shall be eligible for reinstatement for at least **18** months from the date of separation.

## **Part 11. Direct Hire Authority**

### **530:10-9-111. Definitions**

In addition to terms defined in 530:10-1-2 the following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

**"Adequate applicant pool"** means 10 or more available qualified eligibles on open competitive announcements maintained by the ~~Office of Personnel Management~~ Human Capital Management Division for the location of a vacancy under the conditions of employment required for the position. However, the presence of one Absolute Preference Veteran on open competitive announcements maintained by the ~~Office of Personnel Management~~ Human Capital Management Division for the location of a vacancy under the conditions of employment required for the position shall also constitute an adequate applicant pool, regardless of the presence or absence of other available qualified eligibles.

**"Conditions for employment"** means requirements for the position established by the agency and approved by the ~~Office of Personnel Management~~ Human Capital Management Division such as willingness to travel, perform shift work, or work in a particular geographic location, or possession of any selective qualifications or special requirements for the position.



**"Direct hire authority"** means the authorization for an Appointing Authority to certify the qualifications of and appoint an eligible applicant to a position requiring professional practice licensure or to a position which has been identified by the Administrator as hard-to-fill.

**"Hard-to-fill positions"** means a vacant position or positions in a job family for which a state agency has been unable to identify an adequate applicant pool within the past 2 weeks of open competitive announcement.

**"Professional practice licensure positions"** means those positions within a job family for which the Administrator has determined the minimum qualifications for the job require professional licensure with the State of Oklahoma to legally practice in the profession. Such a job shall involve work requiring knowledge of an advanced type in a field of science or learning, customarily obtained by a prolonged course of specialized instruction or study such as a bachelor's degree from an accredited college or university. The Administrator shall maintain a list of jobs requiring professional practice licensure and shall make the list available to all state agencies with positions allocated to these job families.

#### **530:10-9-115. Duration of direct hire authority**

(a) **Professional practice licensure positions.** An Appointing Authority who has been authorized direct hire authority for professional practice licensure positions may retain the authority indefinitely, provided:

- (1) the job family or job families to which the positions have been allocated remain authorized for the agency's use by the ~~Office of Personnel Management~~ Human Capital Management Division;
- (2) the professional practice licensure requirement for the positions is not removed; and
- (3) the authority is not terminated by the Administrator as provided in 530:10-9-121.

(b) **Hard-to-fill positions.** An Appointing Authority who has been authorized direct hire authority for hard-to-fill positions may retain the authority for **12** months from the date of approval by the Administrator unless the authority is terminated by the Administrator as provided in 530:10-9-121. The Appointing Authority may reapply to continue direct hire authority for additional **12** month periods in the same manner as in the initial request.

#### **530:10-9-117. Concurrent certification by the Office of Personnel Management**

The ~~Office of Personnel Management~~ Human Capital Management Division may continue to establish registers and issue certificates for any job affected by the rules in this Part. An Appointing Authority who has been granted direct hire authority also may request certificates of eligibles from the ~~Office of Personnel Management~~ Human Capital Management Division. Eligibles certified from an Office of Personnel Management certificate shall be considered by the Appointing Authority as required by the Act and Merit Rules governing certification.

#### **530:10-9-118. Reporting and recordkeeping**

(a) **Reporting.** Appointing Authorities shall report all appointments made through direct hire authority to the Administrator as required by 530:10-11-3. The notification shall include a copy of the application, transcripts, and certification of qualifications of the person appointed; and for professional practice licensure positions, a copy of the verification of licensure. Failure to notify the Administrator of appointments made through direct hire authority within **30** days after the effective date shall be cause for termination of the authority.

(b) **Recordkeeping.** Appointing Authorities shall maintain all records made or considered in the selection and hiring process, regardless of whether the applicant was appointed to the position, for the minimum length of time required by state and federal law. Appointing Authorities shall make the records available for inspection by staff members of the ~~Office of Personnel Management~~ Human Capital Management Division Management upon request.

### **530:10-9-123. Expedited recruitment**

(a) The Administrator may select positions or job family levels for expedited recruitment when in the opinion of the Administrator the education, experience or certification requirements for such positions or job family levels substantially limit the pool of available applicants to less than an adequate applicant pool as defined by 530:10-9-111. Applicants for positions selected for expedited recruitment who have been approved by the ~~Office of Personnel Management~~ Human Capital Management Division as meeting the minimum qualifications for the job may be referred to agencies having such vacancies without examination and ranking, provided that the register for the job has been publicly announced for at least **14** calendar days. Applicants for positions selected for expedited recruitment are eligible for appointment upon referral. [74:840-1.6A]

(b) An Appointing Authority may request that positions or job family levels be considered for expedited recruitment by submitting a written request to the Administrator. The request shall describe the unique education, experience or certification requirements that substantially limit the pool of available applicants, the recruitment efforts made by the agency, the suggested duration of the expedited recruitment designation, and shall be accompanied by a Position Description Questionnaire (OPM-39) for the position(s). The Administrator may request clarification or additional information from the agency. The Administrator shall provide the agency with written notification of his approval or denial of the request. The decision of the Administrator shall be final.

(c) An Appointing Authority who has expedited recruitment authority may retain that authority for **12** months from the date of approval by the Administrator unless that authority is terminated by the Administrator pursuant to 530:10-9-121. The Appointing Authority may reapply to continue expedited recruitment authority for additional **12** month periods in the same manner as in the initial request.

## **Subchapter 11. Employee Actions**

### **Part 1. General Provisions**

#### **530:10-11-3. Reports of personnel changes**

Appointing Authorities shall use such forms and follow such procedures as may be prescribed by the ~~Office of Personnel Management~~ Human Capital Management Division to effect personnel changes. In addition, for purposes of payroll certification, Appointing Authorities shall use such forms as may be prescribed by the ~~Office of Personnel Management~~ Human Capital Management Division to report personnel actions with respect to unclassified employees. Unless otherwise provided in the Merit Rules, forms effecting personnel changes, including appointments, shall be submitted to the ~~Office of Personnel Management~~ Human Capital Management Division within **30** days after the effective date. Classified employees shall receive a copy of forms effecting changes in their personnel status.

### **Part. 3. Probationary Employees**

#### **530:10-11-30. Probationary employees; general provisions**

(a) All original appointments to classified positions shall be made from certificates, except as provided elsewhere in the Merit Rules or by statute, for a probationary period of **1** year, unless the length of the probationary period is reduced according to the provisions of this Section [74:840-4.13]. At the end of the probationary period, the employee shall automatically become permanent [74:840-4.13]. At any time after the probationary employee has served **6** months, the Appointing Authority may waive the remainder of the probationary period by notifying the employee and the ~~Office of Personnel Management~~ Human Capital Management Division in writing as to the waiver and the reasons for it [74:840-4.13]. The Appointing Authority may not extend the probationary period, but may adjust the probationary period due to leave without pay as provided in 530:10-11-36. The final working day of the probationary period shall be made known to the employee at the time of entry on duty and at the time of any adjustment or waiver of the probationary period. Some positions may have statutory probationary periods that differ from the conditions of this Section.

(b) Except as provided in 530:10-9-102, the provisions of this Part apply to probationary periods made in accordance with those Merit Rules.

(c) An employee on an original probationary appointment with the agency or any adjustment of the original probationary appointment, or on a probationary period with the agency after reinstatement, or an adjustment of such a probationary period may be released or dismissed in accordance with 530:10-11-32.

(d) The Appointing Authority may establish a written policy describing any agency standard for waiving the probationary period after **6** months and the reasons for the standard.

#### **530:10-11-36. Leave of absence without pay for probationary employees**

(a) Upon written request, a probationary employee may be granted leave of absence without pay from the agency in accordance with 530:10-15-47, **Leave of absence without pay**, or 530:10-15-49, **Leave because of absence due to job related illness or injury**.

(b) If the total amount of leave without pay exceeds **5** working days, the date of the final working day of the probationary period shall be adjusted by the number of working days the probationary employee was on leave without pay in excess of **5** working days. Notification of such leave to the ~~Office of Personnel Management~~ Human Capital Management Division and the employee shall include the scheduled date of the final working day of the adjusted probationary period.

#### **530:10-11-40. Probationary employee shift assignment**

A change in shift assignment, in excess of **30** calendar days, shall not be made for a probationary employee without prior approval of the ~~Office of Personnel Management~~ Human Capital Management Division.

### **Part 5. Promotions**

#### **530:10-11-51. Promotional posting**

(a) *The appointing authority shall post announcements of a vacancy or vacancies in accordance with a promotional plan filed by the agency with the ~~Office of Personnel~~*

~~Management~~ Office of Management and Enterprise Services. [A copy of this plan shall be posted throughout the agency.] *Promotional posting shall be required for initial entry into a job family at any level. Promotional posting shall also be required for entry into any supervisory position or level. Each agency's promotional posting plan shall describe the method by which all agency employees will be notified of vacancy announcements.* [74:840-4.15] The Appointing Authority shall post all promotional opportunities to vacant positions and to all supervisory levels. Promotional posting is not required for career progression or for reallocation of occupied, non-supervisory positions.

(b) *The posting shall include:*

- (1) *Identification of the job family level of the vacancy or vacancies;*
- (2) *A listing of job title, major work duties and minimum qualifications;*
- (3) *The pay band and range;*
- (4) *The anticipated number of vacancies;*
- (5) *The specific location of work;*
- (6) *The time limits and procedure for filing an application with the appointing authority; and*
- (7) *Any additional factors which the appointing authority will consider in filling the vacancy.* [74:840-4.15]

### **530:10-11-55. Trial period and probationary period for promoted employees**

(a) **Trial period after intra-agency promotions.**

(1) When a classified employee is promoted intra-agency, the employee shall serve a **6** month trial period in the job to which the employee has been promoted unless the Appointing Authority waives the trial period according to the provisions of this Section. The Appointing Authority may waive the trial period at any time by giving the employee written notice of the cancellation. Waiver of the trial period makes the promotion final.

(2) If an employee does not prove to be satisfactory in the new job during the trial period, the employee shall be reinstated to the former position or another in the same job family level, at the salary the employee would have received if the promotion had not taken place. However, the reasons for denying the employee permanent status in the promotional position shall be submitted in writing to the individual before the end of the trial period and a copy filed with the ~~Office of Personnel Management~~ Human Capital Management Division. [~~T~~*he employee shall not have the right to appeal*] [74:840-4.12].

(3) The promotion shall automatically become permanent at the end of the final working day of the trial period.

(4) The Appointing Authority may establish a written policy describing any agency standard for waiving the trial period and the reasons for the standard.

(b) **Trial period after interagency promotion.**

(1) An employee who is promoted interagency may, at the discretion of the receiving Appointing Authority, be required to serve a **6** month trial period in the new job only if the receiving agency has the job family from which the employee was promoted in its classification plan.

(2) The trial period may be canceled at any time, making the promotion final. Before the effective date of the promotion, the employee shall be informed in writing by the Appointing Authority whether the employee will be required to serve a trial period before such promotion becomes final. The ~~Office of Personnel Management~~ Human Capital Management Division shall be sent written notice when a trial period is required for a promoted employee. The promotion

shall be permanent if the Appointing Authority fails to notify the employee in writing before the effective date of the promotion that a trial period is required under this paragraph. If an employee does not prove to be satisfactory in the new job during the trial period, the employee shall be reinstated to a position in the former job family in the same pay band for which the employee is qualified with the receiving agency, at the salary the employee would have received if the promotion had not taken place. However, the reasons for denying the employee permanent status in the promotional position shall be submitted in writing to the individual before the end of the trial period and a copy filed with the ~~Office of Personnel Management~~ Human Capital Management Division. The promotion shall automatically become permanent at the end of the final working day of the trial period.

(c) **Statutory probationary period after intra-agency promotion.** An employee who is promoted to a job for which a probationary period is either permitted or required by Oklahoma Statutes shall be notified by the Appointing Authority of the probationary period before the effective date of the promotion. An employee shall not be required to serve a trial period after the promotion if a statutory probationary period is required.

## **Part 7. Transfers and Voluntary Demotions**

### **530:10-11-76. Voluntary demotion**

(a) An Appointing Authority may demote an employee, provided the employee voluntarily makes such a request in writing and meets the current minimum qualifications for the job family level to which demotion is requested as certified by the Administrator. Provided, however, that possession of the current minimum qualifications shall not be required where the demotion is to a job:

- (1) within the same job family, or
- (2) in which the employee has previously had permanent status, or
- (3) in the same job family as, and below, a job in which the employee has previously had permanent status.

(b) The Appointing Authority may require an employee to serve a trial period in the job to which the employee requests to be demoted. This trial period may not exceed 6 months and may be for shorter periods as determined by the Appointing Authority. The Appointing Authority shall notify the employee in writing before the effective date of the demotion that a trial period be served before such demotion shall become final. The Appointing Authority shall send the ~~Office of Personnel Management~~ Human Capital Management Division written notice when a trial period is required for a demoted employee. The Appointing Authority may cancel such trial period at any time. If the employee does not prove to be satisfactory in the new job during the trial period, the employee shall be reinstated to the former position or another in the same job family. The Appointing Authority shall give the employee written notice of the reasons for the failure to allow the employee to acquire permanent status in the job to which demoted and shall file a copy with the ~~Office of Personnel Management~~ Human Capital Management Division.

## **Subchapter 13. Reduction-in-Force**

### **Part 1. General Provisions for Reduction-in-Force**

### **530:10-13-13. Reduction-in-Force Educational Voucher Fund**

*There is hereby created in the State Treasury a revolving fund for the ~~Office of Personnel Management~~ Office of Management and Enterprise Services to be designated the "Reduction-in-Force Education Voucher Action Fund." The fund is to be used to provide education vouchers to eligible employees exercising rights to severance benefits or voluntary out benefits in accordance with Sections 840-2.27D and 840-2.28 of Title 74 of the **Oklahoma Statutes**. The vouchers are to be used to make payment to eligible educational institutions. [74:840-2.27F]*

### **Part 3. Reduction-in-Force Plan Requirements**

#### **530:10-13-35. Reduction-in-force implementation plan**

As provided in Section 840-2.27C of Title 74 of the **Oklahoma Statutes** and OAC 530:10-13-3, Appointing Authorities of executive branch agencies shall post the reduction-in-force implementation plan in all offices of the agency within **5** business days after posting the reduction-in-force notice. A copy of the implementation plan shall be provided to the ~~Office of Personnel Management~~ Office of Management and Enterprise Services, the Oklahoma Merit Protection Commission, ~~the Director of State Finance~~ and any state employee association representing state employees at such time and as defined at OAC 530:15-1-2. no later than the time it is posted in the agency. The reduction-in-force implementation plan is not subject to the approval of the Administrator or the Commission. In addition to the information required by 530:10-13-3(b), the reduction-in-force implementation plan shall include:

- (1) a statement of the conditions necessitating the reduction-in-force;
- (2) the estimated time schedule for the reduction-in-force;
- (3) a description of the displacement process, and limits;
- (4) listings of affected positions and employees, to include the following information (or if such lists are not posted, the location of the office where they are available for review):
  - (A) all occupied and vacant positions to be abolished, showing in each case: geographical and administrative location, job family, level, and pay band for the position; the name, job family, level, and pay band, of the incumbent; and, for permanent employees, retention points and other lateral or lower level job families in which the employee previously held permanent status, listed in the reverse order in which they were held;
  - (B) all positions and employees which are subject to displacement, showing the same information;
  - (C) other occupied and vacant positions and employees in affected job families, showing the same information. The agency may include all other positions in the agency in affected job families or may limit posting to ten percent of positions occupied by employees with the least number of retention points based on longevity dates in affected job families, and
  - (D) all retained funded vacant positions anywhere in the agency
- (5) the schedule and procedure to be followed if an eligible employee chooses to accept a displacement offer for transfer or voluntary demotion in lieu of separation;
- (6) the agency policy on issues related to partial payment of moving expenses for transferred employees in accordance with Section 500.51 of Title 74 of the **Oklahoma Statutes**;

- (7) such other information as the Appointing Authority deems appropriate; and
- (8) the method established by the Appointing Authority to break ties in retention points.

## **Part 7. Priority Consideration for Reemployment**

### **530:10-13-70. Eligibility for priority reemployment consideration**

(a) Permanent classified employees, and employees on probationary status after reinstatement from permanent classified status without a break in service, who have been separated as a result of an officially conducted reduction-in-force or the abolition of all or part of a state agency, are eligible for priority reemployment consideration [74:840-2.27C] for jobs in the classified service. In addition, affected employees shall be eligible for Priority Reemployment Consideration beginning with the date the implementation plan is posted, for a period not to exceed **12** months before the scheduled date of separation, if the agency:

- (1) has posted a reduction-in-force notice and implementation plan and the employees are in positions covered by the plan and within the displacement limits established by the Appointing Authority; or
- (2) is scheduled to be closed or abolished by law or court order. [74:840-2.27C]

(b) To be placed on the Priority Reemployment Consideration Roster for a job family level, a person shall apply to the ~~Office of Personnel Management~~ Human Capital Management Division and meet all requirements for the job [74:840-2.27C]. The job family level need not be announced for recruitment. The names of the persons on Rosters shall be ranked in order of their individual final earned ratings [74:840-2.27C].

(c) Employees who accept severance benefits:

- (1) are eligible for Priority Reemployment Consideration in accordance with the provisions of Section 840-2.27C of Title 74 of the **Oklahoma Statutes**,
- (2) who are reemployed less than **1** year after receiving severance benefits by the agency from which they separated are required to repay such benefits in accordance with Section 840-2.27E of Title 74 of the **Oklahoma Statutes**.

(d) Employees who accept voluntary out benefits in accordance with Section 840-2.28 of Title 74 of the Oklahoma Statutes shall not be eligible for Priority Reemployment Consideration.

### **530:10-13-73. Expiration and forfeiture of eligibility**

(a) The eligibility of an individual to remain on any Priority Reemployment Consideration Roster and to be given priority consideration for reemployment shall expire **18** months after separation as a result of a reduction-in-force or abolition of an agency [74:840-2.27C]. A person's eligibility shall also be forfeited upon:

- (1) declination of an offer of reemployment to a job having the same or higher rate of pay than the job from which removed [74:840-2.27C], that is located in a county in which the person has indicated a willingness to work;
- (2) acceptance of an offer of reemployment to a job having the same or higher rate of pay than the job from which removed;
- (3) failure to report for duty within the time specified by the Appointing Authority; provided the person is given at least **14** calendar days;
- (4) recall to the job family level from which removed; or
- (5) failure to meet any of the requirements for the job.

(b) It is the responsibility of the person to maintain a current address with the ~~Office of Personnel Management~~ Human Capital Management Division.

## Subchapter 15. Time and Leave

### Part 3. Annual And Sick Leave Policies

#### 530:10-15-10. General Annual and Sick Leave Policies

(a) Permanent and probationary classified employees and regular unclassified employees are eligible for annual leave and sick leave with full pay according to law and the rules in this Chapter. Temporary employees and other limited term employees are ineligible to accrue, use or be paid for sick leave and annual leave [74:840-2.20(A)(3)].

(b) The tables in Appendix B of this Chapter list leave accrual rates and accumulation limits. OAC 530:10-15-11 and 530:10-15-12 also govern annual and sick leave.

(c) Annual and sick leave accrual rates and accumulation limits are based on cumulative periods of employment calculated in the manner that cumulative service is determined for longevity purposes [74:840-2.20(A)(1)]. For purposes of this Subchapter and the longevity pay program, cumulative service shall be calculated as prescribed in this subsection.

(1) State employment with any classified or unclassified agency in any branch of state government including service under the administrative authority of the Regents for Higher Education and the Department of Vocational and Technical Education shall be qualifying for purposes of calculating cumulative service. Cumulative service includes periods of part-time qualifying employment in excess of  $\frac{2}{5}$  time that were continuous for at least **5** months and any period of full-time employment described in (A) through (G) of this paragraph:

- (A) Employment as a permanent classified employee;
- (B) Employment as a probationary classified employee;
- (C) Employment as a regular unclassified employee;
- (D) Temporary or other time-limited unclassified employment;
- (E) Paid leave;
- (F) Leave without pay of **30** continuous calendar days or less; and
- (G) Leave without pay in excess of **30** calendar days taken under Section 840-2.21 of Title 74 of the **Oklahoma Statutes**. Any other leave without pay in excess of **30** calendar days shall not be counted as cumulative service.

(2) Periods of service that are described in (1) of this subsection, shall be combined for purposes of determining cumulative service and the total shall be expressed in whole years. Partial years, less than **12** months, are dropped.

(d) Annual leave and sick leave shall accrue only when an employee is actually working, on authorized leave with pay, or during the time the employee is using paid leave to supplement workers compensation benefits under Section ~~2e of Title 85~~ Section 332 of Title 85. Leave shall not accrue after the last day the employee works.

(e) An employee using paid leave to supplement workers compensation benefits under Section ~~2e of Title 85~~ Section 332 of Title 85 of the **Oklahoma Statutes** shall be in leave without pay status.

(f) An Appointing Authority may terminate an employee who is absent from work after the employee has exhausted all of his or her sick and annual leave accumulations unless the absence



is covered by 530:10-15-45 or 530:10-15-49. Termination of a permanent classified employee under this subsection is subject to the pretermination hearing requirements of Section 840-6.4 of Title 74 of the **Oklahoma Statutes**. This subsection does not prevent an Appointing Authority from granting leave without pay according to 530:10-15-47.

### **530:10-15-11. Annual leave**

(a) Annual leave is intended to be used for vacations, personal business, and other time off work not covered by other paid leave or holiday provisions. An employee may charge family and medical leave, taken in accordance with 530:10-15-45, against annual leave accumulations.

(b) Eligible employees shall accrue annual leave based upon hours worked (excluding overtime), paid leave, and holidays [74:840-2.20] in accordance with 530:10-15-10 and the provisions in this subsection, not to exceed the total possible work hours for the month. The hourly rate is equal to the annual accrual divided by the number of work hours in the current year. Annual leave earned during one pay period shall not be available for use until the beginning of the following pay period.

(1) Annual leave shall be applied for by the employee and shall be used only when approved by the Appointing Authority.

(2) Part-time employees shall accrue annual leave in an amount proportionate to that which would be accrued under full-time employment [74:840-2.20].

(3) Annual leave earned during a pay period shall be prorated based upon the number of hours (excluding overtime hours) an employee is on the payroll [74:840-2.20].

(4) An Appointing Authority may require an employee to take annual leave whenever in the administrative judgment of the Appointing Authority such action would be in the best interests of the agency; except that the employee shall not be required to reduce accrued annual leave below 5 days. An Appointing Authority shall not apply this rule in lieu of 530:10-11-120. Leaves of absence for internal investigatory purposes shall be administered according to 530:10-11-120.

(5) Unused accrued annual leave shall be accumulated for no more than the maximum leave accumulation limits specified in 530:10-15-10 or at the discretion of the Appointing Authority, employees may accrue up to the accumulation limit plus the accrual for one year. If employees are permitted to accumulate above the accumulation limit, except as provided in this paragraph. Employees may accumulate more than the maximum annual leave accumulation limits shown in the schedule, provided that such excess is must be used during the same calendar year in which it accrues or within twelve months of the date on which it accrues, at the discretion of the Appointing Authority. Employees shall not be paid for excess leave above the accumulation limit; ~~such excess accumulations shall be used for leave purposes in the agency where it was accrued or, if an employee was transferred to an agency by statute or executive order all accumulated leave will be transferred, in the agency to which the employee was transferred regardless of where the leave was accrued, only while the employee is continuously employed.~~

(6) Annual leave shall not be taken in advance.

(7) An employee who transfers to another agency may have accrued annual leave transferred at the option of the Appointing Authority to which transferred. The maximum amount transferrable is limited to amount accrued but no more than the accumulation limits plus the accrual for one year, or such Appointing Authority may require that all or a portion of the annual leave be paid by the agency from which the employee is transferred before the transfer. The amount of annual leave paid by the agency from which the employee is transferred shall not exceed the accumulation limits except as established in Section 840-2.20 of Title 74 of the Oklahoma Statutes and the

amount of annual leave transferred with the employee shall not exceed the accumulation limits plus the accrual for one year, ~~except as established in Section 840-2.20 of Title 74 of the Oklahoma Statutes.~~

(8) Any employee who is separated from the state service shall be paid or shall have payment made to the employee's estate for any annual leave accumulated up to and including the accumulation limit except as otherwise provided in the Merit Rules. . At no time shall any employee resigning from one position to accept another position within the same agency be paid for accrued annual leave unless there has been a break in service of more than thirty days.

(9) Annual leave shall be charged against an employee's annual leave balance based on the amount of time an employee is absent from work during the employee's assigned work schedule. Holidays falling within a period of annual leave shall not be charged to annual leave.

(10) Any probationary or permanent employee who leaves the employ of an agency shall receive payment for the accrued number of hours of annual leave in accordance with the hourly rate. Payment may only be withheld pending settlement of a legal debt to the agency. If a person is reemployed by the State within a period of 30 calendar days from the date of separation, any portion of the accumulated annual leave which has not yet been paid may be reinstated.

### **530:10-15-12. Sick leave**

Eligible employees shall accrue sick leave based upon hours worked (excluding overtime), paid leave, and holidays [74:840-2.20(A)(1)] according to 530:10-15-10 and this Section, not to exceed the total possible work hours for the month. The hourly rate is equal to the annual accrual divided by the number or work hours in the current year. Sick leave earned during one pay period shall not be available for use until the beginning of the following pay period.

(1) Sick leave means a period when the employee cannot work because of sickness, injury, pregnancy, or medical, surgical, dental or optical examination, or treatment, or where the employee's presence at work would jeopardize the health of the employee or others. An employee may charge family and medical leave, taken in accordance with 530:10-15-45, against sick leave accumulations.

(2) An employee shall not use sick leave for annual leave.

(3) An employee shall not use sick leave before it is accrued.

(4) Immediately on return to work, an employee who has been absent on sick leave shall give the Appointing Authority a signed statement that the absence was due to reasons listed in (1) of this Section. If an absence exceeds **3** working days, the employee shall give the Appointing Authority a physician's statement unless the Appointing Authority waives it. For shorter absences, the Appointing Authority may require the employee to supply proof the absence was consistent with (1) of this Section. Sick leave shall not be granted until approved by the Appointing Authority. An Appointing Authority shall approve sick leave unless there are facts to show that an employee abused sick leave privileges or the employee failed to supply requested evidence of illness.

(5) Sick leave shall be charged against an employee's sick leave balance based on the amount of time an employee is absent from work during the employee's assigned work schedule. Holidays, or the scheduled days off for holidays, occurring within a period of sick leave shall not be charged to sick leave.

- (6) Sick leave earned during a pay period shall be prorated according to the number of hours (excluding overtime) an employee is on the payroll [74:840-2.20(A)(1)].
- (7) Part-time employees shall accrue sick leave in an amount proportionate to that which would have accrued under full-time employment [74:840-2.20(A)(1)].
- (8) When an employee transfers from one agency to another, the Appointing Authority of the receiving agency shall give the employee credit for all unused sick leave accumulations.
- (9) Employees shall not be compensated for accumulated sick leave when they separate from state service.
- (10) If an absence because of illness or injury extends beyond the sick leave an employee has accumulated, the Appointing Authority may charge additional absence to the employee's annual leave accumulations.
- (11) Unless it is against the law, an Appointing Authority shall approve sick leave when an employee is absent due to illness or injury and receiving Oklahoma State Workers Compensation benefits.
- (12) If an employee leaves the state service on or after October 1, 1992, and is reemployed within a period of 2 years from the date of separation, the Appointing Authority may reinstate all or a part of the unused sick leave accumulated during the previous period of continuous employment with the state [74:840-2.20(A)~~(7)~~ (6)].
- (13) There is no limit on sick leave accumulations.

## **Part 5. Miscellaneous Types Of Leave**

### **530:10-15-43. Holidays**

- (a) Holidays shall be granted in accordance with state law and the Governor's proclamations as they are observed by the individual agencies in accordance with their work load and policies.
- (b) To be eligible to receive holiday pay, an employee shall be in pay status or on furlough for the entire regularly-scheduled workday either the workday before or the workday after the holiday. An employee shall not be eligible to be paid for holidays which occur either before the employee's entry on duty date or after the last day the employee works. The receiving Appointing Authority shall pay an employee who transfers from another agency for any holidays occurring after the last day worked in the sending agency. An employee who is recalled, reemployed, or reinstated shall not be paid for any holiday occurring after the last day worked while previously employed and before entry on duty.
- (c) Appointing Authorities shall pay full-time employees for holidays based on an 8-hour workday. Full-time employees who are eligible for holiday pay under (b) of this Section and who are scheduled to work either more or less than 8 hours on a holiday shall receive the equivalent of 8 hours of holiday pay or compensatory time off.
- (d) Appointing Authorities shall prorate holiday pay for part-time employees based on one of the following methods:
  - (1) Holiday pay as a percentage of normally scheduled hours worked divided by full-time hours; or
  - (2) Holiday pay equal to regular pay for hours normally worked if a holiday occurs on a normally scheduled work day.

- (e) If a full-time or part-time employee's scheduled hours worked plus holiday hours total less than the employee's normally scheduled hours during the workweek, the Appointing Authority shall account for the difference exercising one or more of the following options:
  - (1) Work additional hours during the same workweek;
  - (2) Charge to accumulated annual leave; or
  - (3) Record as leave without pay under 530:10-15-47.
- (f) If an employee's scheduled hours worked plus holiday hours are more than 40 hours in a workweek, the Fair Labor Standards Act requires that only hours actually worked be counted as hours worked in accordance with the Fair Labor Standards Act and 530:10-7-12.
- (g) For employees who are required to work in fire suppression duties on a holiday, the Appointing Authority shall pay the employee for the holiday based on an 8-hour workday times the employee's base rate of pay at the time of payment. For employees who are required to work on a holiday in duties other than fire suppression and for employees whose day off falls on a holiday, the Appointing Authority shall either:
  - (1) reschedule the employee's holiday to be taken within 180 days; or
  - (2) pay the employee for the holiday based on an 8-hour workday times the employee's base rate of pay at the time of payment.
- (h) If a holiday is rescheduled, the employee must take the rescheduled holiday after occurrence of the holiday. A rescheduled holiday may not be used to substitute for absences occurring prior to the actual holiday.
- (i) An Appointing Authority may request an extension of the 180 days for taking holiday time off up to an additional 180 days providing the Appointing Authority submits proper documentation to the ~~Office of Personnel Management~~ Human Capital Management Division justifying the extension. All extensions are subject to the approval of the ~~Office of Personnel Management~~ Human Capital Management Division.

**530:10-15-48. Involuntary leave without pay (furlough)**

- (a) **Policy.** An Appointing Authority may place classified and unclassified employees on involuntary leave without pay (furlough) for up to a total of **184** hours in any **12** month period in accordance with this Section. An Appointing Authority may only furlough employees when it is necessary to reduce expenditures or when it is required because of a temporary decline or cessation of work activities.
- (b) **Required announcement of reasons for furlough.** Before beginning a furlough, an Appointing Authority shall announce in writing the reasons that require it. The Appointing Authority shall post this announcement throughout the agency and send it to the Governor, the ~~Office of Personnel Management and the Office of State Finance~~ Office of Management and Enterprise Services. This announcement is not part of the furlough plan required in (c) of this Section, and it is not subject to the approval of the Administrator.
- (c) **Required plan for implementation of furlough.**
  - (1) Before beginning a furlough, an Appointing Authority shall develop an equitable and systematic plan for the furlough and shall submit the plan to the ~~Office of Personnel Management~~ Human Capital Management Division for review and approval. The Administrator of the ~~Administrator~~ Human Capital Management Division shall disapprove any plan that is not in substantial compliance with the Merit Rules.

(2) After approval of the plan by the Administrator of the Human Capital Management Division, the Appointing Authority shall post the approved plan throughout the agency a minimum of 2 working days before furloughing any employee.

(3) The plan shall apply uniformly to employees regardless of classified or unclassified status [74:840- 2.27C]. As far as possible, the Appointing Authority shall furlough all full-time employees, including those on paid leave, the same number of hours and shall prorate the number of hours for part-time employees. The Appointing Authority shall address the application of the furlough to employees who are on other types of leave without pay.

(d) **Non-uniform treatment of employees.** The Appointing Authority may find non-uniform treatment of employees necessary during a furlough. The Appointing Authority must certify the reasons for non-uniform treatment as described in paragraph (1) of this subsection. It is possible that more than one reason may apply in any specific furlough. Paragraph (2) of this subsection describes how the Appointing Authority may limit the effect of a furlough on specified employees. Any certifications issued by an Appointing Authority shall be included in the furlough plan.

(1) **Certification of reasons for non-uniform treatment.**

(A) If the Appointing Authority certifies that uniform treatment of all employees would cause undue hardship on lower paid employees and uniform treatment is not required to meet the reduced revenue levels which made the furlough necessary, the Appointing Authority may limit the applicability of a furlough on lower paid employees.

(B) If the Appointing Authority certifies that uniform treatment of all employees would endanger public health, safety, or property, or continued operations of critical agency functions, the Appointing Authority may limit the applicability of the furlough on specified employees, positions, jobs, or organizational units as needed to avoid the danger.

(C) If the Appointing Authority certifies that a furlough is due to a decline or loss of funding to the agency that supports specific positions, jobs, or organizational units, the Appointing Authority may limit a furlough to specific employees supported by the funding that is lost or reduced.

(D) If the Appointing Authority certifies that a furlough is due to a budgetary shortfall which results in a decline or loss of funding to the agency, the Appointing Authority may limit the furlough to employees who request to participate in a furlough and certify that they have done so without coercion, undue influence, threat or intimidation of any kind or type.

(2) **Types of non-uniform treatment.** In certifying the reasons for non-uniform treatment of employees, the Appointing Authority may use any of the following types of limits. The Appointing Authority may:

(A) exclude specified employees from the furlough,

(B) place specified employees on a lesser number of hours without pay than other employees,

(C) make the furlough of specified employees subject to early cancellation or periodic call-back, or

(D) limit the furlough to employees who have certified that they have requested to participate in a furlough without any coercion, undue influence, threat, or intimidation of any kind or type.

(e) **Required notice to employee.** ~~The Appointing Authority shall give employees who are to be furloughed individual written notice of the furlough before its starting date~~ provide a written notice to any employee of such agency who will be furloughed by the agency at least thirty (30) days prior to the first date that the furlough period is scheduled to begin. The notice shall provide information about the anticipated first date of the furlough period and an estimate of the duration of the furlough or the day or days during which the furlough will be in effect. written notice shall explain the reasons for the furlough and how the furlough will affect the employee. The notice shall also include the dates and times leave is to begin and end. A copy of this Section shall be enclosed with the written notice to the employee. If an Appointing Authority makes leave for employees subject to early cancellation or periodic call-back, the employee's notice of furlough shall describe the reasons for, and conditions of, the cancellation or call-back.

(f) **Continuation of benefits while on furlough.** While on furlough, employees who would otherwise accrue leave shall continue to accrue annual and sick leave as though the furlough had not occurred. The Appointing Authority shall schedule the furlough so the furlough does not interrupt the agency's payment of the employees' insurance premiums.

(g) **Failure to return as directed cause for discipline.** Failure on the part of an employee to return from such leave to his or her previous work status as directed in writing shall be cause for discipline.

(h) **Appeal rights.** *Furlough, as provided for by rules adopted by the Director of the Office of Management and Enterprise Services, or his or her designee, shall not be appealable under the provisions of the Oklahoma Personnel Act [74:840-2.27C].*

### **530:10-15-49. Leave and first preference due to work related illness or injury**

(a) **Purpose.** The purpose of this Section is to interpret Section 840-2.21 of Title 74 of the **Oklahoma Statutes** (Section 840-2.21). Section 840-2.21 establishes the rights and benefits of state employees who are absent from work because of an illness or injury arising out of and sustained in the course of employment with the State. These employees have a right to return to work if certain conditions are met. **In applying Section 840-2.21 and this Section, employing agencies shall return an employee to work as soon as possible, either to the original position or to an alternate position if an employee, with reasonable accommodation, is unable to return to the original position.**

(b) **Employee eligibility.** An employee shall file a claim for workers compensation benefits to be eligible [74:840-2.21].

(c) **Termination of rights.** All rights and benefits under Section 840-2.21 and this Section shall end 1 year after the start of leave without pay under this Section and shall end immediately if the claim for workers compensation is denied or otherwise concluded within the 1 year period [74:840-2.21].

(d) **Employing agency practice, policy, and procedure.** An agency's policy, procedure and practice affecting employees who file claims for workers compensation benefits shall agree with Section 840-2.21.

(e) **Required notice to employees.** Appointing Authorities shall give employees who report a job related illness or injury copies of this Section, Section 840-2.21, and the agency's policies

and procedures for complying with this Section and the law. The procedures shall include instructions about requesting leave without pay under Section 840-2.21.

(f) **Placement of employee on leave without pay.** Appointing Authorities shall refer to this Section when they place an employee on leave without pay under Section 840-2.21. The Appointing Authority shall not require employees to exhaust paid sick and annual leave accumulations before placing them on leave without pay [74:840-2.21]. The Appointing Authority shall continue paying the employee's basic plan insurance coverage and dependent insurance benefit allowance while the employee is on leave without pay, and the leave shall not be a break in service [74:840-2.21].

(g) **Medical reports.** At least every 3 months, an employee on leave without pay under this Section shall give the Appointing Authority a medical statement as to his or her ability to perform the essential duties of the original position [74:840-2.21]. The medical statement shall be made by a physician as defined in Section 14 of Title 85 of the **Oklahoma Statutes**.

(h) **Inability to perform essential duties of original position.** If an employee on leave without pay under this Section cannot perform the essential duties of the original position, the employing agency shall give the employee first preference for other classified and unclassified positions according to Section 840-2.21.

(1) Appointing Authorities shall establish a procedure for giving employees on leave without pay under this Section first preference to fill classified and unclassified positions that do not represent a promotion to the employee, if the employee is medically able to do the essential duties and has the minimum qualifications for positions the Appointing Authority seeks to fill.

(2) The Appointing Authority's procedure shall include either notifying an employee of all vacant classified and unclassified positions the Appointing Authority seeks to fill or allowing the Appointing Authority and the employee to agree on notice for specific positions or jobs. The procedure may require employees to submit medical reports stating their ability to perform the essential duties of specific positions or groups of positions. The Appointing Authority shall give a copy of the procedure to each employee on leave without pay under this Section.

(3) Appointing Authorities do not have to notify employees on leave without pay under this Section when the Appointing Authority fills a vacant position temporarily (by temporary unclassified appointment or detail to special duty).

(4) Before an Appointing Authority may give a classified or unclassified employee first preference for a classified position, the employee shall be certified by the ~~Office of Personnel Management~~ Human Capital Management Division as meeting the minimum qualifications. Neither classified nor unclassified employees shall be required to compete through the open competitive process for a classified position. The Appointing Authority shall submit the necessary paperwork to the ~~Office of Personnel Management~~ Human Capital Management Division for review.

(5) Before an Appointing Authority assigns an employee to an alternate position (a position that is not the original position), the Appointing Authority shall give the employee written notice of the requirement to return to the original position under (i) of this Section. While in an alternate position, an employee shall submit medical reports at least every 3 months and whenever the medical condition changes enough to affect his or her ability to return to the original position.

(i) **Return to original position.** An employee on leave without pay or working in an alternate position shall have the right to return to his or her original position according to this Section and Section 840-2.21. When a medical report indicates the employee is able to perform the essential duties of the original position, with or without reasonable accommodation, the Appointing Authority shall return the employee to the original position. The employee and the Appointing Authority may agree in writing to waive the requirement to return the employee to the original position from an alternate position.

(j) **Failure to return to work.**

(1) The Appointing Authority may discipline a permanent classified employee or a probationary classified employee or an unclassified employee if:

(A) a medical report states the employee is able to do the essential duties of the original position or an alternate position (for which the employee is qualified); and

(B) the employee does not return to work within 7 days after the Appointing Authority mails a notice to the employee's last known address or delivers a notice to the employee.

(2) If an employee does not return to the original position or an alternate position within 1 year after the start of leave without pay, the Appointing Authority may terminate the employee under Section 840-2.21. An Appointing Authority that uses Section 840-2.21 as authority to terminate an employee shall give the employee a copy of (k) of this Section. Termination of a permanent classified employee under this Section is subject to the pretermination hearing requirements of Section 840-6.4 of Title 74 of the **Oklahoma Statutes**.

(k) **Reinstatement upon separation.** A classified employee shall be eligible for reinstatement to either classified or unclassified employment with any state agency for 12 months after the date of separation under (j)(2) of this Section. An unclassified employee shall be eligible for reinstatement to unclassified employment with any state agency for 12 months after the date of separation under (j)(2) of this Section. This does not reduce eligibility under other general reinstatement or reemployment laws or rules, such as 530:10-9-102. [74:840-2.21]

### **530:10-15-50. Administrative leave**

An Appointing Authority may place an employee on paid administrative leave as a cooling off period to defuse a potentially violent occurrence in the work place. An employee's time on administrative leave under this Section shall not exceed 32 hours in any 12 month period. The Appointing Authority may assign work to the employee to be performed during administrative leave or may require the employee to remain available to meet with agency personnel. Administrative leave under this Section shall not be accrued or accumulated, and it shall not be charged to annual leave or sick leave. Appointing Authorities shall keep a record of the staff hours of leave granted under this Section separate from employee personnel files and report only the number of hours of paid administrative leave granted under this section to the ~~Office of Personnel Management~~ Human Capital Management Division as requested.

## **Part 7. Leave When Offices Are Closed Or Services Reduced**

**530:10-15-70. Leave when state agency services are temporarily reduced or when a state office is temporarily closed**



(a) The rules in this Part are special leave rules which may be exercised if state offices (that is, agencies or parts of agencies) are temporarily closed or services are temporarily reduced for the safety of the public or state employees. The rules in this Part are applicable to all classified and unclassified employees of the state, including those on temporary and other limited term appointments.

(b) The rules in this Part do not prevent agencies from approving leave as usual to employees who request time off in accordance with other Merit Rules governing leave, such as sick and annual leave. The rules in this Part do not apply to agencies or employees if a voluntary or involuntary leave without pay (furlough) is in effect.

(c) *Appointing authorities of affected agencies shall notify the ~~Office of Personnel Management~~ Office of Management and Enterprise Services of agency closings and reductions in services [74:840-2.20A(C)].*

**530:10-15-71. Leave when an office is temporarily closed due to unsafe working conditions or hazardous weather; or when services are temporarily reduced due to hazardous weather (paid administrative leave)**

(a) If agency offices are closed because of an imminent peril threatening the public health, safety, or welfare of state employees or the public, or when state offices are temporarily closed or reduced due to hazardous weather conditions, the Appointing Authority shall place employees who are scheduled to work in the affected work areas on paid administrative leave or, if applicable, shall assign them to work in another location. During their normal duty hours, employees on paid administrative leave due to unsafe working conditions are on stand-by or on-call status. Appointing Authorities may call employees to return to their normal duties or respond to the demands of the situation as necessary. [74:840-2.20A(A)]

(b) As used in this Section, paid administrative leave means leave granted to affected employees if offices of agencies are closed because of an imminent peril threatening the public health, safety, or welfare of state employees or the public, or when state offices are temporarily closed or reduced due to hazardous weather. Examples of reasons for temporarily closing an office due to unsafe working conditions are: leaks of toxic fumes in buildings; life threatening damage to building structures; or emergency operations which would be disrupted by the presence of the usual work force; or any other condition which poses a significant threat to the safety of the work force.

(c) Paid administrative leave shall be accorded to all affected employees only when a state office is temporarily closed or services are temporarily reduced due to hazardous weather in accordance with 530:10-15-70 and this Section. Upon its reopening, normal Merit Rules governing leave and agency procedures shall apply. The granting of administrative leave applies only to employees scheduled to work during the time period of the closure or reduced services. It does not apply to employees who are absent during the closure or reduction on any previously approved leave. Employees who are not eligible to accrue leave, such as temporary employees, shall not be granted administrative leave under this section when state services are *temporarily closed* or temporarily reduced due to hazardous weather conditions.

(d) *When the Governor or a designee of the Governor authorizes agencies or parts of agencies to maintain basic minimum services because hazardous weather conditions impede or delay the movement of employees to and from work, employees responsible for providing such basic minimum services shall report to work. Appointing Authorities of agencies shall be responsible for determining essential agency functions [basic minimum services] and ensuring that*

*employees who staff such functions are so informed.* [74:840-2.20A(B)] Employees who are considered responsible for basic minimum services and who are required to work when state services are temporarily reduced due to hazardous weather conditions shall be entitled to accrue administrative leave on a straight-time basis up to eight hours per day for hours worked in their regularly scheduled work periods during such reduction. Administrative leave accrued under this provision must be taken within 180 days of its accrual or the employee shall be paid for the leave. An extension of the time period for taking the leave may be approved for up to an additional 180 days, providing the Appointing Authority submits a written request with sufficient justification to the ~~Office of Personnel Management~~ Human Capital Management Division. Accrued administrative leave must be used before granting of any annual leave except when the employee may lose accrued leave under 530:10-15-10 and 530:10-15-11(b)(5).

(e) Employees who are responsible for basic minimum services who do not report to work have the following options to account for leave:

- (1) Charge the absence to accumulated compensatory time;
- (2) Charge the absence to accumulated annual leave;
- (3) Make up lost time in a manner consistent with the FLSA, if the Appointing Authority determines that office hours and schedules permit.

(f) An employee who leaves earlier than a designated early dismissal time, or who arrives later than a designated late arrival time, shall be charged leave for the excess time.

## **Subchapter 17. Performance Evaluation and Career Enhancement Programs**

### **Part 3. Employee Performance Management System**

#### **530:10-17-31. Employee performance management system**

(a) *The ~~Office of Personnel Management~~ Office of Management and Enterprise Services shall make available one standard performance management system that shall be used by all agencies for completing employee performance evaluations. The purpose of this employee performance management system is to evaluate the performance of each classified, unclassified and exempt employee in the executive branch of state government except those in the exempt unclassified service as specified in paragraphs 1 and 2 of subsection A of Section 840-5.5 and those employees employed by the institutions under the administrative authority of The Oklahoma State System of Higher Education [74:840-4.17(A)].*

(b) *The employee performance management system shall provide for the following:*

- (1) *An objective evaluation by the immediate supervisor of the performance of the employee within the assigned duties of the job. The evaluation shall contain the agency number, date of review, and employee identification number;*
- (2) *The identification by the immediate supervisor of accountabilities and behaviors upon which the employee will be evaluated;*
- (3) *A mid-term interview with the immediate supervisor for the purpose of discussing the progress of the employee in meeting the accountabilities and behaviors upon which the employee will be evaluated;*
- (4) *Identification of performance strengths and performance areas for development;*
- (5) *A final interview with the employee by the immediate supervisor who shall provide the employee with a copy of the performance evaluation; and*

- (6) *The opportunity for the employee to submit written comments regarding the performance evaluation.*[74:840-4.17].
- (c) Each classified employee in probationary status shall be rated at least thirty days prior to the end of the probationary period. All unclassified and permanent classified employees not otherwise exempt from this requirement shall have an evaluation period of no more than twelve months. Supervisors may perform as many additional evaluations as they deem necessary in order to effectively manage the performance of a subordinate.
- (d) The immediate supervisor shall hold a meeting in person with the employee at least three times during a **12-month** evaluation period.
- (1) One meeting shall take place at the beginning of the evaluation period in order to communicate the accountabilities and behaviors upon which the employee will be evaluated. A copy shall be provided to the employee.
  - (2) One meeting shall take place during the rating period for the purpose of discussing the progress of the employee in meeting the accountabilities upon which the employee will be evaluated.
  - (3) One meeting shall take place at the end of the review period to provide the final evaluation. A copy of the evaluation shall be provided to the employee, and the employee shall have the opportunity to provide written comments.
- (e) *The agency shall use the performance evaluations of current or former state employees in decisions regarding promotions, appointments, demotions, performance pay increases, and discharges. Reductions-in-force shall not be considered discharges* [74:840-4.17].
- (f) *The agency shall retain a copy of the performance evaluation for each employee of the agency. A copy of the performance evaluation shall be retained in the employee's personnel file* [74:840-4.17].
- (g) The basic document to be used in conducting performance evaluations is the Performance Management Process form (OPM-111), a form prescribed by the Administrator. The form contains spaces for the supervisor to describe a list of accountabilities on which the employee will be evaluated. The form also lists behaviors on which state employees will be evaluated. The form provides spaces for the supervisor to enter an overall accountability rating, an overall performance rating, and a summary/development plan. The form requires signature by the employee, the supervisor, and the reviewer.
- (h) On or before each March 31<sup>st</sup>, Appointing Authorities shall report their agency's compliance with the requirements of 74:840-4.17 to the Administrator. The report shall be conveyed on a form prescribed by the Administrator and shall include information from the most recent annual review period used by that agency.
- (i) *The ~~Office of Personnel Management~~ Office of Management and Enterprise Services shall conduct an annual random audit of state agencies to determine whether they are in compliance with this section (840-4.17). Any agency deemed to be out of compliance shall submit a written plan to the administrator detailing the efforts the agency will make to come into compliance at the earliest possible date* [74:840-4.17].

## **Part 5. State Personnel Interchange Program**

### **530:10-17-52. State personnel interchange agreements and contracts**

Employee interchanges made in accordance with the Act and the Merit Rules shall be executed by mutual agreement or contract by the sending agency, the receiving agency and the participating employee, subject to the following conditions and provisions:

(1) The agreement or contract shall be in the standard format and on the standard form provided by the ~~Office of Personnel Management~~ Human Capital Management Division. Both the personnel interchange agreement and the personnel interchange contract contain information regarding the terms and conditions of the interchange and are signed by the Appointing Authority of the sending and receiving agencies and by the participating employee. Employee interchanges shall be by agreement if the receiving agency does not reimburse the sending agency and by contract if the receiving agency reimburses the sending agency.

(2) The agreement or contract shall be signed voluntarily by the sending agency, the receiving agency, and the participating employee.

(3) The receiving agency shall submit an original agreement or contract signed by the Appointing Authorities of the sending and receiving agencies and the participating employee to the ~~Office of Personnel Management~~ Human Capital Management Division. The Administrator shall review and approve each agreement or contract before the effective date of the interchange.

## **Part 7. Carl Albert Public Internship Program**

### **530:10-17-74. Undergraduate internship program**

(a) **Eligibility.** The undergraduate internship program consists of temporary positions for students enrolled in institutions of higher education and working toward an undergraduate degree [74:840-3.4(A)(1)]. To be considered for eligibility determination, applicants shall have completed at least **24** semester hours of coursework with at least a **2.5** cumulative grade point average on a **4.0** scale. Applicants shall follow the procedures in 530:10-17-77 for eligibility determination.

(b) **Conditions of employment.** Participants in the Undergraduate Internship Program who receive internship appointments shall:

- (1) be employed in accordance with paragraph 8 of Section 840-5.5 of Title 74 of the Oklahoma Statutes, for not more than 2 semesters or 999 hours,
- (2) continue making progress toward an undergraduate degree,
- (3) maintain the grade point average set out in (a) of this Section, and
- (4) complete the training requirements described in (d)(3) of this Section.

(c) **Benefits.** Undergraduate interns shall not be eligible for paid leave, or health and retirement benefits.

(d) **Responsibilities of appointing authorities.**

(1) The Appointing Authority or designee shall ensure that the intern provides written verification to the ~~Office of Personnel Management~~ Human Capital Management Division that the intern is:

- (A) continuing to make progress toward an undergraduate degree during each semester employed, and
- (B) maintaining the grade point average set out in (a) of this Section.

(2) If this information is not transmitted to the Office of Personnel Management within **30** days after the end of the previous semester, the Administrator shall notify the Office of State Finance and the Appointing Authority of the termination of the internship agreement in accordance with Section 530:10-17-82(a).

(3) Each Appointing Authority shall provide a minimum of 4 clock hours of job-related training for undergraduate interns during the internship, in addition to the training coordinated by the Administrator, and shall provide verification to the Office of Personnel Management of the completion of the training requirements.

### **530:10-17-75. Executive Fellows program**

(a) **Eligibility.** An Executive Fellows Program consists of six-month to two-year placements in professional or managerial level positions for students [74:840-3.4(A)(3)]. No person is eligible to participate in the Executive Fellows program for more than 2 years. To be considered for eligibility determination, applicants shall have completed a baccalaureate degree and at least 6 semester hours of graduate level coursework with at least a 3.0 grade point average on a 4.0 scale [74:840-3.4(A)(3)] or a 7.0 on a 12.0 scale in all graduate level coursework. Applicants shall follow the procedures in 530:10-17-77 for eligibility determination.

(b) The Administrator may waive the completion of 6 semester hours of graduate level coursework required by subsection (a) of this section for 1 semester, if:

(1) An individual currently employed by a state agency as a Carl Albert Public Internship Program undergraduate intern provides written verification to the ~~Office of Personnel Management~~ Human Capital Management Division that he or she has:

- (A) completed an undergraduate degree, and
- (B) is enrolled in 6 semester hours of approved graduate level work; and

(2) The Appointing Authority or designee of the agency where the undergraduate intern is currently employed certifies in writing on a form provided by the Office of Personnel Management that the agency intends to employ the undergraduate intern as a Carl Albert Public Internship Program Executive Fellow immediately upon the undergraduate intern's completion of an undergraduate degree.

(c) The appointment of an Executive Fellow in accordance with subsection (b) is not effective until the Administrator approves:

- (1) the waiver of the 6 semester hours of graduate level coursework; and
- (2) an Executive Fellow agreement form prepared by the Appointing Authority in accordance with 530:10-17-77(f).

(d) At the end of the semester for which the waiver of the 6 semester hours of graduate level coursework was approved by the Administrator pursuant to subsection (b), the individual employed as a Carl Albert Public Internship Program Executive Fellow shall meet the eligibility requirements in subsection (a) of this section or be removed from the Carl Albert Public Internship Program. [74:840-3.5]

(e) **Conditions of employment.** Participants in the Executive Fellows Program who receive internship appointments shall:

- (1) be appointed in accordance with paragraph 10 of Section 840-5.5 of Title 74 of the **Oklahoma Statutes** [74:840-3.5(4)],
- (2) be granted leave benefits commensurate with regular state employees [74:840-3.5(5)],
- (3) be enrolled in the state health insurance and retirement benefits programs, if expected to work one thousand (1,000) or more hours per year,
- (4) continue to make scholastic progress toward their graduate degrees during each fall and spring semester until completion of all graduate degree requirements,
- (5) maintain the grade point average set out in (a) of this Section, and

- (6) complete the training requirements described in (f)(3) of this Section.
- (f) **Responsibilities of appointing authorities.**
- (1) The Appointing Authority or designee shall ensure that the intern provides written verification to the ~~Office of Personnel Management~~ Human Capital Management Division that the intern is:
- (A) continuing to make scholastic progress toward a graduate degree, until completion of all graduate degree requirements, and
  - (B) maintaining the grade point average set out in (a) of this Section.
- (2) If this information is not transmitted to the ~~Office of Personnel Management~~ Human Capital Management Division within **30** days after the end of the previous semester, the Administrator shall notify the Office of State Finance and the Appointing Authority of the termination of the internship agreement in accordance with Section 530:10-17-82(a).
- (3) Each Appointing Authority shall provide a minimum of **8** clock hours of job related training for Executive Fellows during each **6**-month period, in addition to the training coordinated by the Administrator, and shall provide verification to the ~~Office of Personnel Management~~ Human Capital Management Division of the completion of the training requirements.
- (4) Each Appointing Authority *shall rate the performance of participants in the Executive Fellows Program in accordance with Section 840-4.17 of Title 74 of the Oklahoma Statutes.* [74:840-3.4]

**530:10-17-76. Senior Undergraduate Program**

- (a) **Eligibility.** The Senior Undergraduate Program consists of positions for a term of up to 24 months for students who are currently enrolled in institutions of higher education and working toward a baccalaureate degree. [74:840-3.4(A)(2)]. No person is eligible to participate in the Senior Undergraduate Program for more than **2** years. To be considered for eligibility determination, applicants shall have at least **90** semester hours of undergraduate coursework with at least a **2.5** grade point average on a **4.0** scale [74:840-3.4(A)(2)]. Applicants shall follow the procedures in 530:10-17-77 for eligibility determination.
- (b) **Conditions of employment.** Participants in the Senior Undergraduate Program who receive internship appointments shall:
- (1) be appointed in accordance with paragraph 10 of Section 840-5.5 of Title 74 of the **Oklahoma Statutes** [74:840-3.5(4)],
  - (2) be granted leave benefits commensurate with regular state employees [74:840-3.5(4)],
  - (3) be enrolled in the state health insurance and retirement benefits programs, if expected to work one thousand (1,000) or more hours per year,
  - (4) continue to make scholastic progress toward their baccalaureate degrees during each fall and spring semester until completion of all undergraduate degree requirements,
  - (5) maintain the grade point average set out in (a) of this Section, and
  - (6) complete the training requirements described in (c)(3) of this Section.
- (c) **Responsibilities of appointing authorities.**
- (1) The Appointing Authority or designee shall ensure that the intern provides written verification to the ~~Office of Personnel Management~~ Human Capital Management Division that the intern is:

- (A) continuing to make scholastic progress toward a baccalaureate degree, until completion of all undergraduate degree requirements, and
  - (B) maintaining the grade point average set out in (a) of this Section.
- (2) If this information is not transmitted to the ~~Office of Personnel Management~~ Human Capital Management Division within **30** days after the end of the previous semester, the Administrator shall notify the Office of State Finance and the Appointing Authority of the termination of the internship agreement in accordance with Section 530:10-17-82(a).
- (3) Each Appointing Authority shall provide a minimum of **4** clock hours of job related training for Senior Undergraduate Interns during each **6**-month period, in addition to the training coordinated by the Administrator, and shall provide verification to the ~~Office of Personnel Management~~ Human Capital Management Division of the completion of the training requirements.
- (4) Each Appointing Authority *shall rate the performance of participants in the Senior Undergraduate Program in accordance with Section 840-4.17 of Title 74 of the Oklahoma Statutes.* [74:840-3.4]

**530:10-17-77. Application form and procedure**

(a) **Application form and applicant survey form.**

- (1) The Carl Albert Public Internship Program application is available from the Office of Personnel Management. The application form provides information about the application process and eligibility requirements. It solicits information about applicants' and their qualifications for participation in the program.
- (2) Applicants may apply at any time.
- (3) An applicant may complete a voluntary survey form which solicits information related to demographics, including race or ethnic group, and disabilities. The information shall be used for statistical purposes only.

(b) **Communication with the ~~Office of Personnel Management~~ Human Capital Management Division.** Interested persons may direct communications to the attention of the Carl Albert Public Internship Program in accordance with 530:1-1-12.

(c) **Application procedure.** Applicants for the internship program shall provide the following information to the ~~Office of Personnel Management~~ Human Capital Management Division for review and determination of eligibility:

- (1) A completed application form as prescribed by the Administrator;
- (2) Transcript(s) of coursework from accredited higher education institutions;
- (3) A letter of nomination from a faculty member of the higher education institution where they are enrolled;
- (4) A letter of recommendation from the current Appointing Authority, if the applicant is a state employee [74:840-3.4(C)];
- (5) A resume;
- (6) Three letters of recommendation from persons other than relatives or the nominating faculty member;
- (7) Verification of current enrollment.

(d) **Notification.** The Administrator shall notify applicants if the documents they submit are sufficient for eligibility. A notice of eligibility does not mean the applicant will be employed as an intern.

(e) **Length of eligibility.** Applicant information on file at the ~~Office of Personnel Management~~ Human Capital Management Division shall remain active if eligible applicants submit verification of current enrollment and an updated transcript each semester. If applicants fail to provide updated information within 90 days after the end of the previous semester, they will no longer be eligible for employment as an intern and their names will be removed from the list of eligible applicants made available to state agencies.

(f) **Appointment.**

(1) The Administrator shall provide a list of all eligible applicants for the Carl Albert Public Internship Program to state agencies periodically and at an agency's request. An agency may request an eligible applicant list and copies of individual eligible intern files at any time.

(2) An agency may provisionally appoint any eligible applicant pending the review and approval of the Administrator. The Administrator must approve a completed Carl Albert Public Internship Agreement Form described in (3) of this subsection within 30 days of the provisional appointment of the eligible applicant. A new form shall be completed if there are any substantive changes to the original agreement.

(3) The Administrator shall provide the internship agreement form to state agencies. The form solicits information about the employing agency, the Executive Fellow, Undergraduate Intern, or the Senior Undergraduate Intern, and the internship faculty member. The form provides information regarding employment, benefits, training, work schedule, duties, compensation, and projected length of internship. Before an eligible applicant enters on duty, the agreement form shall be completed and signed by:

(A) The eligible applicant;

(B) The Appointing Authority or designee of the employing agency, who shall certify that the internship appointment does not contravene any provision of the Oklahoma Personnel Act or the Merit Rules;

(C) The college or university faculty member who shall monitor the internship;  
and

(D) A representative of the Administrator.

(4) All intern appointments are made at the discretion of the Appointing Authority. Executive Fellows will count against an agency's full-time-equivalent employee limit if an agency retains them after the internship time period is completed.

(5) The signature of the faculty member shall not be required when a Carl Albert Executive Fellow who has already completed his or her degree requirements is completing a new agreement form.

(g) **State employees.** State employees may apply to participate in the Carl Albert Public Internship Program. Permanent classified and regular unclassified employees who receive internship appointments may request leave without pay from their permanent or regular employment in accordance with 530:10-15-47, **Leave of absence without pay.** Probationary employees and regular unclassified employees with less than **12** months continuous service shall resign before entry-on-duty as an intern.

**530:10-17-80. General conditions of employment**

(a) **No expectation of continued employment.**



- (1) Persons participating in the Carl Albert Public Internship Program shall be employed in the unclassified service of the state in accordance with Section 840-5.5 of Title 74 of the **Oklahoma Statutes** and Sections 530:10-17-74 and 530:10-17-75.
  - (2) An intern has no right or expectation of continued employment in any classified or unclassified position with the state because of participation in the Carl Albert Public Internship Program.
- (b) **Compensation plan for interns.**
- (1) The employing agency shall establish compensation plans that include rates of pay for Carl Albert Public Internship Program positions which are consistent with positions having like duties and responsibilities within the agency.
  - (2) The Administrator may establish job descriptions for interns in accordance with Section 530:10-5-8.
  - (3) Carl Albert interns who are not exempt from the provisions of the Fair Labor Standards Act (29 U.S.C. 201 et seq.) are subject to its overtime provisions and 530:10-7-12.
  - (4) Salary adjustments may be made in accordance with Section 840-2.17 of Title 74 of the **Oklahoma Statutes**.
- (c) **Report of work performance to educational institution.** The Appointing Authority or designee of the employing agency shall provide the internship faculty member with information necessary to evaluate the intern's work experience for academic purposes at the faculty member's request.
- (d) **Intercession by the ~~Office of Personnel Management~~ Human Capital Management Division.** The ~~Office of Personnel Management~~ Human Capital Management Division may intercede in an internship if the Office determines, at the request of the intern, the agency, or the institution of higher education at which the intern is enrolled, that an internship is not functioning [74:042-3.5(8)] in accordance with the rules in this Part, and the individual internship agreement. The intercession process may include, but is not limited to the following actions: modification of certain agreement terms, reassignment, and separation or early release from the internship.
- (e) **State employees; continuation of benefits.** State employees leaving classified or exempt positions in state government in order to take an internship shall continue to receive all fringe benefits they would have received in their previous classified or exempt positions [74:840-3.5(2)].
- (f) **Training requirements.** Each intern shall complete the training requirements prescribed by the employing agency and the Administrator.

## **Part 9. Mandatory Supervisory Training**

### **530:10-17-95. Supervisory training reporting requirements**

Employing agencies shall keep records of the training of all supervisory employees and shall submit reports of supervisory training to the ~~Office of Personnel Management~~ Human Capital Management Division at the request of the Administrator of the Human Capital Management Division.

## **Part 11. Certified Public Manager Program**

### **530:10-17-110. Purpose**

(a) The rules in this Part establish policies and procedures to implement the Certified Public Manager Program® in accordance with Section 840-1.6A(10) of Title 74 of the **Oklahoma Statutes**. The Program is administered by the ~~Administrator of the Office of Personnel Management~~ Office of Management and Enterprise Services.

(b) It is the purpose of the Certified Public Manager Program® to develop the management skills of public sector employees and to assist state agencies and other public sector organizations in the identification and development of future leaders.

### **530:10-17-111. Definitions**

In addition to words and terms defined in OAC 455:10-1-2 or 530:10-1-2, the following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise.

**"Organizations"** means municipalities, counties, Indian Nations, and the federal government.

**"Program"** means the Certified Public Manager Program® authorized by Section 840-1.6A(10) of Title 74 of the **Oklahoma Statutes**.

### **530:10-17-112. Program description**

(a) **Eligibility.** Employees of state agencies in all branches of state government who are nominated by the Appointing Authority or designee may participate in the Program. Additionally, employees of organizations, who are nominated by the chief administrative officer or designee may participate in the Program.

(b) **Nomination procedure.**

(1) The Certified Public Manager Program® nomination form and information booklet are available from the ~~Office of Personnel Management~~ Human Capital Management Division. The nomination form solicits information about the nominee and the nominating agency or organization and shall be signed by the nominee, the nominee's supervisor, and the agency's Appointing Authority or designee or the organization's chief administrative officer or designee. The information booklet provides information about the nomination process, a description of the Program, courses required to complete the Program, and the role of Higher Education in the Program.

~~(2) An agency or organization may establish its own selection procedure which is consistent with the affirmative action and equal employment opportunity goals of the State of Oklahoma.~~

(3) The agency or organization may nominate an employee for participation in the Program at any time by forwarding a completed nomination form to the Certified Public Manager Program® at the ~~Office of Personnel Management~~ Human Capital Management Division.

(c) **Enrollment in the Program.** The Administrator shall enroll an employee in the Certified Public Manager Program® who has been nominated by his or her agency or organization in accordance with the procedures described in this section.

(d) **Communication with the ~~Office of Personnel Management~~ Human Capital Management Division.** Interested persons may direct communications to the attention of the Oklahoma Certified Public Manager Program® in accordance with 530:1-1-12.

(e) **Experience credit.** Graduation from the Program as a "Certified Public Manager ® " shall substitute for ~~1~~ one (1) year of professional experience in business or public administration on any Merit System job class requiring such experience as part of the minimum qualifications.

**530:10-17-113. Program requirements for candidates**

(a) **Graduation requirements.** To graduate from the Program as a "Certified Public Manager ® ", a candidate shall complete all of the following graduation requirements within 5 years after enrollment in the program:

- (1) Attend 300 hours of management training courses. At least 200 of these hours shall be in ~~Human Resource Development~~ Training and Development courses prescribed by the ~~Administrator~~ Human Capital Management Division and specified in the information ~~booklet~~ packet described in 530:10-17-112. The remaining hours shall be in management-related elective courses;
- (2) Pass four written exams on the topics covered in the required coursework;
- (3) Complete three written project papers relating to the candidate's job and the courses taken; and
- (4) Pay the Program fees described in 530:10-17-115 in full before graduation.

(b) **Active status.**

- (1) To remain an active participant in the Program, a candidate shall continue making progress toward completion of the Program requirements described in (a) of this Section during each 12-month period. The candidate shall notify the Administrator of the existence of circumstances that may affect the candidate's ability to remain active in the Program.
- (2) If the candidate does not make progress toward completion of the Program requirements described in (a) of this Section within a 12-month period, the Administrator or designee shall notify the candidate and the candidate's supervisor in writing that the candidate shall make progress within 6 months from the date of the notification or be considered inactive.

(c) **Inactive status.**

- (1) If the candidate does not make progress toward completion of the Program requirements described in (a) of this Section within an 18-month period, the Administrator shall notify the candidate and the candidate's supervisor in writing that the candidate has been placed on inactive status. If a candidate placed on inactive status desires to return to active status, he or she shall notify the Administrator or designee in writing of his or her intent to continue to make progress toward completion of the Program requirements and shall submit a plan for completing those requirements.
- (2) If the candidate does not make progress toward completion of the Program requirements described in (a) of this Section within a 24-month period, the Administrator or designee shall place the candidate on permanent inactive status.

(d) **Return to active status.** The Administrator shall return a candidate place don permanent inactive status to active status in the Program if:

- (1) The employing agency or organization re-nominates the candidate;
- (2) A committee consisting of the Administrator or designee, an instructor, and a Certified Public Manager ® approves the candidate's plan for completion of the Program; and

- (3) The candidate repeats any required courses which have been updated or redesigned since he or she completed them.
- (e) **Removal of a candidate from the Program.** Only the nominating agency or organization may remove a candidate from the Program.

**530:10-17-114. Program requirements for nominating agency or organization**

The nominating agency or organization shall:

- (1) Provide time for the candidate, during his or her work day, to attend training courses, including the Capstone, prepare class assignments, study for examinations, and work on Program projects; ~~and~~
- (2) Allow candidates to use agency or organization issues or problems for their four job-related projects; and
- (3) Provide financial support to agency candidates, as required by the Program.

**Part 13. Personnel Professionals Training and Certification**

**530:10-17-132. Personnel professionals training requirements**

- (a) Beginning July 15, 1996, all employees assigned to professional personnel positions in the executive branch, excluding employees within The Oklahoma State System of Higher Education, shall attend a minimum of **4** days or **2.4 Continuing Education Units (CEUs)** of training in professional personnel administration conducted through the ~~Office of Personnel Management~~ Human Capital Management Division, and successfully complete an examination prescribed by the Administrator in order to attain certification as a personnel professional. Employees appointed to personnel professional positions after July 15, 1996, shall attend the training and successfully complete the examination within **6** months of appointment. [74:840-1.6A(18)]
- (b) Service as an instructor for all or part of the course may be counted toward the training requirement. Employees serving as instructors must successfully complete the prescribed examination to attain certification as a personnel professional.
- (c) Employees who have been certified as personnel professionals by the Administrator shall thereafter annually complete a minimum of **8** hours of training in professional personnel administration to maintain certification. [74:840-1.6A(18)] The Administrator may approve training that is not conducted by the ~~Office of Personnel Management~~ Human Capital Management Division as meeting the annual training requirements.
- (d) The Appointing Authority of each agency with an employee assigned to a professional personnel position shall ensure the employee is notified and scheduled to attend required personnel professionals training and shall make time available for the employee to complete the training. [74:840-1.6A(18)]

**530:10-17-134. Course approval of annual training requirements**

- (a) To request approval of training not conducted by the ~~Office of Personnel Management~~ Human Capital Management Division as meeting the annual training requirements, the Appointing Authority shall submit the following course information to the Administrator for review:
  - (1) Course title and a brief description;
  - (2) Classroom hours or Continuing Education Units (CEUs); and
  - (3) Course outline.

- (b) The Administrator shall maintain lists of courses approved as meeting the annual training requirements, and may withdraw his or her approval of courses by notifying employing agencies.
- (c) Certified Personnel Professionals who complete approved training courses shall submit proof of completion that is acceptable to the Administrator.

**530:10-17-136. Application for waiver of training requirements**

(a) The Administrator may waive the personnel professional training requirements for employees:

(1) Whose primary assigned duties are in the areas of benefits, payroll, training, affirmative action/equal employment opportunity, retirement, safety, workers compensation, or employee assistance programs; and,

(2) Whose primary assigned duties do not include classification, compensation, recruitment, or selection.

(b) Employees who are eligible for a waiver according to Subsection (a) of this Section, may apply by submitting a written request signed by the Appointing Authority, along with a position description, job family descriptor, or a description of the employee's primary assigned duties, to the ~~Office of Personnel Management~~ Human Capital Management Division.

(c) The Administrator shall be responsible for granting or denying waivers under this Section. The decision of the Administrator to grant or deny such a waiver shall be final.

**Part 17. State Work Incentive Program**

**530:10-17-173. Eligibility and length of appointment**

To be eligible for hire under the State Work Incentive Program, a person must be certified as a participant in the Temporary Assistance to Needy Families Program by a State Work Incentive Referral Form issued by the State of Oklahoma Department of Human Services, or be certified as an eligible individual by a State Work Incentive Program Certificate issued by the Department of Rehabilitation Services. A copy of the required certification will be provided to the ~~Office of Personnel Management~~ Human Capital Management Division Management at the time of appointment. Agencies may employ eligible persons in the State Work Incentive Program for up to 2 years in full-time or part-time unclassified status.

**Subchapter 21. Employee Assistance Program**

**Part 1. General Provisions**

**530:10-21-2. Definitions**

In addition to terms defined in 530:10-1-2, the following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"**Care-giving resources**" means qualified professionals in the public- and private-sectors which offer corrective help with medical, mental health, emotional marital, familial, financial, or other personal problems.

"**EAP**" means the State Employee Assistance Program within the ~~Office of Personnel Management~~ Human Capital Management Division, and employee assistance programs established by individual state agencies.

**"EAP professional"** means an individual who provides assessment, referral, consultation, and problem resolution assistance through the EAP to employees and family members seeking corrective help with medical or mental health problems, including alcohol or drug abuse and emotional, marital, familial, financial or other personal problems.

**"EAP services"** means assessment and referral assistance with medical and mental health problems, including alcohol or drug abuse and emotional, marital, familial, financial or other personal problems.

**"EAP staff"** means an individual who provides administrative support to an EAP professional.

**"Employee"** means any employee of the executive, legislative, and judicial branches of state government.

**"Family members"** means members of an employee's immediate family, including spouse, children, parents, grandparents, siblings, and others whose involvement is necessary to resolve the personal problem(s) adversely affecting the employee's job performance.

**"Participant"** means an employee or family member who is referred to or who consults with the EAP.

**"Referral"** means an Appointing Authority, supervisor, or other authorized personnel informing an employee of the services and policies of the EAP.

**"Threat of violence"** means a written, verbal, electronic, or behavioral message that, either explicitly or implicitly, communicates the intent to inflict, or cause to be inflicted, physical harm to persons or property.

**"Violence"** means physical harm or attempted physical harm to persons or property.

## **Part 2. State Employee Debriefing And Counseling Services**

### **530:10-21-10. Purpose and scope**

(a) The purpose of the rules in this part is to implement the provisions of Section 840-2.10a of the Oklahoma Personnel Act which pertains to debriefing and counseling services provided to employees who are affected by violent or traumatic events that occur in the workplace of the following agencies:

- (1) The Department of Human Services;
- (2) The Department of Mental Health and Substance Abuse;
- (3) The Department of Corrections;
- (4) The Department of Transportation; and
- (5) The Office of Juvenile Affairs.

(b) The agencies identified in (a) shall provide or contract to provide debriefing and counseling services to its employees who are affected by violent or traumatic events that occur in the workplace.

(c) At the discretion of the Appointing Authority, an agency may provide counseling services to household/family members of the affected employee.

### **530:10-21-11. Definitions**

In addition to the terms defined in 530:10-1-2, the following words and terms, when used in Part 2 of this Subchapter, shall have the following meaning unless the context clearly indicates otherwise.

"Line of Duty Deaths" means death of an employee during the course of performing their duties and responsibilities while employed with an agency identified in 530:10-21-10.

"Violent or Traumatic Event" means, including but not limited to, physical assault or threat of assault of a serious nature; sexual assault, hostage incident, incident causing serious injury/death to a person; suicide/suicide attempt of an employee; accident resulting in serious injury or death of an employee; line of duty deaths; significant events involving children; disasters.

**530:10-21-12. Employee participation**

The participation in debriefing and counseling services shall be on a voluntary basis, except where participation is required by other state or federal law or at the discretion of the Appointing Authority due to a public health, safety and environment concern.