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## MEMORANDUM

HCM 17-05

Date: August 31, 2017

To: All Appointing Authorities

From: Dana Webb, HCM Administrator

Re: Permanent Amendments to the Merit Rules

The 2017 permanent amendments to the Merit Rules will be effective September 1, 2017. A summary of the amendments is as follows:

1. **260:25-5-51. Classification Disputes**
  - a. Removes unnecessary references to various form numbers
  - b. Grammatical error correction
2. **260:25-5-56. Conduct of position audits**
  - a. Removes unnecessary references to various form numbers
3. **260:25-7-6. Sign-on pay incentive**
  - a. Changes "and" to "or" between (a)(2) and (a)(3)
4. **260:25-7-13. Adjustments in rates of pay when pay bands are changed**
  - a. Grammatical error correction
5. **260:25-7-14. Rate of pay upon reclassification, promotion, career progression, demotion and transfer**
  - a. If an approved Salary Administration Plan is in effect an appointing authority may increase the base rate of pay for the job to which the employee is demoted into which is consistent with the hiring range established for the job, salaries paid to other individuals performing similar work, or other relevant factors.
6. **260:25-9-102. Reinstatement to the classified service**
  - a. Allows agencies adjust the probationary period due to an extended absence as provided in 260:25-11-36(b)

- 7. 260:25-11-36. Leave of absence for probationary employees; Adjustment of probationary period**
  - a. Changes the word “extended” to “adjusted”.
- 8. 260:25-11-51. Promotional posting**
  - a. Grammatical error correction.
- 9. 260:25-11-53. Promotional posting for continuous multiple vacancies**
  - a. Grammatical error correction.
- 10. 260:25-11-55. Trial period and probationary period for promoted employees**
  - a. Grammatical error correction.
  - b. Changes the word “extended” to “adjusted”
- 11. 260:25-11-71. Intra-agency transfer**
  - a. Allows the trial period upon intra-agency lateral transfers to be adjusted pursuant to 260:25-11-55(c).
- 12. 260:25-11-110. Detail to special duty**
  - a. Changes ‘6 month’ to ‘6 months’
- 13. 260:25-15-45. Family and medical leave**
  - a. Realigns the language of the FMLA rules with language contained in Title 74 O.S. 840-2.22 so that there is no question of the FMLA rules conflicting with said statute.
- 14. 260:25-17-74. Undergraduate internship program**
  - a. Clarifies that 999 hours is per year.
- 15. 260:25-17-140 through 260:25-14-146. Workforce Education Program**
  - a. Establishes the rules for the “Workforce Education Program” pursuant to Title 74 O.S. 840-3.1A.
  - b. These new rules establish employee eligibility, qualifications and procedures, benefits allowed under the Program, conditions for receipt of said benefits, standards, and eligibility requirements for educational institutions with which agencies may contract.
- 16. 260:25-25-2. Definitions**
  - a. Changes “Automatic Deposit Transmittal” to “Direct Deposit Authorization form”
  - b. Adds “EFT” to the “Electronic funds transfer” definition
- 17. 260:25-25-6. Responsibility of employers**
  - a. Removes outdated language regarding a date requirement>
  - b. Changes “advice of deposit” to “earning statements”.
  - c. Changes “Automatic Deposit Transmittal form” to “Direct Deposit Authorization form”



## **18. 260:25-25-14. Forms and Instructions**

- a. Changes “Automatic Deposit Transmittal form” to “Direct Deposit Authorization form”

## **19. 260:25-25-16. Procedures for direct deposit enrollment and changes**

- a. Removes language noting that an instruction manual may be obtained from HCM, as the instructions for the direct deposit program are already printed on the back of the Direct Deposit Form.

Below are the final promulgated permanent amendments to the Merit Rules. Please note that you can find a complete copy of the updated merit rules by clicking on the following link:

<https://www.ok.gov/opm/documents/MeritRulesTitle260.pdf>

If there are questions or if additional information is needed, please feel free to directly contact your agency’s HCM Classification/Compensation liaison, or by calling (405) 521-2177.

## **SUBCHAPTER 5. POSITION ALLOCATION AND EMPLOYEE CLASSIFICATION SYSTEM**

### **PART 5. AUDIT OF POSITIONS**

#### **260:25-5-51. 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 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 Human Capital Management Division. If the resolution decision by the Appointing Authority is to advise the employee to complete an Human Capital Management Division Classification Dispute Review Request form ~~(HCM-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 260:25-1-30, 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 260:25-5-34.



(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 Human Capital Management Division requesting that a position audit be completed. The 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 Human Capital Management Division, 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 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 Human Capital Management Division. Within 14 calendar days of receipt, the 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 a Human Capital Management Division 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.

#### **260:25-5-56. Conduct of position audits**

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

(b) The 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 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 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 Human Capital Management Division 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 (~~HCM-39~~), Classification Dispute Review Request (~~HCM-70~~), Supplemental Position Description Questionnaire (~~HCM-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.

## SUBCHAPTER 7. SALARY AND PAYROLL

### PART 1. SALARY AND RATE OF PAY

#### **260:25-7-6. 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~~ or
- (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 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.



### **260:25-7-13. Adjustments in rates of pay when pay bands are changed**

When a pay band is changed for a job family level, all employees in that classification, including persons whose base rate of pay exceeds the maximum of the old pay band, shall receive an adjustment to the new pay band. No person's base salary may be reduced as a result of such a change. All employees of an agency in that job shall be given uniform treatment using one of the following methods: providing adjustment to the minimum of the new pay band; providing a percent increase given to each employee, which shall not exceed the percent of difference between the minimum of the old pay band and the minimum of the new pay band; or any other uniform method of adjustment approved by the Administrator. At the discretion of the Appointing Authority, no change in employee base salary need occur provided that all affected salaries fall within the new pay band. OAC 260:25-7-10 does not apply to adjustments made in accordance with this Section.

### **260:25-7-14. Rate of pay upon reclassification, promotion, career progression, demotion and transfer**

(a) **Rate of pay when incumbent is reclassified directly.** When an employee is reclassified directly under 260:25-5-90, the base rate of pay shall be fixed in accordance with 260:25-7-13.

(b) **Rate of pay upon promotion or career progression.**

(1) An Appointing Authority shall adopt objective written criteria for the amount of salary advancements on promotion or career progression. These criteria shall be a part of the agency salary administration plan established under 260:25-7-1.1 and shall be consistent with state and federal statutes prohibiting discrimination.

(2) The Appointing Authority shall set an employee's base salary on promotion or career progression at no less than 5% and no more than the maximum of the assigned pay band.

(3) The Appointing Authority shall not lower the base salary of an employee on promotion or career progression. If the employee's base salary before promotion or career progression exceeds the maximum of the new pay band, the employee's base salary shall remain the same.

(c) **Rate of pay when demoted.** The base rate of pay of an employee who is demoted shall be set by the Appointing Authority at any rate of pay within the pay band for the job to which demoted, which does not exceed that employee's last base rate of pay; however, in the event an approved Salary Administration Plan is in effect, the Appointing Authority may increase the base rate of pay for the job to which the employee is demoted into which is consistent with the hiring range established for the job, salaries paid to other individuals performing similar work, or other relevant factors. An Appointing Authority may delay setting the base rate of pay upon demotion for up to **1** year when the demotion is due to an agency reorganization. For the purposes of this subsection, "agency reorganization" means the reclassification of employees in lieu of reduction-in-force.

(d) **Rate of pay upon intra-agency lateral transfer.** An Appointing Authority may provide up to a 5% increase in base rate of pay, not to exceed the maximum rate of pay for the pay band, for an employee upon intra-agency lateral transfer to a position in the same job family and level or another job family and level with the same pay band assignment, based on the needs of the agency. [74:840-2.17]

(e) **Rate of pay upon interagency lateral transfer.** An Appointing Authority may set the base rate of pay for an employee on an interagency lateral transfer at any rate of pay within the pay band for the job to which the person is transferred which is consistent with the hiring range established for the job, salaries paid to other individuals performing similar work, or other relevant factors.



## SUBCHAPTER 9. RECRUITMENT AND SELECTION

### PART 9. CLASSIFIED APPOINTMENTS

#### **260:25-9-102. Reinstatement to the classified service**

- (a) A permanent employee who leaves the classified service is eligible for reinstatement.
- (b) If an Appointing Authority elects to appoint a person who is eligible for reinstatement, the person shall be certified according to 260:25-9-10. A test may be required under 260:25-9-35 before his or her reinstatement.
- (c) 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, but may adjust the probationary period due to an extended absence as provided for in 260:25-11-36(b). If the Appointing Authority requires a probationary period, the Appointing Authority shall notify the reinstated employee and the 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.

## SUBCHAPTER 11. EMPLOYEE ACTIONS

### PART 3. PROBATIONARY EMPLOYEES

#### **260:25-11-36. Leave of absence for probationary employees; Adjustment of probationary period**

- (a) Upon written request, a probationary employee may be granted leave of absence without pay from the agency in accordance with 260:25-15-47, Leave of absence without pay, or 260:25-15-49, Leave because of absence due to job related illness or injury.
- (b) If a probationary employee is absent from work in excess of 30 continuous calendar days, the probationary period shall be adjusted by the number of calendar days the probationary employee was absent. The employee shall be notified at the earliest date that the probationary period is to be ~~extended~~ adjusted. Upon the employee's return to work, notification of such adjustment shall be provided to the employee and the Human Capital Management Division and shall include the adjusted date of the final working day of the probationary period.

### PART 5. PROMOTIONS

#### **260:25-11-51. 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 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. Promotional posting is not required for career progression or for reallocation of occupied~~7~~ 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]

### **260:25-11-53. Promotional posting for continuous multiple vacancies**

The appointing authority may elect to post general promotional opportunities ~~---~~ in cases where there are usually continuous multiple vacant positions within a given job family; provided the appointing authority maintains a promotional applicant list for each job family which is posted on the basis of general promotional opportunities. In such cases, the posting must include the length of time and conditions under which the promotional application of the candidate will remain available for active consideration by the appointing authority [74:840-4.15] as well as the information required by 260:25-11-51.

### **260:25-11-55. 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 Human Capital Management Division. ~~The~~ The 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 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 Human Capital Management Division. The promotion shall automatically become permanent at the end of the final working day of the trial period.

(c) If an employee on a trial period is absent from work in excess of 30 continuous calendar days the trial period shall be adjusted by the number of calendar days the employee was absent. The employee shall be notified at the earliest date that the trial period is to be ~~extended~~ adjusted. Upon the employee's return to work notification of such adjustment shall be provided to the employee and the Human Capital Management Division and shall include the adjusted date of the final working day of the trial period.

(d) **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

### 260:25-11-71. Intra-agency transfer

(a) The intra-agency transfer of a permanent employee from one position to another position in the same job family or another job in the same pay band, for which the employee has currently qualified, may be made at any time by the Appointing Authority.

(b) Upon intra-agency lateral transfer, an employee shall serve a six-month trial period in the job level to which the employee is transferred, unless the trial period is waived in writing by the Appointing Authority. [74:840-4.12] The trial period may be adjusted pursuant to 260:25-11-55(c). If an employee does not prove to be satisfactory in the new job during the trial period, the employee may be reinstated to the former position or another in the same job family level, at the salary the employee would have received if the transfer had not taken place. The employee shall be informed in writing of any action taken pursuant to this provision.

(c) A state agency shall have sole and final authority to designate the place or places where its employees shall perform their duties. The Oklahoma Merit Protection Commission shall not have jurisdiction to entertain an appeal of an employee from action of the employing agency transferring the employee from one county or locality to another, changing the assigned duties of the employee, or relieving the employee from performance of duty at a particular place and reassigning to the employee duties to be performed at another place, unless:

- (1) the action results in a change in job classification or reduction of base salary; or
- (2) an investigation by the Commission indicates that a violation of the provisions of Section 840-2.5 or 840-2.9 of . . . [the Oklahoma Personnel Act] may have occurred; or



(3) it is established that the action was clearly taken for disciplinary reasons and to deny the employee the right of appeal. [74:840-4.19]

## **PART 11. OTHER TRANSACTIONS**

### **260:25-11-110. Detail to special duty**

(a) When the services of a permanent classified employee are temporarily needed in a job family or level other than the one to which the incumbent is regularly assigned the employee may be detailed to special duty, at the discretion of the Appointing Authority, to perform the duties of the job to which temporarily assigned.

(b) A detail to special duty in no way shall affect the status, title or job family held before the detail.

(c) An employee shall not be placed on detail to special duty more than 12 months in any 36 month period.

(d) Pay upon detail to special duty is covered in 260:25-7-17.

(e) Detail to special duty is not required when an employee is temporarily assigned duties of another job for a period of less than 60 days in any 12-month period, or when an employee is temporarily performing such duties as part of a return to work program as a result of a work-related illness or injury, regardless of whether that period exceeds 60 days in any 12-month period. Such temporary placement shall not exceed ~~6 month~~ 6 months.

## **SUBCHAPTER 15. TIME AND LEAVE**

### **PART 5. MISCELLANEOUS TYPES OF LEAVE**

#### **260:25-15-45. Family and medical leave**

(a) The federal Family and Medical Leave Act of 1993 entitles eligible employees to family and medical leave. This section is not a comprehensive listing of the provisions of the federal Family and Medical Leave Act of 1993 (29 U.S.C, 2601 et seq.) and regulations promulgated thereunder, and is not intended to conflict with either the Act or the regulations. To be eligible, an employee shall have been employed by the state at least 12 months and have worked at least 1,250 hours during the preceding 12-month period.

(b) An eligible employee is entitled to family and medical leave for up to a total of 12 weeks during any 12-month period, for the following reasons:

(1) the birth of the employee's son or daughter, and to care for the newborn child;

(2) the placement with the employee of a son or daughter for adoption or foster care;

(3) to care for the employee's spouse, son, daughter, or parent with a serious health condition. As used in this subsection, "son" or "daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability;

(4) a serious health condition that makes the employee unable to perform the functions of the employee's job; or

(5) any qualifying exigency (as defined by U.S. Department of Labor Regulations) arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty or has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation.



(c) An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member shall be entitled to a total of 26 weeks of leave during a 12-month period to care for the service member. The leave described in this paragraph shall only be available during a single 12-month period. During the single 12-month period described in this paragraph, an eligible employee shall be entitled to combined total of 26 weeks of leave under paragraph (b) and (c). Nothing in this paragraph shall be construed to limit the availability of leave under paragraph (b) during any other 12-month period.

(d) An Appointing Authority may require that an employee's request for family and medical leave to care for the employee's seriously-ill spouse, son, daughter, or parent, or due to the employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of the employee's position, be supported by a certification issued by the health care provider of the employee or the employee's ill family member. An Appointing Authority may require a certification issued by the health care provider of a covered service member being cared for by an employee.

(e) The entitlement to family and medical leave resulting from (b)(1) and (b)(2) of this Section expires at the end of the 12-month period beginning on the date of the birth or placement.

(f) When family and medical leave is taken to care for a sick family member as defined in (b)(3) of this Section, a covered service member as referenced in (c) of this Section, or for an employee's own serious health condition, leave may be taken intermittently or on a reduced leave schedule when it is medically necessary. When family and medical leave is taken for a qualifying exigency as referenced in (b)(5) of this Section, leave may be taken intermittently or on a reduced leave schedule. An Appointing Authority may adopt a policy allowing family and medical leave to be taken intermittently to care for a newborn child or newly placed adopted or foster child.

(g) Whenever it is possible, an employee shall schedule family and medical leave to accommodate the operations of the employee's agency. An employee shall give the Appointing Authority notice and a leave request at least 30 days before leave is to begin if the need for family and medical leave is expected. In any case in which the necessity for leave under (b)(5) of this Section is foreseeable, the employee shall provide such notice to the employer as is reasonable and practicable. When the need for family and medical leave is unexpected, an employee shall give the Appointing Authority notice and a leave request as soon as possible. The notice and request shall:

- (1) be in writing;
- (2) describe the reason for the family and medical leave;
- (3) specify the type of leave the employee is requesting to account for the time off; and
- (4) include any information or documentation required for the type of leave requested.

(h) The Appointing Authority has the responsibility to review requests for sick leave and leave without pay for designation as family and medical leave. The Appointing Authority has the right to designate leave taken for an FMLA-qualifying event as FMLA leave, regardless of whether the employee has requested FMLA leave. The Appointing Authority's designation decision shall be based only on information provided by the employee or the employee's spokesperson. In accordance with the federal Family and Medical Leave Act, the Appointing Authority shall not designate leave as family and medical leave retroactively, unless the Appointing Authority does not have sufficient information concerning the employee's reason for taking the leave until after the leave period has begun.

(i) Family and medical leave is not a separate type of leave, and it is not accrued or accumulated. An Appointing Authority ~~shall give~~ ~~may require~~ employees to use all available the following options ~~paid~~



leave prior to recording the absence as leave without pay in accordance with ~~260:25-15-47~~ to account for time lost because of leave under the federal Family and Medical Leave Act of 1993.

- (1) Charge to accumulated annual leave [74:840-2.22];
- (2) Charge to accumulated sick leave [74:840-2.22];
- (3) Charge to leave donated by other state employees under Section 840-2.23 of Title 74 of the Oklahoma Statutes, which is also known as "shared leave";
- (4) Charge to accumulated compensatory time.; or
- (5) Record as leave without pay in accordance with 260:25-15-47.

(j) The agency shall continue paying the employee's insurance coverage while the employee is on family and medical leave.

(k) Upon return from family and medical leave, an employee shall have the right to be restored to the same or equivalent position and benefits, except for extension of his or her anniversary date for longevity pay, leave accrual, and calculation of retention points, he or she would have had if the employee had been continuously employed in pay status during the leave period.

(l) An employee shall not be required to take more leave than necessary to resolve the circumstance that precipitated the need for leave.

## **SUBCHAPTER 17. PERFORMANCE EVALUATION AND CAREER ENHANCEMENT PROGRAMS**

### **PART 7. CARL ALBERT PUBLIC INTERNSHIP PROGRAM**

#### **260:25-17-74. 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 which shall include associate's degrees or certifications by the Oklahoma Department of Career and Technology Education; [74:840-3.4(A)(1)]. To be considered for eligibility determination, applicants shall have at least a 2.5 cumulative grade point average on a 4.0 scale. Applicants shall follow the procedures in 260:25-17-77 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 per year,
- (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 verification to the 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 Human Capital Management Division within 30 days after the end of the previous semester, the Administrator shall notify and the Appointing Authority of the termination of the internship agreement in accordance with Section 260:25-17-82(a).

(3) Each Appointing Authority shall provide a minimum of 4 clock hours of job-related training for undergraduate interns during the internship.

## **PART 15. WORKFORCE EDUCATION PROGRAM**

### **260:25-17-140. Purpose**

The rules in this part implement Section 840-3.1A of Title 74, which authorizes agencies in the executive branch of state government to establish education and training programs for positions critical to the missions of those agencies. The rules in this Part apply to both Merit System and non-Merit System agencies, and to both classified and unclassified executive branch state employees.

### **260:25-17-141. Eligibility**

An executive branch State employee shall be eligible for the Workforce Education Program if the employee meets the following eligibility criteria:

(1) Must be a current, full-time state employee with at least 12 months continuous employment with the agency;

(2) If the employee has received a performance evaluation, he or she must have achieved an overall rating of "meets" or "exceeds" standards on his or her most recent performance evaluation; however, if the employee has not received an employee evaluation the employee may become eligible with a letter of recommendation from their current supervisor;

(3) Meets the standards of the program as defined within this section;

(4) Have no pending or formal disciplinary actions in his or her permanent personnel file within the last year from date of application to the program; and

(5) Have been accepted to an educational or certification program that directly benefits the agency, its mission, or directives set forth by the agency.

### **260:25-17-142. Qualification and application procedures**

Applicants qualifying under the Act shall provide the following information to their respective state agency for review and determination of eligibility:

(1) A completed application form as prescribed by their respective agency;

(2) The application must be received and approved prior to the start of the program; and

(3) The employee must provide documentation from the educational or certifying institution for the course(s) or program in which the employee is enrolled.

### **260:25-17-143. Benefits**

(a) Funds of the agency may be used to pay salaries, tuition, subsistence and fees for qualified employees accepted in the program.

(b) Employees may be in a work status while attending these training and education programs.



### **260:25-17-144. Conditions for receipt of benefits**

(a) The employee receiving benefits under this Subchapter shall execute a promissory note with their respective agency (who completes the promissory note and tracks it) to repay the amount of tuition and/or fees paid by said agency.

(b) If the employee participated in the education and training program during working hours, the cost of any compensation paid to the employee while attending the course will be included in the total amount of the promissory note.

(c) The amount of the promissory note with the agency shall be reduced at a rate of \$13.00 per calendar day beginning the first day following completion or graduation from the education or training program.

(d) Should the employee leave the agency for any reason, except for employees who have volunteered or have been drafted into active military service, the obligation to the agency becomes due and payable immediately.

(e) Any violation of the terms of the promissory note shall give rise to a cause of action and suit may be commenced by the agency for and on behalf of the State of Oklahoma for restitution of any and all sums plus interest at the statutory rate, costs, and reasonable attorney fees.

### **260:25-17-145. Standards**

The agency shall verify the employee:

(1) Makes satisfactory progress towards the program completion; and

(2) Completes the program successfully as defined by the institution providing the education or training.

### **260:25-17-146. Eligible Institutions**

(a) The agency will only contract with institutions located in Oklahoma that are accredited by a national accrediting agency recognized by the U.S. Department of Education.

(b) The agency may pay licensure and certification fees, regardless of the licensing or certifying entities location, for those employees whose current or future positions with the agency require such a license or certification.

## **SUBCHAPTER 25. OKLAHOMA STATE EMPLOYEES' DIRECT DEPOSIT RULES**

### **PART 1. GENERAL PROVISIONS**

The following words and terms, when used in his Chapter, shall have the following meaning unless the context clearly indicates otherwise:

**"Act"** means the Oklahoma State Employees' Direct Deposit Act, Section 292.10 et seq. of Title 74 of the Oklahoma Statutes.

**"Administrator"** means the Administrator of the Human Capital Management Division of the Office of Management and Enterprise Services.

**"~~Automatic Deposit Transmittal~~ Direct Deposit Authorization form"** means a form voluntarily completed by a state employee to provide enrollment or termination information for the direct deposit system and to authorize the use of electronic funds transfer for payroll warrants.





**"Banking day"** means a *day on which a bank is open to the public for carrying on substantially all of its banking functions* [12A:4-104].

**"Day"** means a calendar day.

**"Direct deposit system"** shall mean a *method of electronically transferring a payroll [warrant] for an eligible employee whereby the employee agrees to an electronic transfer of any payroll [warrant] to a financial institution* [74:292.11(1)].

**"Electronic funds transfer" and "EFT"** means transferring an employee's net pay directly into the employee's financial institution account electronically rather than issuing pay warrants.

**"Employee"** means any person in the classified, unclassified or exempt service of any employer [74:292.11(2)].

**"Employer"** means any *state agency, board, commission, department, institution, authority, officer, bureau, council, office, the Oklahoma State Regents for Higher Education or any institution under the authority of the State Regents for Higher Education, or other entity created by the Oklahoma Constitution. "Employer" shall not include any school district or political subdivision of this state* [74:292.11(3)].

**"Participant"** means a person who is participating in the direct deposit system.

### **260:25-25-6. Responsibility of employers**

(a) All employers shall ~~begin offering~~ direct deposit to any eligible employees ~~not later than January 1, 1992~~ [74:292.12(C)].

(b) All employers shall distribute and make available to employees information about the direct deposit system and ~~automatic deposit transmittal~~ direct deposit authorization forms.

(c) Employers receiving individual ~~"advice of deposit"~~ earnings statements ~~forms and pay stubs~~ showing a record of earnings shall provide them to employees in the direct deposit system instead of payroll warrants.

(d) Employers that do not use the ~~OSF OMES~~ payroll accounting system shall provide a direct deposit service for their employees. The service shall agree with the Act and this Subchapter. It shall include the use of an ~~automatic deposit transmittal~~ direct deposit authorization form like the form described in Section 260:25-~~125~~-14 and approved by HCM. The rules in this Chapter do not require revision of any direct deposit authorization form in effect before January 1, 1992, that substantially agrees with 260:25-~~125~~-14.

### **260:25-25-14. Forms and Instructions**

(a) The ~~automatic deposit transmittal~~ direct deposit authorization shall be used by the employee to authorize:

- (1) deposit of his or her payroll warrant in a specified checking or savings account in the financial institution of his or her choice through electronic funds transfer;
- (2) the specified financial institution to make a credit entry to the specified account;
- (3) the state of Oklahoma to direct the financial institution to return any moneys that are deposited in the employee's account to which the employee is not entitled;
- (4) changes in his or her enrollment information;
- (5) termination of the direct deposit of his or her payroll warrant; and

(b) The ~~automatic deposit transmittal~~ direct deposit authorization form contains spaces for the employee to:

- (1) provide personal data to facilitate his or her personal banking needs;





(2) sign and date the agreement.

**260:25-25-16. Procedures for direct deposit enrollment and changes**

(a) Procedures for employees under the Office of Management and Enterprise Services payroll accounting system. To authorize direct deposit, employees under the Office of Management and Enterprise Services payroll accounting system, or its successor, shall file a properly completed automatic deposit transmittal form. An employee shall file this form 30 days before the desired effective date of the first electronic funds transfer, change or termination. The employee shall attach the form to an official document from the financial institution. (For example, an employee may attach a blank check with the word "VOID" printed across it.) The official document shall show the financial institution's FedACH routing number and employee's deposit account number.

(b) Procedures for employees not under the Office of Management and Enterprise Services payroll accounting system. Employees of agencies not under the Office of Management and Enterprise Services payroll accounting system shall complete and submit automatic deposit transmittal forms according to the instructions of their employers.

~~(c) An instruction manual may be obtained from the Human Capital Management Division.~~

