

STATE OF OKLAHOMA



MERIT PROTECTION COMMISSION

Preserving the integrity of the Oklahoma Merit System



Effective July 1, 2008 (presented May 2008)

Electronic Filing Guidelines

*Policy in accordance with Merit Rule 455:10-3-2(c)
for the implementation and use of the
Oklahoma Merit Protection Commission's
Online Filing System*



Cite as *OMPC Electronic Filing Guidelines* (July 1, 2008)

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I. Introduction

A. Welcome

(1) Welcome to the Merit Protection Commission's (Commission) Online Filing System (system). The system is designed as a secure, paperless tool for transactions in the Commission's processes, which include Petitions for Appeal, Requests for Mediation, and Open Records Requests, as designated in Title 455 of the Oklahoma Administrative Code and in Title 74, Section 840-1.1 through 840-6.9, the Oklahoma Personnel Act.

B. Purpose, scope, and benefits

(1) The Commission designs and implements a dispute resolution system comprised of training, consultation, investigation, negotiation, mediation, and adjudication to protect the integrity of the state personnel system. The Commission serves the State of Oklahoma Executive Branch by providing quasi-judicial programs in accordance with the Administrative Procedures Act and Oklahoma Personnel Act to protect employees' constitutional and statutory due process rights and to shield the state's executive branch from costly litigation in state court and federal jurisdictions. The Commission's programs serve the people of Oklahoma by promoting effective personnel management and ensuring legal practices are followed in state government to avoid mismanagement that can result in waste, fraud, and litigation. As such, the state benefits from cost-saving measures while still providing constitutional due process rights to employees and also providing a mechanism for less adversarial reconciliation.

(2) The system is designed to enhance the operation by increasing availability, reliability, transparency, and efficiency of its services and programs.

(3) The system was designed in consultation with representative groups of all associated user groups, including Commissioners, staff, administrative law judges, employees, agency representatives, and Petitioner representatives. The *Guidebook for Electronic Court Filing* developed by the National Center for State Courts aided the design of the system and associated policies. The United States Western District Court *ECF Policies and Procedures Manual (May 30, 2006)* provided a model in the design of the system and associated policies. Other systems and some proprietary solutions were reviewed.

C. Guidelines as policy

(1) Merit Rule 455:10-3-2(c) provides that the Executive Director is authorized to establish Electronic Filing Guidelines (guidelines) for the online filing of documents. The guidelines herein govern electronic filing procedures for the Commission. The policies established herein are not intended to conflict with any existing policy, Merit Rule, or statute governing the Commission's proceedings. The guidelines allow presiding officials judicious discretion to supersede any provision that may jeopardize the legality, integrity, or ethical standards of any proceeding due to any particular circumstance arising out of compliance with these guidelines.

(2) The Commission may amend the guidelines at any time without prior notice. Modifications and amendments will be posted on the Commission's website at www.mpc.ok.gov.

(3) All questions regarding these guidelines, the system, and all Commission processes should be directed to Commission staff:

3545 NW 58th Street Suite 360
Oklahoma City, OK 73112
www.mpc.ok.gov

(405) 525-9144 phone
(405) 528-6244 fax
mpcinfo@mpc.ok.gov

D. Online Filing System and Manual

(1) The system is accessed (after July 1, 2008) by a link on the left side of the Commission's web page at www.mpc.ok.gov via the menu option "Online Filing System."

(2) The system requires internet access and is designed to work with all major web browsers.

(3) The Online Filing Manual (manual) provides official, detailed information and instructions about the procedures and technical processes for using the system.

E. System help

(1) The primary source for understanding the system is the manual. A link titled "Helpful Hints" is available in the left-navigation links throughout the system. The hints provide quick reference to summary information from the manual. If a user has questions about any of the content, he or she should consult the manual or contact Commission staff.

(2) Technical problems shall be reported to Commission staff.

(3) The State of Oklahoma's web portal provider OK.gov is available to assist with registration and login problems. All other assistance from OK.gov must originate from Commission staff. Contact information for OK.gov Customer Service Support is available at www.ok.gov.

F. Compliance with Merit Rules and statutes

(1) All dispute resolution procedures, practices, and methods provided by the Commission are governed by the Oklahoma Personnel Act and Merit Rules in conjunction with associated statutes. The Online Filing System is not intended to alter the Commission's approved methods of investigating, mediating, negotiating, or adjudicating disputes. The system serves as a repository for documentation and communication between parties and the Commission throughout the approved methods.

(2) If any specific provision of these guidelines, the manual, or the system is found to be in violation of statute, rule, or policy, by the Commission or a reviewing court, the specific provision will become null and void. The remaining provisions shall remain applicable until otherwise acted upon by the Commission.

II. General Requirements

A. Mandatory online filing

(1) The Commission requires all users to file petitions, requests, pleadings, and documents through the system, except as provided for in these guidelines.

(2) Petitioner is defined for the purposes of the system as anyone who is speaking on their own behalf and not representing someone else, an agency, or another entity and who is petitioning the Commission for any assistance, remedy, action, or review allowed by policy, rule, or statute. In general, a petitioner is a state Executive Branch classified or unclassified employee or a Merit System applicant.

(3) Representatives are required to file through the system.

(4) Petitioners are required to file through the system. For cause shown, a Petitioner without a representative may apply to the Commission for permission to file conventionally all documents by paper. The paper documents are transferred by staff into electronic format for inclusion by staff into the system. Permission may be withdrawn at any time. To apply, Petitioners may complete the form “Conventional Filing Request” at www.mpc.ok.gov or contact the Commission to receive a copy of the form. The “Conventional Filing Request” also is incorporated into the Commission’s Petition for Appeal form.

(5) One-time conventional paper filings also may be accomplished as provided for in these guidelines or by request to the presiding official. Any conventional paper filing must be accompanied by a Conventional Filing Notice that details what is to be conventionally filed and why it cannot be filed in the system.

B. Filing deadlines

(1) Users are responsible for remaining aware of deadlines and any activity associated with their proceedings. System email notifications are a courtesy service.

(2) A petition and all subsequent documents are considered filed with the Commission when the document is entered into the system, which produces a viewable list detailing the submission date and time. The date and time recorded is automatically supplied by the system, and there is no provision to change or alter the date and time recorded.

(3) Emailing a document to the Commission or any staff member, including judges, shall not constitute “filing” of the document for purposes of a staff or rule deadline, Commission or judge’s order, and any related jurisdictional matter as defined in Merit Rule 455:10-3-2.

(4) Conventional filings as allowed by these guidelines shall remain bound by applicable policy, Merit Rule, statute, or court decree. (See 2004 OK CIV APP 59, 95 P.3d 190)

(5) Users may file 24 hours a day, every day. Filing deadlines are dictated by the associated policy, rule, statute or order. Where a deadline time is not specified, the deadline is 11:59 p.m.

on the date the document is due to be filed with the Commission. If the deadline falls on a weekend or state holiday, the deadline is extended to the next working day in accordance with Merit Rule 455:10-3-2(b).

C. Documents

(1) All documents are required to be in a portable document format (PDF) accessible by free PDF readers such as Adobe Acrobat Reader. All individual documents shall be submitted as separate PDF files, where one document may contain multiple pages. The system does not allow a PDF file larger than five megabytes (5MB). For documents larger than five megabytes, the document must be separated into smaller sections.

(2) If documents are not originally in a digital format, the paper document shall be scanned as a PDF document.

(3) If a Petitioner is approved for conventional filing, he or she must submit with a Conventional Filing Notice by mail the paper document to Commission staff for a conventional filing in which the deadlines detailed in Merit Rule, directive, policy, or order shall apply. Each Conventional Filing is limited to 25 pages. For filings that exceed 25 pages, the Petitioner shall separate the pages into 25-page sections with a separate “Conventional Filing Notice” cover for each section. Commission staff scans and submits all paper document(s) into the system on behalf of the Petitioner. After submission and once the petition reaches disposition, the Commission destroys the paper documents unless the Petitioner includes a pre-paid envelope for the Commission staff to return the documents. For documents sealed prior to filing and for documents larger than five (5) megabytes when converted to portable document format (PDF) that cannot be separated into less-than-five-megabyte segments, the Commission retains the paper copies in accordance with existing record-handling practices.

(4) Exhibits, evidence, and any other attachments filed online shall be submitted as separate PDF attachments. The documents shall be clearly labeled.

D. Security

(1) All users must complete the registration process to gain access to the system. The registration process requires a personal email address for secure authentication. An email address also is necessary to make full use of the system and to receive many of the system benefits to the user. If a Petitioner does not have an email address or a representative, the Petitioner may forgo the benefits and make a “Conventional Filing Request” as described previously. If a Petitioner does not have an email address and does have a representative, the system provides procedural options for giving the Petitioner access under the auspices of the representative.

(2) A Login ID and password are required for access to all pending matters. All parties and staff are able to view information and documents online through the system. Parties are able to view only documents of petitions with which they are associated. Users are able to modify select information related to the processing of a petition – any change in the system produces an entry in the history log for all users to view the modification, date and time of modification, and the identity of the user who executed the modification.

(3) Automated email notification to all parties are a courtesy and do not contain detailed information, only a notice to indicate that the user may want to log into the secure system. This does not include the activation email that provides the activation number or the password-reminder email received after completing the “Forgot Password” security clearance process.

(4) Documents and information regarding matters pending with the Commission remain confidential pursuant to Merit Rule 455:10-1-5(c). All matters deemed closed by the Commission are subject to the Open Records Act and aforementioned Merit Rule. Final Orders are searchable publicly through the system.

(5) Although petition documents are confidential and viewable only by the Commission and associated parties until possibly required by the Open Records Act to be made public, users are encouraged to omit or, where inclusion is necessary, partially redact the following personal identifiers from all electronically filed documents, unless otherwise ordered:

- a. Minors’ names.
- b. Financial account numbers.
- c. Social Security numbers.
- d. Dates of birth.
- e. Personal identifying number, such as driver’s license number.
- f. Medical records, treatment, and diagnosis.
- g. Individual financial information.

The Commission bears no responsibility or liability to monitor the compliance of this provision.

(6) Parties may request that a document or information be sealed by protective order by the Commission, Executive Director, or Administrative Law Judge in accordance with Merit Rule 455:10-13-6. Documents sealed after being filed in the system remain in the system but do not become a part of the public record. Documents sealed prior to being submitted may be filed conventionally with permission from the presiding official and with electronic filing of a Conventional Filing Notice – which indicates why the documents cannot be filed in the system. Pending requests to seal documents or information do not nullify deadline requirements.

(7) Any and all personal identity information collected by the Commission during the system registration process shall remain confidential and accessible only for official Commission proceedings. By becoming a registered user of the system, users agree to keep personal identity information that may be available in the system confidential and limit exposure of such information to official Commission proceedings. Any unauthorized disclosure, distribution, or use of personal identity information subjects the user to the penalties of applicable laws or rules.

(8) Inactivity in the system in excess of 15 minutes results in the system automatically logging out users so that they must log in to continue with any system interaction.

E. Filing errors

(1) Once a document is electronically filed, the system does not permit any user to change or remove the document.

(2) Users should make every effort to ensure that they do not submit anything other than what is intended. If a submission is made in error, the user shall as soon as possible submit a Pleading with the correct information and contact Commission staff.

F. Signatures

(1) The Login ID of the user logged into the system is recorded upon any action taken. The registered user is responsible and liable for any action taken associated with his or her Login ID.

(2) In accordance with Title 12A O.S. § 15-118, Acceptance and Distribution of Electronic Records by Governmental Agencies, all filings and documents shall include a signature that is provided in one of three ways:

- An original signature that is scanned and incorporated into a document or attached to a document.
- An electronic confirmation signature in which an option such as a check box is provided to indicate that the person submitting the document or completing an online form is the true identity of said person.
- Adding the name of the person submitting the document after the indicator “s/”.

(3) In the event a presiding official orders or requests a joint submission by opposing parties, the electronic filing shall include an attestation statement by the filer that the non-filing party has reviewed and agreed to the joint submission. If the joint submission is disputed, the opposing party must file an objection within 10 days of the filing of the document in question. The presiding official in accordance with the Commission process shall rule on the objection.

(4) Documents with original signatures shall be maintained by the originating party and made available upon request by the presiding official until all issues either have been disposed or deadlines for continued review expire.

(5) Users who allow others to complete actions or pleadings in the system or prepare documents on their behalf are responsible for maintaining a record of when and how permission was obtained.

(6) If the authenticity of a signature is disputed, the opposing party must file an objection within 10 days of the filing of the document in question. The presiding official(s) in accordance with the Commission process shall rule on the objection.

G. System accessibility

(1) The system is designed to be available 24 hours a day every day with exception of periodic maintenance or unforeseen circumstances. The system is designed in accordance with an interagency agreement between the Commission and the Office of State Finance in conjunction with the state web portal OK.gov. The agreement specifies compliance with the OSF Information Security Policy, Procedures and Guidelines and with the accessibility requirements of Title 62 O.S. § 41.5t - Accessibility of Information Technology for Individuals with Disabilities.

(2) The Commission bears no responsibility or liability for comments or documents uploaded through the system as such documents may or may not meet policy, rule, statutory, or ethical

standards including accessibility, security, and decency. Any unlawful activity committed within the system may subject the user to penalty of law or rule.

(3) Any person may register with the system. Additional access privileges must be conferred by the Executive Director as provided for in these guidelines, the manual, and Commission policy. The Executive Director serves as the system Administrator and may delegate this permission level to other staff or technical representatives in order to complete system related tasks. Such delegation does not confer the authority to determine access level or any other provision reserved for the Executive Director in these guidelines or in any related policy, rule, or statute.

(4) Routine system maintenance is posted online at the Commission's web site at www.mpc.ok.gov. Should a filing be untimely because of a technical failure of the system, the user may seek appropriate relief from the applicable presiding official. A technical failure exists when the system is unable to accept filings over the course of any period of time greater than two (2) hours. The presiding official determines the necessity and degree of technical investigation required to rule on a request for relief related to an alleged technical problem. Problems on the user end, such as phone line, Internet Service Provider (ISP), or hardware or software problems do not constitute a technical failure.

H. Fees

(1) No fees are charged to use the system.

I. Official Record

(1) The official Commission record shall be the electronic files maintained in the system in accordance with Merit Rule 455:10-3-14, Appeal record.

(2) Only the Commission may access any matter or petition considered closed in accordance with Merit Rule 455:10-9-4.

(3) Unless provided for in statute, all Commission records are subject to the Open Records Act and are made available to the public through an Open Records Request Petition through the system. Fees associated with printing, duplication, copying, and mailing may be assessed in accordance with rule and statute.

(4) Final orders – *Executive Director Order of Dismissal, Administrative Law Judge Final Order, Administrative Law Judge Addendum Order, and Commission Order* – for all Petitions are accessible through the Public Record Search available by a link on the system's main page. The orders are available only when the Petition's status is closed. The orders may be searched by combination of Petition Number, Petitioner's Last Name, Agency, Judge, Type of Petition, Issues, and Date Filed range.

J. Proceedings

(1) The Commission's hearing room is web-enabled with monitor displays. Documents filed in the system do not change the necessity for litigants to prepare materials in accordance with acceptable practices or at the presiding official's direction.

(2) The system-provided Pleadings docket and History log are printable and may be used to verify the Commission's receipt of filings and actions taken within the system throughout the administrative process.

(3) Documents and pleadings required for the record must be filed in the system or an approved-substitute Conventional Filing Notice must be provided to indicate the existence of documents considered. Documents and pleadings may be uploaded prior to any in-person proceeding, including a hearing. Documents not in the system that are presented during an in-person proceeding or are produced as a result of a proceeding that are part of the record shall subsequently be uploaded into the system by the respective parties unless directed otherwise by the presiding official. Any party who files a document or pleading through the system within 24 hours preceding a scheduled in-person event such as a hearing or conference must provide a paper copy of the filing to all parties and staff at the time of the in-person event.

(4) At the conclusion of a hearing in which the final order has been issued, the Administrative Law Judge shall submit through the system a Notice of Hearing Record that confirms the parties' agreed upon record and any changes that may have been made in the course of the proceeding. In the notice, a list by Pleading Number details which Pleadings were admitted and considered in the proceeding. Directions may be included for documents sealed after submission in the system to help ensure proper execution by administrative staff of protective orders.

(5) Designated proceedings in accordance with the Oklahoma Personal Act and Merit Rules are recorded using digital technology that produces a secure, web-accessible record. At the conclusion of recorded proceedings, Commission staff supplies a Notice of Digital AV Record as a notice in the system – the notice provides users associated with the select petition the authorization information to view the proceeding via the internet. After a petition is closed, the access is removed.

(6) Digital recordings are not automatically available to the public but may be subject to the Open Records Act.

III. Roles and Responsibilities

A. Petitioner

(1) A Petitioner, as defined previously, generally would be anyone filing a Petition for Appeal, Request for Mediation, or an Open Records Request. A first-time Petitioner is required to register.

(2) A petition may be filed by the Petitioner or by his or her representative.

(3) If the Petitioner is not a registered user, the Petitioner's representative may register the Petitioner. The representative confirms by the provided electronic confirmation signature that he or she has been retained by the Petitioner for this matter and the Petitioner agrees to the terms of the system.

B. All Other Account Types

(1) All other account types must register through a two-step process to receive a Login ID and password and to obtain access to petitions in the system. First, the user must complete the registration process in the system. Second, the user must complete and sign the official System Access Designation form, which is available on the Commission's website at www.mpc.ok.gov. The completed forms are to be delivered to the Commission staff by mail, email, fax, or hand delivery. The Executive Director determines the system access level of registered users.

C. Appellee Liaisons

(1) Each Appointing Authority must designate two liaisons (Appellee Liaisons) as his or her agency's primary system users. The liaisons receive all notices for all petitions associated with the agency and have access to all details of all petitions associated with the agency. Appointing Authorities may make the selections and update the selections at any time by communicating in writing their intent to the Commission. As a courtesy, Appointing Authorities may use the System Access Designation form available at www.mpc.ok.gov. Only the system Administrator may update Appellee Liaisons.

(2) Appellee Liaisons must complete the All Other Account Types registration process. Once the Commission receives communication from the Appointing Authority, staff manually changes the designated users' Account Type to Appellee Liaison.

(3) After receiving approval, additional agency users may register and be designated by Appellee Liaisons as agency representatives at any time by the Appellee Liaisons' communicating the intent to the Commission. As a courtesy, a System Access Designation form is available at www.mpc.ok.gov. Once approved and registered, Appellee Liaisons may add representatives associated with the agency to specific petitions. The Appellee Representatives are limited to those petitions designated by the Appellee Liaisons, who can update or change the assignments at any time in the system.

D. Representatives

(1) After receiving an approved designation form, Commission staff manually changes the Account Type for representatives – prior to this, representatives cannot access their clients’ or agencies’ information. If a registered representative’s information (such as primary email address, telephone, or fax number) is changed in the system during the processing of an open petition, a notice of the change shall be filed through the system so that all affected users are adequately notified.

(2) Petitioner Representatives may register a client as a user for the purpose of filing a petition. If the representative is filing a petition for someone who is already registered, the representative must use the search tool provided to search for the existing user. In the search tool, the representative must provide the name and date of birth of the Petitioner. If the Petitioner is already registered, the representative may select the user and proceed with an Initial Petition filing or represent the Petitioner on an existing petition. This process does not nullify the requirement for representatives to file an Entry of Appearance in accordance with Merit Rule 455:10-21-3.

(3) If a Petitioner is not registered, the representative may register the Petitioner in one of the following ways:

- (a) Register for the Petitioner – this requires a unique, personal email address for the Petitioner.
- (b) Register the Petitioner as a sub-account of the Petitioner Representative – the Petitioner must use the Petitioner Representative’s account combined with the Petitioner’s name and date of birth to login.
- (c) Register the Petitioner as a Non-Login account – the Petitioner does not have access to the system.

E. System Administrator

(1) The Executive Director reserves the authority to alter at any time any aspect of the system.

(2) The system Administrator provides access in accordance with the following permission levels: Administrator, Staff, Staff-Read-Only, Judge, Facilitator, Petitioner, Petitioner Representative, Appellee Liaison, Appellee Representative, Unassigned Users, and Disabled Accounts.

(3) The system Administrator manages help information through an online feature that consists of a web page with links to various help categories. This allows the Administrator to remove, add, or edit as necessary any helpful information to the users of the system. Users may request in writing at any time that the Executive Director modify helpful information – requests should include the reason and potential consequences for such a change. The guidelines and manual supersede the help information.

C. Commission Staff

(1) Staff, Judge, Facilitator, and Staff-Read-Only users retain privileged access to a search that provides options for producing data that can meet statutory and operational reporting requirements and needs.

(2) Staff and Judge users have access privileges to see all petitions in any status. Staff and Judge users cannot alter registration information, pleadings, the pleading docket, or the history log. Staff and Judge users may alter all other information as necessary for accurately processing petitions.

(3) Staff-Read-Only and Facilitator users may view petitions only and do not have privileges to alter any information in a petition.

IV. Processing Petitions

A. Initial Petition

(1) Petitions are initiated using an online form designed to collect information in accordance with Merit Rule 455:10-3-9. For the purpose of the online system, address is interpreted by these guidelines to include email address.

(2) Petitioners may provide automatic access to their representative if the representative is registered in the system. To provide automatic access, the Petitioner must enter the representative's full name as it is registered in the system. This process in no way obligates a representative to the Petitioner, and this process does not nullify the requirement for representatives to file an Entry of Appearance in accordance with Merit Rule 455:10-21-3.

(3) Petitioners are required to provide a brief reason for filing to meet the rule requirements established in Merit Rule 455:10-3-9.

(4) Petitioners may attach one PDF document with the initial petition. Other supporting documents may be filed as pleadings after the initial petition.

B. Managing Communication and Filings

(1) Staff users are required to maintain status and event information in the system for all users to remain informed on the administrative process.

(2) Petitioners, Petitioner Representatives, Appellee Liaisons, and Appellee Representatives are required to maintain pertinent contact information in the system for all users to remain informed.

(3) If a Petitioner removes his or her representative from the Petitioner information, the representative no longer has access to the petition and this action serves as notice to the Commission that the Petitioner has terminated his or her professional relationship with the representative. This action by the Petitioner is accepted as a Notice of Withdrawal in compliance with any applicable Code of Conduct. If a representative subsequently elects to conventionally file a Notice of Withdrawal, it will be granted by the Executive Director or presiding official and be made part of the record.

(4) A Petitioner Representative may remove before submitting an Entry of Appearance his or her own name from the Petitioner information with no additional filings. The action is interpreted by these guidelines to mean no professional relationship ever existed and the name was entered in error.

(5) The initial petition is the first filing in the pleading list, which collects all documents filed by any users in one complete list. The list serves to verify filing requirements; provide a docket of activity; and provide access to previously submitted documents. Note that all staff Notices and Orders by the Executive Director, Administrative Law Judge, and Commission also will appear in the docket.

(6) All subsequent filings and pleadings allow for users to enter a type, title, and description of the pleading. With each filing, users may attach one PDF document subject to the document guidelines previously described. All parties are encouraged to accurately and clearly identify the attached document both in the file name and on the document.

C. Notice and Certificate of Service

(1) The email notice to all associated parties upon submission of an Initial Filing serves as the “Notice of Appeal” in accordance with Merit Rule 455:10-3-4.1.

(2) Certificates of service are not required for any document filed in the system, with the exception of filings in association with a Petitioner who has been approved to conventionally file by paper and does not have access to the system. In this instance, representatives are required to include a confirmation statement that a paper copy has been mailed to the opposing party.

D. Multiple Filings

(1) A Petitioner may file multiple petitions with the Commission. The Petitioner registers only once. The Initial Petition form must be submitted for each petition.

(2) In the event the system cannot accommodate a legitimate Commission action or filing, a user may submit through the system a Pleading “Request for Special Circumstances” for the presiding official’s review. The request must include a description of the desired action or filing, why it is necessary, and a proposed solution for accommodation.

E. Payroll Claim Protest

(1) By rule and statute, agencies must notify the Commission for approval of its intent to collect an overpayment when an employee disputes a payroll claim. The Commission will accept a petition from an agency in payroll disputes as notice of intent to collect overpayments from their employee(s).

F. Request for Mediation

(1) The Commission accepts through the system Requests for Mediation from primary participants. Secondary participants or third party Requests for Mediation must be made through the paper mediation request form available on the Commission’s web site at www.mpc.ok.gov.