

RULE IMPACT STATEMENT
TITLE 455. MERIT PROTECTION COMMISSION
CHAPTER 10. MERIT SYSTEM OF PERSONNEL ADMINISTRATION RULES

1. Purpose of proposed rules

A. New rules

- 455-10-3-3.1 Reflects statutory provisions at 74 O.S., § 840-4.19.
- 455-10-19-24 Provides guidance to resolution decision makers as to their responsibilities in the grievance process.

B. Rule amendments

- 455-10-1-2 Deletion and amendment of certain definitions for purposes of clarity.
- 455-10-1-5 Deletion of unnecessary language; addition of statutory citations; expression of fee structure for records requests in terms of reasonable costs.
- 455-10-1-7 Update of methods of communication with the Commission.
- 455-10-1-10 Deletion of certain language for clarification relative to forms and filing instructions.
- 455-10-1-11 Addition of statutory citation.
- 455-10-3-1.1 Addition of statutory citation.
- 455-10-3-1 Clarification of Commission's jurisdiction; provision of authority of Executive Director to establish guidelines for electronic filing.
- 455-10-3-3 Clarification of alleged violation appeals that may be brought under the jurisdiction of the Commission.
- 455-10-3-4.1 Clarification of who shall receive notice of appeal upon appeal filing.
- 455-10-3-5 Addition of statutory language as to filing of appeal based on discrimination.
- 455-10-3-6 Addition of statutory language and requirements as to appeals based on violation of Whistleblower Act.
- 455-10-3-8 Addition of language requiring notice of appeal rights to include instructions for filing an appeal with the Commission.
- 455-10-3-10 Deletion of language regarding payroll claim protests, providing for reliance on statutory instructions for bringing such protests.
- 455-10-3-11 Deletion of term deleted from definitions.
- 455-10-3-15 Establish source of official transcript of Commission proceedings; add statutory language re: transcription costs for indigent appellant.
- 455-10-3-16 Establish response times for responses to motions and requests.
- 455-10-3-17 Correction of misspelled word.
- 455-10-7-2 Deletion of unnecessary language for simplification and clarity.
- 455-10-7-3 Places authority to convene fact finding conference within the discretion of the Executive Director or presiding official; deletion of certain procedural aspects for simplification and clarification of the process.

- 455-10-7-4 Deletion of provision that prohibits investigative report from being part of appeal records.
- 455-10-7-6 Deletion of provision requiring destruction of investigative file to conform with statutory records retention requirements.
- 455-10-9-1 Deletion of administrative law judge responsibility to consider, facilitate, and rule on settlement to conform with alternative dispute resolution processes.
- 455-10-9-2 Deletion of unnecessary language and correction of misspelled words.
- 455-10-9-3 Clarification of when affidavits may be used during the hearing process.
- 455-10-9-4 Deletion of alternative dispute resolution process from provision outlining when and how record of appeal is to be closed.
- 455-10-11-1 Provides correct statutory citation.
- 455-10-11-4 Provides correct statutory citation.
- 455-10-11-9 Revocation of requirement that Appointing Authority provide annual report of statistics on disciplinary actions taken.
- 455-10-11-14 Provides correct statutory citation.
- 455-10-11-15 Provides for electronic mail notifications in suspension actions; requirement of notice to provide instruction for appeal to Commission.
- 455-10-11-16 Provides for electronic mail notifications in demotion actions; requirement of notice to provide instruction for appeal to Commission.
- 455-10-11-17 Provides for electronic mail notifications in discharge actions; requirement of notice to provide instruction for appeal to Commission; provides correct statutory citations.
- 455-10-15-4 Provides statutory citations.
- 455-10-15-6 Clarification of when attorney fees and costs may be assessed if an appeal is deemed frivolous.
- 455-17-1 Deletion of provision allowing party to request alternative dispute resolution and to choose the method. Amendments in this subchapter reflect desire of Commission to limit alternative dispute resolution process to mediation. Appellants may still utilize hearing process upon failure of mediation. Mediation is predominant method of alternative dispute resolution selected by parties. Other methods mirror hearing process in most aspects obviating the need for such processes.
- 455-10-17-2 Deletion of language expressing advantages of alternative dispute resolution.
- 455-10-17-3 Deletion of prohibition of representative participation in negotiation conference.
- 455-10-17-4 Deletion of preparation conference process of alternative dispute resolution.
- 455-10-17-5 Deletion of summary conference process of alternative dispute resolution.
- 455-10-17-6 Deletion of binding arbitration process of alternative dispute resolution.
- 455-10-17-7 Deletion of non-binding arbitration process of alternative dispute resolution.
- 455-10-17-8 Changes name to Voluntary Mediation Program from Oklahoma State Shared Mediation Program; deletion of allowance of legal representative to act on behalf of appointing authority in voluntary mediation; deletes

- prohibition of representative from active participation in voluntary mediation; deletion of certain requirements to simplify process and make more user friendly; provides specifics as to confidentiality of mediation process based on other statutory mediation processes.
- 455-10-19-1 Clarification of Commission's goals in the grievance process.
 - 455-10-19-2 Deletion of unnecessary language and addition of more appropriate language to describe purpose of grievance process.
 - 455-10-19-3 Clarification of existing definitions relative to grievance procedure; addition of defined terms to clarify process.
 - 455-10-19-5 Deletion of requirement to file statistical report even if no grievances filed during reporting period.
 - 455-10-19-7 Amends rule to require annual notice to employees of their grievance rights and responsibilities as well as contact information for the internal agency grievance manager.
 - 455-10-19-8 Makes petition for appeal in grievance retaliation case consistent with petition for appeal in other cases under the Commission's jurisdiction.
 - 455-10-19-9 Clarifies how time is computed under the grievance procedure.
 - 455-10-19-20 Deletion of requirement to file copy of grievance process adopted by agency as opposed to adoption of Commission process reflected in rules; deletion of requirement that contact information of grievance manager be included in agency generated grievance process; addition of prohibition of individual processing grievance to be resolution decision maker of that grievance.
 - 455-10-19-21 Addition of language to emphasize supervisor's responsibility not to retaliate against employee grievant.
 - 455-10-19-22 Addition of language to require a grievance manager to provide an employee grievance certain notifications in writing and to track grievance in accordance with 455-10-19-5.
 - 455-10-19-23 Provides that an employee grievant may address issue with supervisor's handling of grievance informally with grievance manager and allow employee to file grievance at that time; emphasize responsibility to maintain professionalism throughout grievance process.
 - 455-10-19-35 Deletes recitation of bases upon which grievance may be brought, as the information is provided elsewhere in these rules.
 - 455-10-19-37 Deletion of language indicating when supervisor may approve leave requested by grievant to prepare case as other language in rule make decision discretionary with supervisor when request made in advance.
 - 455-10-19-38 Clarification of fact that employee grievants or grievance witnesses not to be charged leave for meetings relative to grievance.
 - 455-10-19-39 Clarification of what type of leave a state employee representing a grievant may take when representing a grievant.
 - 455-10-19-40 Deletion of unnecessary and redundant language.
 - 455-10-19-42 Extension of time to file a grievance from 20 to 30 days.
 - 455-10-19-43 Deletion of requirement that grievance be submitted on particular form; addition of language requiring declaration of intent for written communication to be considered a grievance if does not have required

- grievance form.
- 455-10-19-44 Deletion of language allowing appointing authority to extend time to resolve grievance if agency adopts own grievance procedure.
 - 455-10-19-45 Addition of language providing specific information that must be included in a grievance resolution decision.
 - 455-10-19-46 Clarification of when an appeal may be filed after a grievance and what the issues are limited to.
 - 455-10-19-60 Revocation of redundant language.
 - 455-10-19-61 Clarification of when step 1 informal resolution must be attempted; deletion of language in conflict with amendment to first paragraph of rule which describes when informal resolution must be attempted; deletion of certain language that results in supervisor referring employee grievant to step 2 if the grievance raises issues not in supervisor's power to resolve.
 - 455-10-19-62 Requires grievance manager to provide grievant notice of receipt of grievance to include acceptance or denial of grievance; adds requirement that decision maker do investigation of grievance issues and provide a written decision in accordance with these rules.
 - 455-10-19-64 Clarification of when request for alternative dispute resolution tolls timelines in grievance process and when tolling ends.
 - 455-10-21-3 Addition of language disallowing employee representatives that have been disbarred or resigned, pending discipline, from the practice of law in the State of Oklahoma.

Throughout these proposed rules, amendments are made to: reflect digital as opposed to audio recordings; amend the term "formal grievance" to reflect "grievance"; delete references to alternative dispute resolution program as needed to facilitate deletion of certain alternative dispute resolution methods; and, correct minor mistakes, typos and statutory citations.

2. Description of classes of persons most likely affected most likely affected and associated costs

All state employees, as portion of these rules apply to both classified and non-classified employees. These rules do not impose additional costs on any affected class.

3. Description of classes of persons most likely to benefit from proposed rule amendments

All state employees. Management and staff alike benefit from resolving employee issues at the lowest possible level.

4. Description of probable economic impact on affected classes of persons or political subdivision

No economic impact is anticipated.

5. Probable costs and benefits to agencies to implement and enforce proposed rules

No costs are anticipated. Agencies benefit by utilizing processes that have the effect of resolving employee issues at the lowest possible level. There is no anticipated impact on state revenues, except to the extent agencies utilizing these processes often avoid costly litigation.

6. Will implementation of these rules have an economic impact on political subdivisions or require their cooperation?

No.

7. Will implementation of these rules have adverse economic effect on small business as provided by Oklahoma Small Business Regulatory Flexibility Act?

No.

8. Explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed rule

No compliance costs are anticipated. There are no less intrusive methods for achieving the purposes of the proposed rules.

9. Determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk.

Implementation of these proposed rules will have no impact on public health, safety, or the environment.

10. Determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented.

Non-implementation of these proposed rules will have no impact on the public health, safety, or environment.

11. Date rule impact statement prepared and modified.

This rule impact statement was prepared November 14, 2007 and has not been modified.