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CHAPTER 10 MERIT SYSTEM OF PERSONNEL ADMINISTRATION RULES

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Compiled by: The Compensation and Classification Division of the Office of Human Capital Management.

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(a) If agency offices are closed because of an imminent peril threatening the public health, safety, or welfare of state employees or the public, or when state offices are temporarily closed or reduced due to hazardous weather conditions, the Appointing Authority shall place employees who are scheduled to work in the affected work areas on paid administrative leave or, if applicable, shall assign them to work in another location. During their normal duty hours, employees on paid administrative leave due to unsafe working conditions are on stand-by or on-call status. Appointing Authorities may call employees to return to their normal duties or respond to the demands of the situation as necessary. [74:840-2.20A(A)] 101

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Title 530 | Chapter 10 - Merit System of Personnel Administration Rules

Subchapter 1 - General Provisions

Part 1 - GENERAL PROVISIONS

530:10-1-1. Purpose

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

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

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

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

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

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

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

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

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

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

"Act" means the Oklahoma Personnel Act.

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

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

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

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

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

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

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

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

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

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

"Certification", in the context of initial classified appointments, means the submission of available names of eligibles from the appropriate register to an Appointing Authority. Such a list is called a **"certificate"** or **"e-list".** Individuals whose names appear on the certificate are said to be "certified". In the context of all other types of appointments, certification means the determination by the Office, or by an Appointing Authority to whom the Administrator has delegated authority, that a candidate possesses permanent classified status or is eligible for reinstatement to permanent classified status, and meets requirements for appointment to a specified job in the classified service.

"Classification" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"FLSA" means the federal Fair Labor Standards Act.

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

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

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

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

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

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

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

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

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

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

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

"Job family" means:

(A) *jobs which require similar core skills and involve similar work, and*

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

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

(A) describes a job family, including, but not limited to, the basic purpose, typical functions performed, various levels within the job family, and the knowledge, skills, abilities, education, and experience required for each level, and

(B) identifies the pay band assigned for each level [74:840-1.3].

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

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

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

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

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

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

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

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

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

(A) **"Black"**, meaning all persons having origins in any of the Black racial groups of Africa;

(B) **"Hispanic"**, meaning all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;

(C) **"Asian or Pacific Islander"**, meaning all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.

(D) **"American Indian or Alaskan Native"**, meaning all persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition. For affirmative action purposes, persons who are reported as American Indian shall verify tribal affiliation by providing a certificate of Degree of Indian Blood from the U.S. Department of Interior, Bureau of Indian Affairs, or by providing the name and address of tribal officials who can verify tribal affiliation [74:840 2.1].

"New position" means a position not previously existing.

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

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

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

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

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

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

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

"Payline" means the relationship between a job's pay, its job evaluation points, and market survey data.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

530:10-1-5. Officers and employees to aid and comply

All officers and state employees under the Oklahoma Personnel Act shall conform to, comply with, and aid in carrying out the provisions of the Act and the Merit Rules.

530:10-1-6. Violations; penalties

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

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

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

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

530:10-1-7. Severability clause

The provisions of the Merit Rules are severable and if any part or provision is held void by the decision of a court, this shall not affect or impair any of the remaining parts or provisions of the Merit Rules.

530:10-1-8. Compliance with federal standards, rules or regulations

Any of the Merit Rules which conflict with or are inconsistent with federal rules, regulations or standards governing the grant of federal funds to any agency or department, is not applicable to such agency or department.

530:10-1-9. Self-Evaluation Plans, Best Practices, Consulting Services

The Administrator shall develop and make available to state agencies Self-Evaluation Plans, Best Practices and Consulting Services *for the development of an efficient and effective system of personnel administration that meets the management needs of the various agencies [74:840-1.6A,1].* Self-Evaluation Practices, Best Practices and Consulting Services may include but not be limited to: Overtime Policies; Salary Administration Plans; New Employee Actions; Training and Development; Salary and Benefits; Health, Safety and Security; Record-keeping and Miscellaneous Requirements; Job Posting Requirements; and other areas as determined by the Administrator.

530:10-1-11. Employee roster

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

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

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

530:10-1-13. Conversion to new classification system [EXPIRED]

Part 3 - DELEGATION OF HUMAN RESOURCE FUNCTIONS

530:10-1-30. Delegation authorization

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

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

Upon the request of a state agency, and at the discretion of the Administrator, the Administrator may delegate any human resources functions normally conducted by the Human Capital Management Division. [74:840-1.15(A)] Human resources functions that are under the jurisdiction of the Oklahoma

Merit Protection Commission as described in 74:840-1.9 and Title **455** of the Oklahoma Administrative Code may not be delegated pursuant to the rules in this Part.

530:10-1-33. Delegation application

Applications for delegation of human resource functions may be in any format. In addition to information identifying the agency, applications shall include the following information:

(1) A full description of the delegation authority sought.

(2) Name, title, and qualifications (including education and training, experience, and professional certification) of the personnel professional designated by the Appointing Authority as the professional administrator of delegated functions for the agency. Also, the professional's signed acceptance of the responsibility for administering delegated functions consistent with applicable state and federal laws and rules, and an approved delegation agreement.

(3) Names, titles, and qualifications (including education and training, experience, and professional certification) of all other personnel professionals and others the Appointing Authority designates to participate in, or support, the exercise of delegation authority. Also, a description of the duties and responsibilities of each person with respect to delegated functions.

(4) The Appointing Authority's expressed acceptance of overall responsibility for assuring the delegation authority is exercised in accordance with federal and state laws and rules, as evidenced by the signature of the Appointing Authority on the application and written memorandum of agreement.

(5) Documentation of agency employee participation in the development of the Appointing Authority's application for delegation authority. Also, a description of plans for employee participation following approval of the application and during the period delegation authority is exercised.

(6) A copy of procedures the agency will use to assure that internal agency procedures are properly coordinated with procedures required by the Administrator for the delegated functions.

(7) Any other information that may aid in the Administrator's evaluation of the Application.

530:10-1-35. Response from Administrator

The Administrator shall respond to the application for delegation authority within **14** calendar days after its receipt. The Administrator may prepare a memorandum of agreement in cooperation with the Appointing Authority and approve the application; reject the application and list the reasons for its rejection; or provide the Appointing Authority with a list of actions or information needed before a memorandum of agreement and approval of the application can be executed.

530:10-1-37. Staff qualifications

The Appointing Authority shall designate only employees who are eligible for certification as personnel professionals in accordance with Section 840-1.6A (18) of Title 74 of the **Oklahoma Statutes**and OAC 530:10-17, Part 13, to exercise the delegation authority. Others designated by the Appointing Authority to participate in support of delegated functions need not be eligible for certification as personnel professionals.

530:10-1-39. Training requirements

Each employee who will exercise delegation authority or who will participate in the support of delegated functions shall participate in initial training provided by the Human Capital Management Division staff on standards and procedures concerning delegated functions. The Administrator shall

establish training requirements for employees based on previous training and the employee's duties and responsibilities related to delegated functions. The Administrator may require employees to participate in additional training during the life of a delegation agreement.

530:10-1-41. Standards, procedures, records and reports

The Administrator shall provide standards and procedures manuals for delegated functions to the Appointing Authority and employees who are trained. The standards and procedures manuals shall include a description of required records and reports. When changes occur during the life of a delegation agreement, the Administrator shall advise the Appointing Authority and the administrator of the delegated functions of changes and shall attach the changes as riders to the delegation agreement.

530:10-1-43. Written memorandum of agreement of delegated authority

(a) Before the Administrator approves the application for delegation authority, a memorandum of agreement shall be prepared by the Administrator in cooperation with the Appointing Authority. This delegation agreement shall include or incorporate by reference the following documents and information:

(1) A description of the delegation authority;

(2) An outline of the terms and conditions of the agreement, including an effective date for the agreement;

(3) A description of audit activities, reports to the Administrator, and a description of records to be maintained by the Appointing Authority.

(4) The application for delegation authorization, as amended before execution of the delegation agreement.

(5) The list of delegation audit activities provided by the Administrator to the Appointing Authority.

(6) The delegation standards, procedures, records, and reports required by the Administrator.

(7) The timing of and methodology for conducting scheduled audits.

(8) A statement describing the degree to which the personnel professional designated as the professional administrator of the delegated functions will act in the Appointing Authority's stead in regards to the delegated authority during the life of the agreement. The Appointing Authority shall not delegate ultimate responsibility for the agency's exercise of the delegated authority, or authority to sign or terminate the delegation agreement.

(b) The delegation agreement shall be dated and signed by the Appointing Authority of the requesting agency and then by the Administrator. The Administrator's signature on the agreement shall constitute approval of the application for delegation authority. Approval of this application for delegation authority shall constitute authority for the Appointing Authority or designee to implement the approved delegation of personnel authority. [74:840-1.15] The Administrator shall send the Appointing Authority and the agency administrator of the delegated functions a copy of the agreement within five calendar days after signing the agreement.

530:10-1-45. Changes in personnel

(a) During the life of a delegation agreement, the Appointing Authority is responsible for submitting the following documents to the Administrator immediately upon any changes in personnel.

(1) Changes in the names and titles of the Appointing Authority and all personnel professionals and others the Appointing Authority designates to participate in, or support, the exercise of delegation authority.
(2) The Appointing Authority's designation of a new professional administrator of the delegated functions and the designee's signed acceptance of the responsibility for administering delegated functions consistent with applicable state and federal laws, and the delegation agreement.
(b) These documents shall be added as riders to the memorandum of agreement.

530:10-1-47. Audit by the Administrator

Delegated functions shall be subject to audit by the Administrator to determine compliance with applicable laws, Merit Rules, and the delegation agreement. Audits may be conducted with or without notice to the Appointing Authority. The Administrator shall supply the Appointing Authority with a list of audit activities before the delegation agreement is signed, and during the life of the agreement, the Administrator shall notify the Appointing Authority of changes in audit activities before changes are implemented. The Administrator shall also add a description of changes as riders to the agreement.

530:10-1-49. Corrective actions

If audit findings reveal deficiencies or when deficiencies are otherwise identified, the Administrator shall order corrective action. The Administrator's order may include the date by which the Appointing Authority shall implement corrective action as ordered by the Administrator. Depending on the nature of the deficiency, the deadline for implementation may be up to 90 days after the date of the order. Corrective Actions may include but are not limited to:
(1) Correction of deficiencies consistent with Merit Rules, applicable laws, and the delegation agreement.
(2) Training or retraining of agency personnel.
(3) Unannounced audits.
(4) A temporary suspension of delegated authority.

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

(a) A delegation agreement may be terminated at the discretion of the Administrator or at the request of the Appointing Authority. Some infractions of Merit Rules, applicable laws, or the delegation agreement may result in partial revocation or termination of the agreement. The Administrator shall provide the Appointing Authority with reasonable notice of termination or partial revocation of the agreement and the effective date of the action. The Administrator may terminate or partially revoke authorization for delegation for any of the following reasons:
(1) The Appointing Authority fails to comply with corrective action ordered by the Administrator.
(2) Delegation functions are not administered in accordance with the delegation agreement, the Oklahoma Personnel Act, other applicable laws, the Merit Rules, or Office of Management and Enterprise Services requirements, policies, directives, standards, guidelines, or practices.
(3) Problems or circumstances occur that affect either the Office of Management and Enterprise Services or the agency in fulfilling its defined responsibilities.
(b) On the effective date of the termination or partial revocation of the delegation agreement, the authority and responsibility for delegated human resource functions that have been terminated or partially revoked shall be returned to the Administrator, together with records and documents related

to the delegated functions. However, unless otherwise specified by the Administrator, delegated actions initiated before the effective date of the termination or partial revocation of the agreement may be completed under the terms of the agreement.

530:10-1-53. Evaluation

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

Part 5 - MODEL PROJECTS

530:10-1-60. Purpose

The purpose of model projects is to allow agencies to design model human resource projects to test and evaluate the effect of innovative policies, standards, and procedures. [74:840-1.15]

530:10-1-61. Authorization of model projects

The Administrator may approve applications for model projects. Approval of an application for a model project by the Administrator shall constitute authority for the agency to implement the approved model project for a length of time to be specified by the Administrator. [74:840-1.15]

530:10-1-65. Effect of Merit Rules on model projects

The Administrator may waive applicability of Merit Rules adopted by the Administrator if necessary to implement a model project. The waiver shall apply only to the model project specified by the Administrator and shall be effective only for the duration of the model project. The waiver shall end immediately upon termination or completion of the model project.

Subchapter 3 - Affirmative Action and Equal Employment Opportunity

Part 1 - DISCRIMINATION

530:10-3-1. Purpose

The purposes of the rules in this Part are to *assure equal employment opportunity* [74:840-1.6A(7)]; repeat, as a convenience to the reader, statutory language in Section 840-2.9 of the Oklahoma Personnel Act; and define sexual harassment as a form of discrimination. The rules in this Part apply to all persons in the state service unless the context clearly indicates otherwise.

530:10-3-2. Discrimination and other prohibited acts

(a) *No person in the state service, whether subject to the provisions of the Merit System or in unclassified service, shall be appointed to or demoted or dismissed from any position in the state service, or in any way favored or discriminated against with respect to employment in the state service because of political or religious opinions or affiliations, race, creed, gender, color,* [age] [74:954] *or national origin or by reason of any…handicap* [74:954]…[74:840-2.9(A)].

(b) *No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person, or for any consideration. Letters of inquiry, recommendation and reference for public employees by public officials shall not be considered official authority or influence unless such letter contains a threat, intimidation, or irrelevant, derogatory or false information* [74:840-2.9(B)].

(c) *No person shall make any false statement, certificate, score, rating or report with regard to any test, certification or appointment made under any provision of the State Personnel Act or in any manner commit any fraud preventing the implementation of the provisions of the State Personnel Act and rules made pursuant thereto* [740:840-2.9(C)].

(d) *No employee, examiner or other person shall deny, deceive or obstruct any person in his or her right to examination, eligibility, certification or appointment or furnish to any person any special or secret information for the purpose of effecting the rights or prospects of any person with respect to employment in the classified service* [74:840-2.9(D)].

(e) *No person shall, directly or indirectly, give, render, pay, offer, solicit or accept any money, service or other valuable consideration for or as a result of any appointment, proposed appointment, promotion or proposed promotion to or any advantage in, a position in the classified or unclassified service* [74:840-2.9(E)].

(f) *Alleged violation of this section shall be reported to the Merit Protection Commission*[74:840-2.9(F)].

530:10-3-3. Sexual harassment

(a) Sexual harassment is discrimination on the basis of gender (sex) under 530:10-3-2, *Discrimination and other prohibited acts*. No officer or employee of any agency shall permit or engage in sexual harassment.

(b) Unwelcome sexual advances, requests for sexual favors, and verbal, graphic or physical conduct of a sexual nature constitute sexual harassment when:

(1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(2) submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Part 2 - DISCRIMINATION COMPLAINTS INVESTIGATIONS

530:10-3-20. Purpose

Section 840-2.1 (F)(1) of Title 74 of the *Oklahoma Statutes* requires persons who investigate complaints of discrimination after December 1, 1995, to be trained according to the requirements of the Administrator unless otherwise provided by state or federal law. The rules in this Part establish training requirements for persons who investigate complaints of employment discrimination in executive branch agencies. The rules in this Part are not intended to require Appointing Authorities to train an agency

employee as a discrimination complaint investigator; but rather, are intended to ensure that complaints of discrimination are investigated by persons who meet the training requirements of the Administrator, unless otherwise provided by state or federal law, regardless of whether the investigation is conducted by persons internal or external to the agency.

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

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

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

(A) equal employment opportunity laws and rules;

(B) theories of discrimination and burdens of proof;

(C) planning and conducting complete and impartial investigations;

(D) techniques for interviewing witnesses;

(E) collecting relevant evidence;

(F) documenting the record of investigation; and

(G) preparing the written report of investigation.

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

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

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

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

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

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

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

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

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

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

(A) equal employment opportunity laws and rules; including the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., and Section 504 of the Federal Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq., and court cases;
(B) theories of discrimination and burdens of proof;
(C) planning and conducting complete and impartial investigations;
(D) techniques for interviewing witnesses;
(E) collecting relevant evidence;
(F) documenting the record of investigation; and
(G) preparing the written report of investigation.
(H) investigating discrimination complaints;
(I) personnel practices and procedures;
(J) alternative dispute resolution; or
(K) diversity and multi-culturalism.
(3) Discrimination complaints investigators who do not complete the annual training described in (b) (1) , or who fail to report such training by January 30th of the following year, will be placed on an "inactive" list and shall not conduct discrimination complaints investigations until the training requirement for the previous year has been met and reported.

530:10-3-24. Discrimination complaints investigator training verification

Before any person investigates a complaint of employment discrimination in the executive branch of state government, the Appointing Authority shall verify that the investigator has either met the training requirements of the Administrator or is not subject to the requirements.

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

(a) The Administrator may approve training that is not conducted by the Human Capital Management Division as meeting the four days of initial discrimination complaints investigator training required in 530:10-3-22.
(b) To request approval of discrimination complaints investigation training, an Appointing Authority shall submit the following course information to the Administrator for review:
(1) Course title and a brief description;
(2) Classroom hours or Continuing Education Units (CEUs) ; and
(3) Course outline.
(c) The Human Capital Management Division shall maintain lists of approved discrimination complaint investigation training courses, and may withdraw its approval of courses by notifying employing agencies.
(d) Persons who complete approved training courses shall submit proof of completion on a form that is prescribed or approved by the Administrator.
(e) The Administrator shall send notice of the acceptability of training to a person submitting proof of completion. If the person is a state employee, the Administrator shall also send the notice to the Appointing Authority.

Part 3 - AFFIRMATIVE ACTION [Revoked]

Part 5 - NONCOMPLIANCE, INVESTIGATIONS, HEARINGS, AND REMEDIES [Revoked]

Part 7 - AFFIRMATIVE ACTION AND CIVIL RIGHTS PERSONNEL

530:10-3-72. Appointment and duties of civil rights and affirmative action personnel

The Appointing Authority in each agency of each branch of state government is responsible for affirmative action efforts and progress. The Appointing Authorities of agencies authorized fewer than**200** full-time-equivalent employees may personally act as the affirmative action officer or may employ or assign one or more persons to serve as the agency's affirmative action officer [74:840-2.3]. The Appointing Authorities of agencies authorized **200** or more full-time-equivalent employees shall designate an affirmative action officer or Civil Rights Administrator who personally reports to the Appointing Authority on affirmative action and equal employment opportunity matters [74:840-2.3(1)].

530:10-3-75. Qualifications of civil rights and affirmative action personnel

(a) Personnel selected by Appointing Authorities to fill full-time Civil Rights Administrator positions in the classified service shall meet the minimum requirements contained in the job family descriptor for these jobs.

(b) Other classified and unclassified personnel designated by Appointing Authorities to serve as the agency's affirmative action officer on a full-time or part-time basis shall have knowledge of: federal and state civil rights laws; affirmative action and equal employment laws; and Oklahoma state government personnel practices and procedures.

530:10-3-78. Training requirements for affirmative action personnel [REVOKED]

Subchapter 5 - Position Allocation and Employee Classification System

Part 1 - GENERAL PROVISIONS

530:10-5-1. Purpose and scope

(a) The purposes of the rules in this Subchapter are to establish:

(1) an employee classification system for all classified employees; and

(2) standards and procedures for conducting audits of classified positions.

(b) The rules in this Subchapter apply only to employees and positions in the classified service, unless otherwise specified.

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

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

(1) the same descriptive title may be used to designate each position; and

(2) essentially the same selection requirements and procedures may be used to select employees; and

(3) under like working conditions, the same pay band may be applied.

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

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

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

(b) Appointing Authorities are responsible for ensuring that:

(1) job family descriptors are reviewed at least annually and the Human Capital Management Division is notified of any recommended changes in job family descriptors;

(2) managers and supervisors assign work to employees on a regular and consistent basis that conforms with the employee's classification;

(3) employees are classified in accordance with the work they are assigned on a regular and consistent basis as an integral part of their normal job [74:840-4.3];

(4) managers and supervisors cooperate in position allocation audits and classification grievance audits by supplying timely and accurate information about positions being audited;

(5) all records relied on by the Appointing Authority in making changes to the job family level are maintained; and

(6) each employee is given a copy of the:

(A) job family descriptor for the job family to which the position occupied by the employee is allocated if the employee requests a copy;

(B) list of accountabilities to be used in evaluating the employee's performance, as required in 530:10-17-31; and

(C) Position Description Questionnaire for the position if one exists and the employee requests a copy.

530:10-5-4. Rights and responsibilities of employees

(a) Employees shall be familiar with the job family descriptor, Position Description Questionnaire if one exists, and list of accountabilities for the position they occupy.

(b) Employees shall participate in the processes and procedures pertaining to the allocation of positions and classification of employees. This is a duty of all employees. Employees shall supply timely and accurate information about duties and responsibilities of other employees and positions when requested to do so.

(c) *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 employee's job family descriptor and level of assignment* [74:840-4.3].

(d) *Employees are entitled to the job family level they are currently assigned* [74:840-4.3] and to perform work consistent with their classification. *An employee is entitled to the compensation assigned to the job family level for which duties were performed on a regular and consistent basis. This provision does not entitle the employee to a higherjob family level* [74:840-4.3] and does not prohibit reclassification in accordance with other Merit Rules. Employees have no right to reclassification, to occupy a specific position, or to the continued assignment of specific duties and responsibilities.

(e) *An employee is not required to perform all of the work operations described in a job family descriptor in order to be eligible for classification thereunder. An employee is not eligible or entitled to classification by reason of performing isolated or singular duties incidental to the job but which are described in another job family descriptor. Employees are entitled to the job family level they are currently assigned.* [74:840-4.3]

(f) *An employee normally performs some of the work of higher-rated jobs and some of the work of lower-rated jobs when required. The normal duties of an employee may include assistance to*[other employees]. [74:840-4.3] *An employee is required to perform the work operations and duties described or appraised as being covered by a job family descriptor pursuant to that degree or amount of guidance or instruction which is considered usual and normal in order to qualify for the classification* [74:840-4.3].

(g) The fact that the list of accountabilities used in the appraisal of the employee's work performance in accordance with 530:10-17-31 does not include all of the tasks assigned to the employee, does not exempt the employee from performance of such tasks.

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

(a) After a position is created, the Appointing Authority shall furnish the Human Capital Management Division with a completed Position Description Questionnaire form. OAC 530:10-5-55 describes this form.

(b) The supervisor and the manager of a position shall review the Position Description Questionnaire each time the position becomes vacant to ensure that the duties assigned to the position are in substantial agreement with the job family descriptor and that both continue to identify the work the Appointing Authority wants assigned to the position.

(c) An Appointing Authority may change the duties and responsibilities of positions at any time. When there is a significant change in a position or if there is reason to believe the position is not properly allocated, the Appointing Authority shall request an audit of the position in accordance with 530:10-5-50.

(d) An Appointing Authority shall promptly notify the Human Capital Management Division when a position is abolished.

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

(a) No newly created position shall be filled by initial or internal appointment or otherwise encumbered until the position has been initially allocated by the Human Capital Management Division.

(b) An Appointing Authority shall not fill a vacant position being audited until the audit has been completed and the final allocation decision has been made. This prohibition does not apply during the conduct of survey audits of positions pursuant to 530:10-5-57.

530:10-5-8. Job family descriptors

(a) **Purpose and use of job family descriptors.** Job family descriptors shall be used to distinguish one job family from another as clearly and definitively as possible [74:840-4.3]. Job family descriptors shall also be used as a basis for:
(1) allocating positions to job families [74:840-4.3];
(2) selecting employees to fill positions;
(3) assigning jobs to pay bands;
(4) ensuring that employees are properly classified [74:840-4.3]; and
(5) assigning positions to levels by the Appointing Authority.
(b) **Format and content of job family descriptors.** The Human Capital Management Division shall determine the format to be used in preparing job family descriptors.
(1) A job family descriptor shall consist of:
(A) a title and code, including a code for each level in the job family descriptor;
(B) a basic purpose describing duties, and responsibilities of employees in the job family;
(C) typical functions performed;
(D) knowledge and skills necessary to perform work at each level; and
(E) the minimum qualifications, such as those for education and experience, that are required for initial or internal appointment to a job included in the job family.
(2) A job family descriptor may also include identification information and other information, such as position allocation standards, which facilitates the allocation of positions to job families, the selection of qualified employees, and the assignment of appropriate pay bands.
(c) **Adoption, revision and abolishment of job family descriptors.** After the initial conversion of classes to job families on November, 1, 1999, the Administrator shall have a public hearing before adopting a new job family descriptor or revising a job family descriptor to the extent that the allocation of positions or the pay band for the job family is affected, so that interested persons will have an opportunity to express their views. However, the Administrator may make other revisions to job family descriptors and may abolish unused job families as the need to do so is identified.
(d) **Distribution of job family descriptors.**
(1) Before the effective date of the adoption or revision of a job family descriptor for which positions in an agency have been allocated, the Human Capital Management Division shall provide the Appointing Authority with a copy of the job family descriptor.
(2) The Human Capital Management Division shall provide all agencies with a summary of all job family descriptors adopted, revised, or abolished within **1** month after the action.
(3) Appointing Authorities shall give employees notice of new and revised job family descriptors and give copies of job family descriptors to employees in the job family and their supervisors upon request.

530:10-5-10. Classification of employees [REVOKED]

530:10-5-13. Authority to underfill positions [REVOKED]

Part 3 - ALLOCATION OF POSITIONS

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

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

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

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

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

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

(b) Relevant information about the position shall be considered. This may include, but is not limited to, individual position descriptions, information submitted by the Appointing Authority and employee, job audit reports, organizational charts, and lists of accountabilities to be used in appraising performance in the position.

(c) Consideration shall be given to the specific tasks and duties, levels of authority and responsibility, supervision received and exercised, discretion and judgment required, management of work processes and programs, organizational relationships to other positions, and any other factors which assist in the proper allocation of the position.

(d) The Human Capital Management Division may consider the relationship of positions to gain a better understanding of the duties and responsibilities of a position being allocated.

(e) The fact that all of the tasks of a position do not appear in the job family descriptor to which the position has been allocated shall not be taken to mean that the position is necessarily excluded from the job family, nor shall any one example of a typical task, taken without relation to the other parts of the job family descriptor, be construed as determining that a position should be allocated to the job family.

(f) If a job family descriptor which clearly encompasses the duties and responsibilities of a position does not already exist, the Human Capital Management Division shall allocate the position to the most appropriate existing job family, revise an existing job family descriptor, or prepare a new job family descriptor to describe the position.

Part 4 - ASSIGNMENT OF JOB FAMILY LEVELS

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

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

530:10-5-44. Determination of appropriate job family level

(a) Appointing Authorities shall use job family descriptors and the job family allocation made by the Administrator in assigning positions to job family levels. In determining the job family level to which a position shall be assigned, Appointing Authorities shall interpret and apply the Position Description Questionnaire (OPM 39) , and the job family descriptor as a composite picture of positions the job family level includes [74:840 4.3]. Appointing Authorities may also use a Supplemental Position Description Questionnaire (OPM 39A) in assigning positions to job family levels.

(b) Relevant information about the position shall be considered. This may include, but is not limited to, individual position descriptions, information submitted by the Appointing Authority and employee, job audit reports, organizational charts, and lists of accountabilities to be used in appraising performance in the position.

(c) Consideration shall be given to the specific tasks and duties, levels of authority and responsibility, supervision received and exercised, discretion and judgment required, management of work processes and programs, organizational relationships to other positions, and any other factors which assist in the proper allocation of the position.

(d) Appointing Authorities may consider the relationship of positions to gain a better understanding of the duties and responsibilities of a position in assigning a position to a job family level.

Part 5 - AUDITS OF POSITIONS

530:10-5-50. Initiation of audits

(a) The Office of Management and Enterprise Services may initiate audits of individual positions or survey audits of positions as any need to do so is identified.

(b) Audits of positions shall be conducted by the Human Capital Management Division at the written request of an Appointing Authority [74:840-4.3]. The written request shall include a Position Description Questionnaire completed according to 530:10-5-55.

(c) Audits of positions shall be conducted by the Human Capital Management Division at the written request of the Executive Director of the Merit Protection Commission in connection with a complaint filed with the Commission.

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

530:10-5-51. Classification disputes

(a) *An employee has the right and responsibility to file a classification grievance, as provided by law and rule, when duties performed on a regular and consistent basis do not conform to the job family descriptor* [74:840-4.3]. The 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 (OPM-70) , as provided in OAC 455:10-19-35, the form will be submitted through appropriate supervisory channels to the agency office responsible for human resources functions.

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

(c) If the review of the Classification Dispute Review Request and other related information indicates that the grievance includes the job family to which the position is allocated, and the agency has not been delegated position allocation authority, the form will be forwarded within **20**days to the 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 an 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.

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

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

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

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

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

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

(b) A list of accountabilities to be used in the appraisal of an employee's work performance in the position in accordance with 530:10-17-31, does not by itself contain sufficient information to make a determination of appropriate allocation for the position.

(c) Upon completion of an audit and the allocation of a position in accordance with 530:10-5-56, the Human Capital Management Division shall send one copy of the allocated Position Description Questionnaire (or the Classification Dispute Review Request Form) to the Appointing Authority and one copy to the employee if the position is occupied. Other materials submitted to, or collected by, the Human Capital Management Division which were considered in the allocation of the position shall become the property of the Office of Management and Enterprise Services and shall not be returned. All such documents are open to the public.

(d) The Human Capital Management Division shall determine those records which are relevant to the proper allocation of a specific position and may refuse or return other records, such as, training manuals, operations manuals, evaluations of individual employee performance, work samples, magnetic tapes and disks, photographs, clippings, etc.

(e) Throughout the process that leads to the allocation of a position, the Appointing Authority shall give the employee who occupies the position being audited copies of any completed Position Description Questionnaire (if the audit was initiated by the Appointing Authority, the Human Capital Management Division, or the Executive Director of the Commission) and any additional written material about the position or the audit before the agency submits the material to the Human Capital Management Division.

(f) Any employee who occupies the position being audited shall provide written comments through appropriate supervisory channels in the agency. The employee shall send a copy of any Classification Dispute Review Request form (if the audit was initiated by a classification grievance) and any additional written material about the position or the audit through appropriate supervisory channels in the agency to the Human Capital Management Division. The Appointing Authority shall not alter the statements made by the employee and shall forward materials submitted by the employee to the Human Capital Management Division.

(g) Appointing Authorities shall ensure that employees occupying positions being audited are informed about appropriate supervisory channels in the agency, including when and where to submit information concerning the audit.

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

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

(1) The form contains instructions for its completion and for it to be accompanied by an organization chart showing the relationship of the position to other positions.

(2) The form contains spaces for the Appointing Authority or the Appointing Authority's designee to:

(A) identify himself or herself, the position described, any employee who occupies the position, and the agency where the position is located;

(B) indicate the reasons for completion of the form;

(C) describe the position, including but not limited to duties, supervision exercised and received, decision-making, work guidelines, equipment operated, personal contacts, fiscal impact of work, travel and other special requirements; and

(D) sign and date the form.

(3) The form contains spaces for any employee occupying the position to indicate having read the completed form.

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

(A) allocation of the position;

(B) staff member making the allocation; and

(C) date of the allocation.

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

(1) The form contains instructions for completing the form which require it to be accompanied by an organization chart showing the relationship of the position to other positions.
(2) The form contains spaces for the incumbent employee to:
(A) identify himself or herself, the position occupied, and the agency where the position is located;
(B) indicate the reasons for completion of the form;
(C) describe his or her position, including but not limited to duties, supervision exercised and received, decision-making, work guidelines, equipment operated, personal contacts, fiscal impact of work, travel and other special requirements; and
(D) sign and date the form.
(3) The form contains spaces for the Appointing Authority or a person designated by the Appointing Authority to respond to the employee's statements.
(4) The form contains spaces for the Human Capital Management Division to record the:
(A) allocation of the position or the classification of the duties and responsibilities;
(B) staff member making the decision; and
(C) date of the decision.
(c) **Supplemental Position Description Questionnaire.** An additional document for the collection of information about positions is the Supplemental Position Description Questionnaire (OPM 39A) . This form is designed primarily for the collection of information concerning significant changes in the duties and responsibilities assigned to a position since it was last audited and may be used by agencies in conducting reviews related to the job family level to which a position is assigned to determine whether assignment to another level is appropriate. This form will be completed by the Appointing Authority or a person designated by the Appointing Authority who is familiar with the duties and responsibilities the Appointing Authority has assigned or wishes to be assigned to the position. Agencies may also use other forms or methods for collecting the information needed, if desired.

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

(a) The conduct of an audit of a position begins when a properly completed Position Description Questionnaire (OPM 39) or a Classification Dispute Review Request form (OPM 70) is received in the 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 (OPM 39) , Classification Dispute Review Request (OPM 70) , Supplemental Position Description Questionnaire (OPM 39A) , or other information prescribed by the agency. These audits shall be completed within **30** calendar days after the receipt of

required information, or the requesting official and the incumbent employee shall be provided written notice of the expected date of completion.

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

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

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

530:10-5-58. Reinitiation of audit after the allocation of a position becomes final

Once the allocation of a position to a job family becomes final in accordance with the Merit Rules in this Subchapter, the Appointing Authority shall not reinitiate an audit unless the duties and responsibilities of the position are significantly changed, a new job family descriptor is adopted, an existing job family descriptor is revised, or a classification survey is conducted that results in a better understanding of the duties and responsibilities of the position.

Part 7 - IMPARTIAL REVIEW OF THE FINAL ALLOCATION OF A POSITION [Revoked]

Part 9 - STATUS OF EMPLOYEES WHEN POSITIONS ARE REALLOCATED

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

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

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

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

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

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

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

530:10-5-91. Other position reallocations

(a) If a position is reallocated under conditions other than those outlined in 530:10 5 90, and the classification of an incumbent employee does not match the new allocation of the position, the Appointing Authority shall take action within 60 calendar days after the effective date of the allocation to ensure that the employee is properly classified. The Appointing Authority may:

(1) transfer a permanent employee to another position in the agency allocated to the job family matching the classification of the employee in accordance with the Merit Rules governing transfers; or

(2) change the duties of the position to the extent necessary to reflect the classification of the employee and initiate another audit of the position; or

(3) reclassify or promote a permanent employee to the job family to which the position occupied by the employee was reallocated.

(b) If the employee is ineligible or is not selected to continue in the reallocated position, and if the Appointing Authority does not or cannot promote, demote or transfer the employee, detail the employee to special duty or change the duties of the position to match the classification of the employee, the applicable provisions in Merit Rules for reductions-in-force shall apply.

Subchapter 7 - Salary and Payroll

Part 1 - SALARY AND RATE OF PAY

530:10-7-1. Purpose and general provisions

(a) The purpose of the rules in this Part is to *establish pay regulations, regulations for performance pay increases, rates for pay differentials, on-call pay, and other types of pay incentives and salary adjustments* [74:840-1.6A].

(b) Pay raises are prohibited unless specifically authorized by legislation or the Merit Rules. A cost-of-living raise or any other type of raise that would be given to state employees on an across-the-board basis is prohibited unless specifically authorized by the Legislature [74:840-2.17].

(c) The rules in this subchapter provide for market adjustments, increases upon lateral transfer, skill-based adjustments, equity-based adjustments, career progression increases, salary adjustments upon completion of the initial probationary period or trial period, and performance-based adjustments. Appointing Authorities may use these pay mechanisms only if funds are available in the agency's budget for the current and subsequent fiscal year without the need for additional funding to increase the personal services budget of the agency. Upon certification from the Director of State Finance that an Appointing Authority has exceeded the agency's budget for the current or subsequent fiscal year due to the use of the pay movement mechanisms listed in this subsection, the Administrator may withdraw authorization for the agency to use the following pay movement mechanisms during the next appropriations cycle: market adjustments, increases upon lateral transfer, equity-based adjustments, performance-based adjustments, and career progression increases [74:840-2.17].

(d) The rules in this subchapter do not apply to employees and positions in the unclassified service unless stated otherwise.

530:10-7-1.1. Salary administration plan

An Appointing Authority shall adopt a salary administration plan for the agency's classified positions and submit the plan for the approval of the Administrator. The salary administration plan shall establish

a hiring rate or range for each job family level within the agency's classification plan. In the salary administration plan, the Appointing Authority may establish conditions under which the Appointing Authority may establish a hiring rate above the midpoint of the pay band, skill-based pay programs, and other pay movement mechanisms authorized by 74:840-2.17 except performance-based adjustments. Proposed amendments to the salary administration plan may be submitted to the Administrator for approval at any time.

530:10-7-1.2. Funding and reporting requirements [REVOKED]

530:10-7-1.3. Calculation of rates of pay

(a) The basis for expressing base rates of pay shall be the annualized salary. Annualized salary shall be computed by multiplying the monthly rate of pay by **12** months or by multiplying the hourly rate of pay by **2,080** hours.

(b) Before calculating any changes in monthly or hourly rates of pay, the base rate of pay shall be converted to an annualized salary.

(c) In making multiple calculations to arrive at a final figure, fivedecimal places shall be retained throughout all intermediate calculations: only the final figure shall be rounded.

(d) In mathematical calculations of rates of pay, calculations to convert remainders to cents shall be carried five decimal places and rounded to two decimal places (cents). Any number greater than or equal to **0.005** shall be rounded to the next higher cent.

(1) Example 1: $22,718.00 ÷ 12 = 1,893.16666 or $1,893.17

(2) Example 2: $25,432.00 ÷ 12 = 2119.33333 or $2,119.33

(e) The formula for converting an annualized salary to a monthly rate of pay shall be: Monthly Rate of Pay = Annualized Salary ÷ 12. Example: Monthly Rate of Pay = $22,718.00 ÷ 12 = 1,893.16666 or $1,893.17

(f) The formula for converting an annualized salary to an hourly rate of pay shall be: Hourly Rate of Pay = Annualized Salary ÷ 2080. Example: Hourly Rate of Pay = $23,241.00 ÷ 2080 = 11.17355 or $11.17

530:10-7-2. Salary schedule

(a) The rate of pay of employees shall be maintained within the pay band for the job family level and kept within the established minimum and maximum rates of pay, except as provided by law or Merit Rule.

(b) The table in Appendix A of this Chapter lists the minimum, midpoint, and maximum annual rates of pay for each established pay band, which shall be used by Appointing Authorities in establishing hiring rates and making other decisions concerning rates of pay and individual pay adjustments.

Appendix A - Pay Band Schedule

Pay Band	Minimum	Midpoint	Maximum
A*	$19,090	$18,859	$23,574
B*	$19,090	$19,108	$23,884
C*	$19,090	$20,215	$25,268
D*	$19,090	$21,793	$27,241
E*	$19,090	$23,973	$29,967
F	$19,778	$26,370	$32,963
G	$21,756	$29,008	$36,260
H	$23,931	$31,908	$39,885
I	$26,502	$35,336	$44,170
J	$29,136	$38,849	$48,561
K	$31,848	$42,464	$53,080
L	$35,032	$46,709	$58,387
M	$38,885	$51,846	$64,808
N	$43,163	$57,550	$71,938
O	$48,342	$64,455	$80,569
P	$54,627	$72,835	$91,044
Q	$61,728	$82,304	$102,880
R	$69,753	$93,004	$116,255

*Minimum revised to reflect State employee minimum wage rate.
(see 74 O.S. 840-2.16)

530:10-7-3. Entrance salary

(a) Appointing Authorities may establish the hiring rate for a classified job at any point between the minimum and maximum of the pay band for the job family level without prior approval of the Administrator. Upon approval of the salary administration plan by the Administrator. Hiring rates shall not be established below the minimum or above the maximum rate of pay established for a pay band.

(b) Appointing Authorities shall establish hiring rates for jobs included in a pay band based on the work performed, the duties and responsibilities assigned, and other relevant factors. This may include

consideration of recruitment and retention issues, internal pay equity, market rates, previous hiring rates, and the training and qualifications of the employee being appointed.

530:10-7-4. Rate of pay upon reinstatement to the classified service

(a) When an Appointing Authority reinstates a person to the classified service in accordance with 530:10-9-102, the Appointing Authority may set the person's salary at any point within the pay band for the job to which the person is reinstated which is consistent with the hiring range established for the job, salaries paid to other individuals performing similar work, or other relevant factors, except as provided in Subsection (b).

(b) When an Appointing Authority reinstates a person to the classified service in accordance with 530:10-9-102 to a position in the same job family level as the employee's previous position after less than a **30-**day break in service, the Appointing Authority shall set the employee's salary at any rate within the pay band that does not exceed the employee's previous salary.

530:10-7-5. Salary upon return from military service

Any employee who returns from military service shall be paid at a rate as provided in Sections 25.4, 25.5 and 25.7 of Title 51 of the **Oklahoma Statutes** and the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C., 4301 et seq.).

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

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

(1) individuals not currently employed in state government;

(2) Carl Albert Executive Fellows and other professional trainees and students employed pursuant to paragraphs 10 and 11(a) and (b) of Section 840-5.5(A) of Title 74 of the Oklahoma Statutes; and

(3) individuals employed pursuant to the Cooperative Engineering Trainee Program.

(b) Appointing Authorities who choose to implement the pay incentive shall file a plan with the Office of Management and Enterprise Services which contains information related to the implementation of the pay incentive within the agency. The plan shall provide documentation of the critical recruitment and retention problems and shall include a project description, specific prerequisites that each employee shall meet in order to receive the pay incentive, and information concerning the funding of the incentive from the agency's existing budget. The plan shall be signed by the Appointing Authority, and this signature requirement may not be delegated. No payment shall be made under this Section until the plan has been reviewed and accepted by the Administrator.

(c) The pay incentive shall not exceed $5,000.00 and is payable to eligible individuals as a lump sum payment or in two equal payments during the first six months of state employment. Former state employees may be eligible for the pay incentive following a break-in-service of at least 180 days.

(d) To receive the pay incentive, an eligible individual shall be required to sign an agreement form acknowledging that the individual is obligated to repay the entire incentive, including tax withholdings on the incentive, if the individual leaves state employment or accepts employment with another state agency within **1** year after he or she receives the pay incentive. Appointing Authorities may use the agreement form developed by the Administrator or any other agreement form which is consistent with the provisions of this Section.

(e) An individual may receive only one sign-on pay incentive during his or her state employment.

530:10-7-7. Pay differential

(a) The Administrator may authorize a pay differential [74:840 1.6A(11)]for a position within a job family because of special duty requirements related to the position. This may include shift pay, on-call pay, skill-based pay adjustments, and other types of differentials based on special work requirements, as approved by the Administrator. These payments shall be over and above the employee's base pay and shall be paid only as long as the employee occupies the particular position under the circumstances which have necessitated the differential. The request for the differential shall be submitted in writing by the requesting agency and shall adequately identify the need.

(b) An Appointing Authority shall determine whether pay differentials will be paid while employees are in paid leave status or provided only for hours actually worked. Appointing Authorities shall apply such practices uniformly. Pay differentials shall not be provided for hours that an employee is not in pay status. Pay differentials are not limited by the maximum of the pay band.

530:10-7-8. Rate of pay upon recall to job family level from which removed by reduction-in-force

The base rate of pay of an employee who has been recalled to the job family level from which removed by a reduction-in-force in accordance with OAC 530:10-13, Part 5, shall be fixed at the rate of pay received immediately before the reduction-in-force. The employee's rate of pay shall be adjusted according to any across-the-board increases for agency employees in that job family level made in the interim. If the pay band for the job family level has been changed in the interim, the employee's rate of pay shall be adjusted in accordance with 530:10-7-13.

530:10-7-9. Rate of pay for positions that become classified

Whenever a position in an agency is brought under the classified service, the rate of base pay of the continuing incumbent shall be placed in the pay band for the job family and level to which the position is allocated, without adjustment, if such base rate is equal to or greater than the minimum rate of pay established for that job. If it is not, the rate of pay shall be increased to the minimum rate established by the agency for that job. Unless otherwise provided by statute, pay adjustments and required classification actions for incumbent employees shall be retroactive to the effective date of the placement of the employee in the classified service. No employee's base rate of pay shall be reduced as a direct result of becoming classified.

530:10-7-10. Rate of pay higher than maximum

Where the rate of pay of an employee is higher than the maximum rate of pay for the pay band to which the job is assigned, the rate will remain the same as long as the employee retains the present classification, but no further increases will be approved unless provided by statute.

530:10-7-11. Continuous Service Incentive Plan

(a) Appointing Authorities may implement a pay incentive plan [74:840-1.6A(11)] intended to promote continuous service within the first two years of state employment. The plan shall be limited to job families for which there are critical recruitment and retention problems as identified by the Appointing Authority.

(b) The pay incentive shall consist of scheduled periodic payments over the employee's first two years of continuous service in the targeted job families, not to exceed a total of $2,500 in any 12-month period. Payments may not be made prospectively or prorated. No payment shall be made under the plan until the employee has completed at least six months of continuous service in the targeted job family.
(c) At the discretion of the Appointing Authority, the following persons filling positions in the targeted job families may be included in the plan:
(1) Persons not currently employed in state government;
(2) Current state employees during their first two years of continuous state employment in the targeted job family; and
(3) Former state employees following a break in service of at least 30 days.
(d) Appointing Authorities who choose to implement the pay incentive shall submit a written plan to the Administrator of the Office of Personnel Management and the Director of the Office of State Finance prior to implementation. The plan shall identify the job families to which the pay incentive will be applicable and shall document the critical recruitment and retention problems and the agency's rationale for the plan. The plan may provide for different pay incentives for different job families at the discretion of the Appointing Authority. The plan shall also identify the criteria for eligibility and shall include information concerning the funding of the pay 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.

530:10-7-12. Payment of overtime

(a) An Appointing Authority shall neither require nor allow FLSA Non-Exempt employees to work in excess of 40 hours a week without establishing and implementing a comprehensive policy for compensation. Such policy shall be in compliance with the Fair Labor Standards Act (29 U.S.C. 201 et seq.) . The policy shall be made available by the Appointing Authority to interested persons upon request and the Appointing Authority shall so notify employees. Copies of such policy shall be forwarded to the Human Capital Management Division. This section is not a comprehensive listing of the provisions of the Fair Labor Standards Act (29 U.S.C, 201 et seq.) and regulations promulgated thereunder, and is not intended to conflict with either the Act or the regulations.
(b) FLSA Non-Exempt (as defined by the Fair Labor Standards Act) employees shall be paid 1 1/2 times their regular hourly rate for each overtime hour worked.
(c) The Executive Branch of the State of Oklahoma is one employer for FLSA purposes; therefore, concurrent employment in more than one agency is considered joint employment. Employees working in one or more nonexempt positions in Executive Branch agencies and who work more than 40 total hours per week shall be eligible for overtime. Employees shall be required to notify their current agency upon accepting employment with another Executive Branch agency. It will be the responsibility of all agencies involved to insure that all FLSA requirements associated with multiple agency appointments are met.
(d) Compensatory time in lieu of overtime payment at the rate of time and one-half may be given to FLSA Non-Exempt employees (as defined by the Fair Labor Standards Act) subject to the following conditions:
(1) Prior to the performance of overtime work, the Appointing Authority and the employee shall agree in writing that the employee may be required to take compensatory time in lieu of overtime pay. A written agreement is not required with respect to employees hired prior to April 15, 1986, if the

employer had a regular practice in effect on April 15, 1986, of granting compensatory time off in lieu of overtime pay (29 U.S.C. 553.23) .

(2) An employee shall be permitted to use accrued compensatory time within **180** days following the pay period in which it was accrued. The balance of any unused compensatory time earned but not taken during this time period shall be paid to the employee. An Appointing Authority may grant an extension of this time period for taking compensatory time off up to an additional **180** days. Agencies shall not be allowed to extend the initial 180-day time period for employees working in an institutional setting as defined by 74:840-2.15(D) [74:840-2.15(C)].

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

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

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

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

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

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

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

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

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

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

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

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

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

530:10-7-13. 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 rate of pay exceeds the maximum of the old pay band, shall receive an adjustment to the new pay band. No person's 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 salary need occur provided that all affected salaries fall within the new pay band. OAC 530:10-7-10 does not apply to adjustments made in accordance with this Section.

530:10-7-14. 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 530:10-5-90, the rate of pay shall be fixed in accordance with 530:10-7-13.

(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 530:10-7-1.1 and shall be consistent with state and federal statutes prohibiting discrimination.

(2) The Appointing Authority shall set an employee's salary on promotion or career progression at no less than 5% and no more than 20% of the employee's salary before promotion or career progression, except as follows:

(A) If the increase would make the employee's salary after promotion or career progression greater than the maximum rate of pay for the new pay band, the employee's salary shall be set at the maximum rate of pay for the new pay band.

(B) If the increase is insufficient to raise the employee's salary to the minimum of the new pay band, the employee's salary shall be raised to the minimum of the new pay band.

(C) The Appointing Authority may set the employee's salary on promotion or career progression at more than 20% of the employee's salary before promotion or career progression as long as the rate is within the hiring range established for the position in an approved salary administration plan.

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

(c) **Rate of pay when demoted.** The 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 rate of pay. An Appointing Authority may delay setting the 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 salary, 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]

530:10-7-15. Salary reduction

No employee salary shall be reduced except as specifically provided in the Merit Rules.

530:10-7-16. On-call pay

An Appointing Authority shall compensate a classified employee for a minimum of two (2) hours work if the employee is required to report to a work location while on-call. Employees are guaranteed

compensation for each occasion in which a call-back is made after having left the regular work station. The compensation may be in the form of compensatory time in lieu of cash payment. [74:840-2.29]

530:10-7-17. Rate of pay upon detail to special duty

The pay of an employee who is detailed to special duty in accordance with 530-10-11-110 shall not be reduced, but must be increased to at least the minimum rate but not more than the maximum rate the employee could receive upon promotion to that job family and level, provided:

(1) any such temporary increase shall not affect eligibility for increase in the regular job family and level which the Appointing Authority could grant if the employee had not been detailed.

(2) at the conclusion of the detail, pay shall revert to the authorized rate of pay in the employee's regular job family and level.

530:10-7-18. Discretionary performance pay increases [REVOKED]

530:10-7-19. OK Health Incentive Pay [REVOKED]

530:10-7-20. Market adjustments

Upon approval by the Administrator, an Appointing Authority may make market adjustments for all employees in a job family or job family levels or limit such adjustment to employees who perform the same or similar duties, or who perform the same role or accountabilities. An Appointing Authority making such a request shall provide the Administrator with information supporting the request, such as relevant market data, information on recruitment or retention problems, or other appropriate data. The Appointing Authority shall also certify that an adjustment can be made within the agency's budget for the current and subsequent fiscal year without the need for additional funding. An Appointing Authority may limit market adjustments to employees rated at least "Meets Standards" on the most recent performance evaluation. Such limitation must be included in the agency's approved Salary Administration Plan. All eligible employees of an agency in jobs affected by a market adjustment shall be given uniform treatment.

530:10-7-21. Relocation Incentive

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

(1) Recent turnover in similar positions in the locality involved;

(2) Employment trends and labor-market factors that may affect the agency's ability to recruit candidates for the locality involved;

(3) Special or unique qualifications required for the position;

(4) Failure of non-pay authorities, such as special training or work scheduling flexibilities, to resolve difficulties in recruiting candidates;

(5) The desirability of the duties, work or organizational environment, or geographic location of the position; and

(6) Other supporting factors.
(b) The plan must contain a certification that the additional costs associated with the proposed incentive can be accommodated within the agency's existing budget. The plan shall be signed by the Appointing Authority, and this signature requirement may not be delegated. No payment shall be made under this Section until the plan has been reviewed and accepted by the Administrator.
(c) A position is considered to be in a different geographic area if the worksite of the new position is 50 or more miles from the worksite of the position held by the employee immediately before the move. The employee must establish a residence in the new geographic area before an appointing authority may pay a relocation incentive.
(d) The relocation pay incentive shall not exceed 20% of the employee's base pay in the new position The determination to pay a relocation incentive must be made before the employee enters on duty in the position. An agency may pay a relocation incentive:
(1) As an initial lump-sum payment at the commencement of a 2-year service period required by a service agreement;
(2) In installments throughout the 2-year service period; or
(3) As a final lump-sum payment upon the completion of the 2-year service period.
(e) To receive the incentive, employees shall be required to sign an agreement form acknowledging they are obligated to repay the entire incentive, including tax withholdings on the incentive, if they leave state employment or accept employment with another state agency prior to the expiration of 2-year service period.
(f) An employee may receive no more than two relocation pay incentives during his or her state employment. A relocation pay incentive will not be approved if an earlier relocation pay incentive was approved within the previous five-year period.

530:10-7-22. Salary adjustments upon completion of initial probation or trial period

An Appointing Authority may provide salary adjustments not to exceed **5%** to probationary classified employees achieving permanent status following the initial probationary period. An Appointing Authority may also provide this salary adjustment to employees reinstated to the classified service after a break in service upon completion of a probationary period, and to permanent classified employees successfully completing trial periods after intra-agency lateral transfer or promotion to a different job family level or career progression to a different job family level. [74:840-2.17]

530:10-7-24. Skill-based pay adjustments

(a) An Appointing Authority may develop skill-based pay programs upon the approval of the Administrator. Such programs shall be related to the acquisition or possession of additional skills and abilities which can be applied to the work to be performed and which will increase the value of the employee to the agency. The skills or abilities must be verifiable through certification, licensure, diploma, or some other method and must be beyond the qualifications required to perform the primary or essential functions and responsibilities of the employee's position. Requests to establish skill-based pay programs shall include a complete description of the training or education required, how it will benefit the agency, the proposed salary adjustment, and any other information that will assist in evaluating the request.
(b) Skill-based pay adjustments may be provided as a differential over and above an employee's base pay or as lump-sum payment. Lump sum skill-based pay adjustments may be awarded upon initial certification and any subsequent recertification as may be required by the certifying organization and identified in the agency's skill-based pay plan. Lump sum payments shall be limited to 10% of an

employee's annual salary, and differentials shall be limited to 10% of an employee's monthly salary for employees paid on a monthly basis, and 10% of an employee's biweekly salary for employees paid on a biweekly basis. Except as provided in Subsection (c), skill-based pay adjustments shall be paid only as long as the employee occupies a position to which the skill is applicable in accordance with the agency's salary administration plan. An employee may receive multiple skill-based pay differentials so long as the combined total of all skill-based pay differentials does not exceed 15%. All eligible employees of an agency in jobs affected by a skill-based pay adjustment shall be given uniform treatment.

(c) Skill-based pay differentials shall not be included in the employee's base salary and are subject to being discontinued under circumstances described in Subsection (b). [74:840-2.17]

530:10-7-26. Equity-based pay adjustments

An Appointing Authority may provide equity-based pay adjustments when employees are significantly underpaid relative to other employees performing the same or similar duties, or employees with the same role or accountabilities, in the same job family and level within the same agency. Adjustments above the midpoint of the pay band require approval of the Administrator. Adjustments below the midpoint of the pay band and which are consistent with the requirements of this section may be made at the Appointing Authority's discretion. An Appointing Authority may limit equity-based pay adjustments to employees rated at least "Meets Standards" on the most recent performance evaluation. Such limitation must be included in the agency's approved Salary Administration Plan. All eligible employees of an agency in jobs affected by an equity-based adjustment shall be given uniform treatment. No employee may receive more than one equity-based adjustment in the same job family and level in a twelve-month period.

530:10-7-27. Performance-based adjustments

(a) Performance-based adjustments enable Appointing Authorities to award a salary increase or lump sum payment to employees who have achieved an overall rating of "meets standards" or better on their most recent performance evaluation. This performance evaluation shall be conducted with the standard performance management system provided by 530:10-17-31.

(b) Appointing Authorities may adopt a performance-based adjustment program for permanent classified full-time and part-time employees pursuant to this Section. The program may allow performance-based adjustments for part-time employees on a prorated basis.

(c) In order to adopt a performance-based adjustment program, an Appointing Authority must submit a written performance-based adjustment plan to the Administrator for approval. The plan must:

(1) Indicate the manner in which the Appointing Authority intends to award performance-based adjustments, including a determination that performance-based adjustments will be awarded for overall ratings of "meets standards" and "exceeds standards," or "exceeds standards" only. Performance-based adjustments shall not exceed 5% of an employee's annual salary for "meets standards" or 10% of an employee's annual salary for "exceeds standards." The plan shall include:

(A) The amount or percentage that the Appointing Authority will award to qualifying employees; or

(B) The total dollar figure the Appointing Authority intends to set aside for performance-based adjustments to be divided among qualifying employees;

(2) Identify and define the 12-month evaluation cycle to be used within the agency, such as a calendar year or fiscal year. The plan may not be amended within the evaluation cycle but may be discontinued according to paragraph (5) of this subsection;

(3) Indicate whether the Appointing Authority will award performance-based adjustments as an increase to the employee's salary, a lump sum payment, or a combination thereof;

(4) Include certification by the Appointing Authority that the agency can fund the performance-based adjustment program for the current and subsequent fiscal year without the need for additional funding, and that the plan provides for uniform treatment of all permanent classified employees of the agency who achieve a "meets standards" or "exceeds standards" except as provided in subsection (e). The Appointing Authority shall not delegate authority to sign the certification; and
(5) Include a statement that the Appointing Authority may discontinue performance-based adjustments at any time should it be necessary to prevent a budget shortfall. The Appointing Authority shall notify employees of the discontinuation of the plan and the reason therefore.
(d) The performance-based adjustment plan must be approved by the Administrator before the Appointing Authority may grant performance-based adjustments to any permanent classified employee.
(e) An Appointing Authority shall not grant performance-based salary increases which cause an employee's base salary to exceed the maximum of the pay band to which the employee is assigned. [530:10-7-10] Such employees may be given performance-based salary increases up to the maximum of the pay band to which assigned and may also receive the remainder of the increase as a lump sum payment.
(f) An Appointing Authority may grant only one performance-based adjustment to any employee for any 12-month evaluation cycle. An Appointing Authority shall not award a performance-based adjustment to any employee based upon a performance evaluation which is more than one year old.

Part 3 - PAYROLL

530:10-7-31. Certification of payrolls

(a) **Certification.** No state disbursing or auditing officer shall make, approve or take part in making or approving any payment for personal service to any person holding a position in the classified service, unless the payroll voucher or account of such pay bears the certification of the Appointing Authority that the persons named therein have been appointed and employed in accordance with the provisions of the Oklahoma Personnel Act and the Merit Rules [74:840-1.18(D)].
(b) **Withholding of certification.** The Appointing Authority may for proper cause withhold certification from an entire payroll or from any specific item or items [74:840-1.18(D)]. Whenever the Office of Management and Enterprise Services finds that any person is employed or is proposed to be paid as an employee in the classified service in any amount not provided for under the provisions of the Oklahoma Personnel Act and the Merit Rules, the Office of Management and Enterprise Services shall notify the concerned state disbursing or auditing officer. After such notice, the concerned state disbursing or auditing officer shall not approve any payment to such person except in accordance with the provisions of the Act or the Merit Rules.
(c) **Suit to restrain disbursement.** Any citizen may maintain a suit to restrain a disbursing officer from making any payment in contravention of any provision of the Oklahoma Personnel Act or the Merit Rules [74:840-1.18(D)].
(d) **Recovery of erroneous payments.** Any sum paid contrary to any provision of the Oklahoma Personnel Act or the Merit Rules may be recovered in an action maintained by any citizen, from any officer who made, approved or authorized such payment or who signed or countersigned a voucher, payroll, check or warrant for such payment, or from the sureties on the official bond of any such officer [74:840-1.18(D)]. *All monies recovered in any such action shall be paid into the State Treasury* [74:840-1.18(D)].
(e) **Right of action by employees employed in contravention to the Merit Rules.** Any person appointed or employed in contravention of any provision of the Oklahoma Personnel Act or the Merit

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

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

Subchapter 9 - Recruitment and Selection

Part 1 - GENERAL PROVISIONS

530:10-9-1. Purpose

The purpose of the rules in this Subchapter is to establish policies and procedures for the*recruitment of qualified persons, including the administration of valid job-related nondiscriminatory selection procedures providing for competitive examinations… and for other reasonable selection criteria* [74:840-1.6A(6)]; *for the referral of capable candidates for vacancies… and the employment of individuals on other types of appointments as necessary* [74:840-1.6A(8)]; and for *impartial consideration of applicants for employment* [74:840-1.6A(3)].

530:10-9-3. Selection procedures

(a) Selection procedures may consist of written tests; ratings of training and experience; performance tests; physical, educational, and work experience requirements; interviews; oral examinations; application forms and any other type of examination.

(b) When a job requires a written test, the Administrator shall administer tests to applicants or employees with disabilities that impair sensory, manual, or speaking skills in formats that do not require the use of the impaired skill, if the applicant or employee notifies the Administrator before the test is administered.

(c) Before appointment, applicants may be required to pass a physical examination specified by the Appointing Authority when requirements of the job demand specific physical condition or capabilities. Such physical examinations shall be uniform in nature and applied to all persons in that job within the agency. The responsibility for administering the physical examinations lies with the Appointing Authority.

530:10-9-4. Announcements

The Administrator shall make public announcements of all entrance examinations in advance of the issuance of certificates. Such announcement shall include the waiting period between the date of the announcement and the release of names of eligible applicants to the appointing authority. An announcement may state the duties and salaries of positions in the jobs for which examinations are to be held; the qualifications required for admission to examinations; the time, place and manner of

application; the proposed relative weights to be given the parts of the examination; and such other information as the Administrator may consider pertinent and useful.

530:10-9-5. Applications

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

530:10-9-6. Establishment of minimum qualifications

The minimum qualifications established for each job family level shall constitute the entrance requirements for admission to examinations for classified positions. If an academic requirement will be met within **1** semester or term, an applicant may be admitted to an examination and certified for employment with the condition that the applicant shall meet all requirements for the job at the time he or she reports for duty with an agency.

530:10-9-7. Certification of qualifications by appointing authority [REVOKED]

530:10-9-9. Disqualifications

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

(1) the person lacks any of the education, experience, or certification requirements for the job.

(2) the person lacks any other requirement established by Oklahoma statute or federal law for the job.

(3) the person fails any part of an Appointing Authority's background investigation.

(4) the person made a false statement of material fact in an application for employment or otherwise misrepresented himself or herself during the application process.

(5) the person has used or attempted to use political pressure or bribery to secure an advantage in the examination or appointment process.

(6) even with reasonable accommodation, the person is unable to perform the duties of the job or position(s) or is unable to do so without risk to himself or herself, the agency, or others, beyond that risk normally associated with such duties.

(7) the person has obtained information regarding examinations to which an applicant is not entitled, or the person has taken part in the development, administration, or correction of the examinations.

(8) the person is in possession of unauthorized materials or electronic device during an examination.

(9) the person has failed to submit an application correctly or within the prescribed time limits.

(10) the person has failed to maintain a record of current address at the Human Capital Management Division evidenced by the return of a letter by the U.S. Post Office, if properly addressed to the last address of record.

(11) the person has, within **2** years prior to the date of certification, been discharged for delinquency, misconduct, absenteeism, inability to perform the same type job for which applying or other disciplinary reason or has resigned in lieu of such dismissal from any public or private employer. The Appointing Authority may extend the **2**-year restriction for good cause.
(12) the agency has exercised a selective qualification as established in 530:10-9-74.
(13) an individual is ineligible for employment due to citizenship or residence requirements as prescribed in 530:10-9-75.
(b) Action initiated by an Appointing Authority under (a) (1) , (a) (7) , and (a) (9) of this Section shall be subject to the approval of the Administrator. Any person who is disqualified shall be notified in writing of this action and the reason for it. At the appropriate time, the Administrator shall notify an individual of the right to appeal. The party initiating the action, whether the Administrator or an Appointing Authority, shall be independently responsible for justifying the action, for both the nature and accuracy of the supporting information, and for the retention of that information pending appeal of the action.

530:10-9-10. Required certification of qualifications before promotions, demotions, transfers, and reinstatements

(a) The Administrator shall certify that a candidate meets the necessary job qualifications of a job family level in the classified service for the purpose of allowing the candidate to be appointed. Subsections (b), (c), and (d) of this Section describe exceptions to these requirements. The Appointing Authority shall use a form made available by, or accepted by, the Administrator to request certification of qualifications. The form solicits information about the candidate's qualifications.
(b) An employee who is demoted shall meet the minimum qualifications of the lower job to which he or she is demoted unless the demotion is to a job:
(1) within the same job family, or
(2) in which the employee previously has had permanent status, or
(3) in the same job family as and below one in which he or she previously has had permanent status.
(c) Career progression promotions shall be exempt from subsection (a). The exception shall apply only after an employee has been in a lower level of the job family for an amount of time equal to the difference in the lengths of the experience requirements of the two levels. This exception shall not apply in any case to entry into a job family or where the next higher level is a supervisory position.
(d) The Administrator may delegate certification of qualifications to an Appointing Authority according to a written agreement made under Section 840-1.15 of the Act and the rules in Part 3 of Subchapter 1 regarding delegation of human resources functions.

530:10-9-11. Examination records [REVOKED]

530:10-9-13. Error in certification, scoring, or recording applicant information

An error in certifying, scoring, or recording applicant information, which affects the relative ranking or application status of an applicant for initial or internal appointment, shall be corrected. The error shall be corrected by the Administrator, or if the error was made by an Appointing Authority to whom the Administrator has delegated certification of qualifications, the error shall be corrected by that Appointing Authority. The correction shall not affect a good faith offer of appointment already made that is otherwise in accordance with the Act and the Merit Rules. The Appointing Authority who corrects an error shall promptly notify the Administrator of the correction.

Part 3 - WRITTEN AND PERFORMANCE TESTS

530:10-9-31. Scheduling [REVOKED]

530:10-9-32. Proficiency certificates

(a) The Administrator shall accept certificates of proficiency issued within the last **12** months by accredited private or public schools, colleges, or the Oklahoma Employment Security Commission in lieu of typing and key entry tests [74:840-4.12]. The proficiency certificate solicits information about the applicant, the typing and/or key entry test upon which the applicant has demonstrated proficiency, and the name and address of the certifying official and agency or school.
(b) The proficiency certificate shall be based on the results of a performance test which is comparable to the Human Capital Management Division performance test for the same job.

530:10-9-33. Licensure

If required to be ranked, applicants who have been previously tested and are currently licensed by the State of Oklahoma, shall be rated (ranked) according to training and experience when applying for jobs that require such testing and licensure [74:840-4.12].

530:10-9-34. Degree requirements [REVOKED]

530:10-9-35. Testing for promotions, demotions, transfers and reinstatements

Examinations for promotion, demotion, transfer, and reinstatement shall not be required unless specified in the agency's promotional plan.

530:10-9-37. Repeating examinations

(a) A person with a current and qualifying application may repeat a multiple-choice test 60 days from the original test date. A performance test may be repeated daily for as long as an applicant has a current and qualifying application that requires the performance test.
(b) The repeat interval for a written or performance test shall apply to both entrance and promotional examinations. The most recent, valid score on a written test will be used. An applicant may request to be certified with a score on a performance test other than the most recent one, provided that the score requested on a test is consistent with guidelines issued and made public by the Administrator. Otherwise, the examination is considered void.

530:10-9-38. Reviewing examinations

Applicants shall be entitled to inspect their own rating and examination papers maintained in the Human Capital Management Division up to 30 days after the date of the examination. Such inspection shall be permitted only during regular business hours at the Human Capital Management Division and shall include only those materials which would not compromise the security of the selection procedure.

530:10-9-39. Identification numbers

An identification number shall be used to identify all test materials of each applicant.

530:10-9-40. Test results

Applicants who take an examination shall be notified electronically of the results. Applicants who have not provided an e-mail address shall be notified in writing.

Part 5 - REGISTERS

530:10-9-50. Establishment of registers

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

530:10-9-51. Duration of registers; periods names may remain on registers

(a) The Administrator shall determine the duration of each register. After notice to affected eligibles, the Administrator may abolish a register or may shorten or extend the time that an eligible's name may remain on a register.

(b) If an eligible's name is not removed from a register under subsection (a) of this Section or other provisions of the Merit Rules, that eligible's name may remain on the register for a specific class for a period consistent with guidelines issued and made public by the Administrator and applied uniformally to all applicants. Subsequent applications for a job will be accepted only if the register for that job is open for recruitment.

(c) An applicant's name shall not appear on any register on the basis of a void examination as defined in 530:10-9-37.

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

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

(1) Removal requested by eligible applicant.

(2) Appointment through certification to fill a permanent position in the same job.

(3) Failure to respond within 7 calendar days exclusive of the date of mailing of a written inquiry by the Appointing Authority relative to availability for appointment. Such inquiry shall include the date and time by which the eligible must contact the Appointing Authority.

(4) Failure to respond within 72 hours to an electronic message from the Appointing Authority relative to availability for appointment. Such inquiry shall include the date and time by which the eligible must contact the Appointing Authority and must be sent to the contact information provided by the eligible.
(5) Failure to appear for a scheduled interview.
(6) Declination of further consideration for selection.
(7) Declination of appointment.
(8) Failure to report for duty within the time specified by the Appointing Authority. (See 530:10-9-94.)
(9) Abolition of register by the Human Capital Management Division.
(b) Any person so affected shall be notified of this action and the reason for it.

530:10-9-54. Restoration of names to registers [REVOKED]

530:10-9-55. Statement of availability

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

Part 7 - CERTIFICATION

530:10-9-70. Request for certification

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

530:10-9-71. Certification methods

(a) **Availability.** The Administrator shall issue certificates which include the names of eligibles whose statements of availability and qualifications match the conditions of employment specified by the Appointing Authority on the request for certification.
(b) **Work location.**
(1) If the work location is in the central state offices of an agency, the Administrator shall certify available eligibles on the basis of register rank only.
(2) The Administrator may certify all eligibles on a register, regardless of availability, if the conditions of employment are the same for all positions in that job family within the agency.
(3) When filling vacancies outside the agency's central state office, an Appointing Authority may request that the Administrator issue a local certificate. A "local certificate" is a subset of eligible applicants on a register who are residents of thelocality, i.e., the county where the local office is located

or said county and adjacent counties or a group of contiguous counties comprising a service area of an agency [74:840-4.13], and whose conditions of availability for a job correspond to those of the vacant position. On a local certificate, eligible applicants from the locality are ranked by examination score, including any awards of veterans preference, and are certified ahead of other available applicants who live outside the locality.

(c) **Number of names.** After receiving a request, the Administrator shall issue a certificate to the Appointing Authority. The certificate shall include the names of the top **10** available eligibles on the register for a job, plus anyone who is tied with the lowest ranked eligible within the hiring rule [74:840-4.13]. At the request of the Appointing Authority, the Administrator may also issue additional names to be considered in accordance with 530:10-9-92.

530:10-9-72. Certification of eligible who refused appointment because of salary [REVOKED]

530:10-9-73. Omission of name after 3 considerations [REVOKED]

530:10-9-74. Selective qualifications

Selective qualifications are job-specific requirements authorized by the Human Capital Management Division for positions within a particular job family which are consistent with the duties and responsibilities of the particular position being filled. These qualifications may include special experience, education, or measurable competency in a non-English language. When requesting a certificate for a job family, an Appointing Authority may, upon written request to and approval by the Human Capital Management Division, use any Human Capital Management Division-approved selective qualifications for that job for filling a particular position within that job family. Selective qualifications approved by the Human Capital Management Division for any job or position shall not reduce or add to the quantity of experience or education in the minimum qualifications established for that job family level.

530:10-9-75. Certification of alien applicants

An eligible who is not a citizen of the United States and who is certified to an agency for employment under conditions which the applicant cannot legally accept, may be passed for cause.

530:10-9-76. Life of certificate

If an appointment is not made within **90** calendar days of the date a certificate is issued, such certification shall be voided.

Part 9 - CLASSIFIED APPOINTMENTS

530:10-9-91. Filling vacancies

All vacancies in classified positions shall be filled as provided by the Oklahoma Personnel Act and the Merit Rules. All appointments shall be made at a hiring rate established for the job as provided in the agency's salary administration plan. No appointment shall be made to any classified position nor shall

the position be otherwise encumbered until the position has been allocated in accordance with the Act and the Merit Rules.

530:10-9-92. Appointments from certificates

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

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

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

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

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

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

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

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

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

530:10-9-93. Appointment notification [REVOKED]

530:10-9-94. Time limits for entering on duty [REVOKED]

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

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

(b) On certificates issued for noncompetitive jobs, an Appointing Authority may appoint persons not certified by the Human Capital Management Division if the scores of such persons would place them within the hiring rule among those certified. An Appointing Authority shall not deny employment to, and

pass over, an Absolute Preference Veteran except as provided in the Act, 530:10-9-92, and 530:10-9-131.

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

530:10-9-96. Project indefinite appointments

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

530:10-9-99. Fair employment practices appointments

(a) This Section establishes procedures for the application of the optional hiring procedure authorized by the Fair Employment Practices Act (FEPA), Section 840-4.12 (H) of the Oklahoma Personnel Act, *to employ females, blacks, Hispanics, Asian/Pacific Islanders and American Indians/Alaskan natives* [74:840-4.12(H)(2)].

(b) An Appointing Authority intending to use the optional FEPA hiring procedure shall indicate that intention on a request for certification along with the targeted group, i.e., gender or race/ethnic category. An FEPA certification shall include a regular certificate with the availability of eligibles and ranking of names determined in accordance with the regular methods described in 530:10-9-71,**Certification methods.** An FEPA certification shall also include a separate list of the names of the top**10** available members of the targeted group. The Administrator may also include additional names as alternates. The names on this separate list shall be a subset of the regular certificate, and the names on it shall be ranked in the same order as on the regular certificate. If an Appointing Authority has targeted more than one group, a separate list shall be included for each group.

(c) If the Appointing Authority makes one or more appointments using an FEPA certification, each appointment shall be in accordance with either 530:10-9-92 or the optional FEPA hiring procedure authorized by Section 840-4.12 (H) of the Oklahoma Personnel Act.

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

(a) Appointing Authorities may employ persons with severe disabilities who are legal residents of Oklahoma through the Optional Program for Hiring Applicants with Disabilities ("Program") [74:840-4.12]. Program participants shall meet all minimum qualifications of education and experience, but shall

be exempt from entrance examinations and hiring procedures administered by the Human Capital Management Division [74:840-4.12]. Program participants shall be certified as having disabilities in accordance with the standards and procedures in subsection (b) of this Section [74:840-4.12]. Persons with severe disabilities are not required to participate in this Program, and they may elect to be considered for employment through regular selection procedures [74:840-4.12].

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

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

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

(e) An applicant for the Program may apply directly to employing agencies. In order to be eligible for appointment to fill a vacant position, an applicant shall be a legal resident of Oklahoma. The applicant shall submit to the Appointing Authority of the employing agency a current letter from the Administrator as described in subsections (c) and (d) indicating the applicant possesses the qualifications of education and experience for the vacancy.

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

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

(a) A permanent employee who leaves the classified service is eligible for reinstatement.

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

(d) The Appointing Authority may place the person in probationary status with the agency for the maximum period required for original appointments or for a shorter period. The Appointing Authority may not extend the probationary period. If the Appointing Authority requires a probationary period, the Appointing Authority shall notify the reinstated employee and the 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.

530:10-9-103. No previous Merit System status [REVOKED]

Part 11 - DIRECT HIRE AUTHORITY

530:10-9-110. Purpose

The purpose of the rules in this Part is to establish policies and procedures by which the Administrator may authorize agencies to directly fill positions requiring professional practice licensure and hard-to-fill positions, to establish *criteria for identifying professional practice licensure positions and hard-to-fill positions which shall not require establishment of an employment list of eligible persons or the application of veterans preference*… and to *establish recordkeeping and reporting procedures and*

the conditions under which the Administrator may withdraw authorization for agencies to directly hire persons into hard-to-fill positions [74:840-4.13(C)].

530:10-9-111. Definitions

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

"Adequate applicant pool" means 10 or more available qualified eligibles on open competitive announcements maintained by the Human Capital Management Division for the location of a vacancy under the conditions of employment required for the position.

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

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

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

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

530:10-9-112. Scope of direct hire authority

Direct hire authority shall not waive any requirement for any job classification or position established by statute or the Administrator, such as testing or promotional posting requirements, except as provided in 74:840-4.13(C). An Appointing Authority who has been authorized direct hire authority shall assure equal employment opportunity to all applicants.

530:10-9-114. Application for direct hire authority

(a) Applications for direct hire authority shall be in accordance with 530:10-1-33, and shall include a description of how the position meets the definition of a "hard to fill position" or a "professional practice licensure" position.

(b) The Administrator shall respond to the application for direct hire authority according to 530:10-1-35. If the application for direct hire authority is to be approved, the Administrator shall prepare a written memorandum of agreement according to 530:10-1-43 for delegation authority.

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

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

(1) the job family or job families to which the positions have been allocated remain authorized for the agency's use by the Human Capital Management Division;

(2) the professional practice licensure requirement for the positions is not removed; and

(3) the authority is not terminated by the Administrator as provided in 530:10-9-121.

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

530:10-9-117. Concurrent certification by the Human Capital Management Division

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

530:10-9-118. Reporting and recordkeeping

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

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

530:10-9-120. Correction of errors

(a) Errors in the certification of qualifications shall be corrected according to 530:10-9-13.

(b) Errors in the certification of qualifications may result in termination of the direct hire authority according to 530:10-9-121.

(c) Willful violations of the Act or Merit Rules in connection with the exercise of the direct hire authority may result in administrative fines according to 74:840-6.9.

(d) Other corrective actions may be required by the Administrator as described in 530:10-1-49.

530:10-9-121. Audit and termination of direct hire authority

(a) **Audits.** The Administrator may audit appointments made under the rules in this Part according to 530:10-1-47.

(b) **Termination.** The Administrator may terminate the agreement according to 530:10-1-51. Reasons for terminating direct hire authority shall include, but not be limited to, a finding by the Administrator that the authority has been used to appoint applicants who do not meet the education, experience or professional practice licensure requirement established for the class.

30:10-9-123. Expedited recruitment

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

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

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

Part 13 - VETERANS PREFERENCE

530:10-9-130. Veterans preference on lists of eligibles

In establishing employment lists of eligible persons for competitive and noncompetitive appointment, certain preferences shall be allowed for veterans honorably discharged from the Armed Forces of the United States [74:840-4.14(A)].

(1) *Five points shall be added to the final grade of any person who has passed the examination and has submitted proof of having status as a*:

(A) *veteran* [74:840-4.14(A)(1)]; or

(B) *unremarried surviving spouse of a veteran* [74:840-4.14(A)(1)]; or

(C) *spouse of a veteran who is unemployable due to a service-connected disability as certified by the Veterans Administration or agency of the Defense Department within six (6) months of the date of application* [74:840-4.14(A)(2)].

(2) *Ten points shall be added to the final grade of any veteran who has passed the examination and has submitted proof of having a service-connected disability as certified by the Veterans Administration or Agency of the Defense Department within six (6) months of date of application* [74:840-4.14(A)(3)].

(3) In addition to the **10** points preference provided in (2) of this subsection, such eligible veterans who are in receipt of benefits payable at the rate of **30%** or more because of the service-connected disability, shall be considered Absolute Preference Veterans. Their names shall be placed at the top of the register, ranked in order of their examination scores. Absolute Preference Veterans shall not be denied employment and passed over for others without showing cause. [74:840-4.14(A)(3)]

530:10-9-131. Pass for cause of an absolute preference veteran

(a) An Appointing Authority who finds it necessary to pass over an Absolute Preference Veteran for cause must receive written approval from the Administrator before taking such action. Any Appointing Authority who, without prior approval, passes an Absolute Preference Veteran for cause on any certificate returned to the Office of Personnel Management shall be required to hire the preferenced applicant, if such pass for cause is subsequently rejected by the Administrator. No offer of initial employment may be made to any applicant ranked below such veterans in the absence of this approval; such offers and any subsequent initial appointments shall be void. [74:840-4.14(A)(3)]

(b) Nothing in this Section prohibits or limits passing an Absolute Preference Veteran to hire another Absolute Preference Veteran within the hiring rule, or hiring any other eligible through means other than an initial appointment.

(c) A request to pass over or disqualify an Absolute Preference Veteran shall include a detailed written explanation and justification provided by the Appointing Authority documenting why the Appointing Authority believes:

(1) the applicant cannot be reasonably expected *to satisfactorily perform at the required level of the position* [74:840-4.14(A)(3)]; or

(2) it is necessary to disqualify the applicant because of 1 or more of the causes for disqualification listed in 530:10-9-9, **Disqualifications.**

(d) Any person who is so disqualified shall be notified in writing by the Administrator of the right to appeal.

530:10-9-132. Opening closed registers for veterans

War veterans, as defined by Section 67.13a of Title 72 of the Oklahoma Statutes, who have been awarded the Purple Heart or have a service-incurred disability rated by the Veterans Administration or a branch of the Armed Forces of the United States …, shall be authorized to open any closed register [74:840-4.14(B)].

Subchapter 11 - Employee Actions

Part 1 - GENERAL PROVISIONS

530:10-11-1. Purpose

The purposes of the rules in this Subchapter are to establish policies and procedures for*probationary periods of employment* [74:840-4.13(D)], transfers, promotions, demotions, and separations, while protecting *employees from arbitrary dismissal or unfair treatment* [74:840-1.6(A)(3)].

530:10-11-2. Agency personnel records

Each agency shall maintain an adequate set of applicant and employee personnel records. These records shall include: performance evaluations, promotional forms, attendance records, and any other documents that affect an individual's employment status with the agency.

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

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

530:10-11-4. Review of agency personnel files

Each employee shall have the right to review his or her individual personnel records on file with the employing agency. Such review shall be during regular business hours in accordance with procedures prescribed by the agency.

530:10-11-7. No previous Merit System status

When a position occupied by an unclassified employee is made subject to the Merit System by Executive Order or legislation, the Administrator shall allocate the position as it exists on the effective date of becoming subject to the Merit System. Unless there is conflicting legislative direction, the unclassified employee who occupies the position on that date shall be given status in the job family level to which the position is allocated by the Administrator.The effective date of the allocation shall be the same as the effective date of the Executive Order or legislation. *The employee shall not be required to take any examination or qualify for the job family level, and the salary of the employee shall not be reduced as a result of such initial allocation. The status of the employee shall be determined as follows:*

(1) *An employee who has been continuously employed by the agency for a minimum of twelve (12) months immediately preceding the date on which the employee is made subject to the provisions of the Merit System shall be given permanent status in the classified service.*

(2) An employee who has been continuously employed by the agency for less than twelve (12) months on the date the employee is made subject to the provisions of the Merit System shall be given probationary status in the classified service. Such employee may obtain permanent status in the classified service twelve (12) months after the employee's entry-on-duty date with the agency pursuant to the provisions of the Merit System. [74:840-4.2]

Part 3 - PROBATIONARY EMPLOYEES

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

(a) All original appointments to classified positions shall be made from certificates, except as provided elsewhere in the Merit Rules or by statute, for a probationary period of **1** year, unless the length of the probationary period is reduced according to the provisions of this Section [74:840-4.13]. At the end of

the probationary period, the employee shall automatically become permanent [74:840-4.13]. At any time after the probationary employee has served **6** months, the Appointing Authority may waive the remainder of the probationary period by notifying the employee and the Human Capital Management Division in writing as to the waiver and the reasons for it [74:840-4.13]. The Appointing Authority may not extend the probationary period, but may adjust the probationary period due to leave without pay as provided in 530:10-11-36. The final working day of the probationary period shall be made known to the employee at the time of entry on duty and at the time of any adjustment or waiver of the probationary period. Some positions may have statutory probationary periods that differ from the conditions of this Section.

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

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

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

530:10-11-31. Permanent status

Permanent status in the classified service shall not be granted until the probationary period has been successfully completed. Such status shall begin at the end of the final working day of the probationary period [74:840-4.13(D)] except as otherwise provided in the following Sections: 530:10-11-30; 530:10-11-34; 530:10-11-36; and 530:10-11-32.

530:10-11-32. Termination during probationary period

The probationary appointment of any person may be terminated at any time during the probationary period without the right of appeal [74:840-4.13(D)].

530:10-11-33. Change in part-time or full-time status of probationary employees

Probationary employees originally appointed part-time shall not be changed to full-time until the probationary-period has been completed. However, a probationary employee originally appointed full-time may request and be changed to part-time.

530:10-11-34. Suspension of probationary employees [REVOKED]

530:10-11-35. Annual and sick leave of probationary employees

Annual and sick leave, as provided in 530:10-15-10, 530:10-15-11 and 530:10-15-12, shall be granted to probationary employees. A probationary employee who resigns and is reappointed by the same agency through an open competitive process within **10** calendar days shall be credited the annual and sick leave accumulated during the previous probationary period.

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

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

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

530:10-11-37. Salary advancement of probationary employees

No probationary employee shall receive a performance pay increase.

530:10-11-38. Promotion or demotion of probationary employees

A probationary employee shall not be eligible for promotion or demotion to another job.

530:10-11-39. Transfer of probationary employees

A probationary employee shall not be transferred to a position in another job family level or agency except as provided in Section 840-2.21 of Title 74 of the Oklahoma Statutes, 530:10-15-49, or 530:10-11-74. No probationary employee appointed from a local certificate, issued in accordance with 530:10-9-71(b), shall be transferred from that locality until the probationary period has been completed.

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

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

Part 5 - PROMOTIONS

530:10-11-51. Promotional posting

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

(b) *The posting shall include:*

(1) *Identification of the job family level of the vacancy or vacancies;*

(2) *A listing of job title, major work duties and minimum qualifications;*

(3) *The pay band and range;*

(4) *The anticipated number of vacancies;*
(5) *The specific location of work;*
(6) *The time limits and procedure for filing an application with the appointing authority; and*
(7) *Any additional factors which the appointing authority will consider in filling the vacancy.* [74:840-4.15]

530:10-11-53. 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 530:10-11-51.

530:10-11-54. Promotional action appeals

If an employee feels treated unfairly with regard to a promotional action after such complaint has been reviewed in a formal grievance procedure conducted in accordance with the grievance procedure of the agency, the employee may seek a remedy through the procedures established in the Oklahoma Personnel Act [74:840-4.15(C)]. *If a violation of Section 841.10* [renumbered 840-2.9] *of this title has been committed, the Oklahoma Merit Protection Commission may declare a position open* [74:840-4.15(C)].

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

(a) **Trial period after intra-agency promotions.**
(1) When a classified employee is promoted intra-agency, the employee shall serve a **6**month trial period in the job to which the employee has been promoted unless the Appointing Authority waives the trial period according to the provisions of this Section. The Appointing Authority may waive the trial period at any time by giving the employee written notice of the cancellation. Waiver of the trial period makes the promotion final.
(2) If an employee does not prove to be satisfactory in the new job during the trial period, the employee shall be reinstated to the former position or another in the same job family level, at the salary the employee would have received if the promotion had not taken place. However, the reasons for denying the employee permanent status in the promotional position shall be submitted in writing to the individual before the end of the trial period and a copy filed with the Human Capital Management Division. [*T*]*he employee shall not have the right to appeal* [74:840-4.12].
(3) The promotion shall automatically become permanent at the end of the final working day of the trial period.
(4) The Appointing Authority may establish a written policy describing any agency standard for waiving the trial period and the reasons for the standard.
(b) **Trial period after interagency promotion.**
(1) An employee who is promoted interagency may, at the discretion of the receiving Appointing Authority, be required to serve a **6** month trial period in the new job only if the receiving agency has the job family from which the employee was promoted in its classification plan.

(2) The trial period may be canceled at any time, making the promotion final. Before the effective date of the promotion, the employee shall be informed in writing by the Appointing Authority whether the employee will be required to serve a trial period before such promotion becomes final. The Human Capital Management Division shall be sent written notice when a trial period is required for a promoted employee. The promotion shall be permanent if the Appointing Authority fails to notify the employee in writing before the effective date of the promotion that a trial period is required under this paragraph. If an employee does not prove to be satisfactory in the new job during the trial period, the employee shall be reinstated to a position in the former job family in the same pay band for which the employee is qualified with the receiving agency, at the salary the employee would have received if the promotion had not taken place. However, the reasons for denying the employee permanent status in the promotional position shall be submitted in writing to the individual before the end of the trial period and a copy filed with the Human Capital Management Division. The promotion shall automatically become permanent at the end of the final working day of the trial period.

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

Part 7 - TRANSFERS AND VOLUNTARY DEMOTIONS

530:10-11-71. 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] 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]

530:10-11-72. Interagency transfer

(a) An interagency transfer is *an action in which an employee leaves employment with one agency and enters employment with another agency while continuously employed with the state* [74:840-1.3]. A permanent classified employee retains his or her permanent status in the classified service on interagency transfer.

(b) The interagency transfer of a permanent employee from one position to another in the same job or another job family in the same pay band, for which the employee has currently qualified, may be made at any time with the concurrence of the Appointing Authorities concerned, provided that such transfer has been requested in writing by the employee. Such a transfer may be made simultaneously with a promotion or demotion in accordance with the provisions of the Merit Rules.

530:10-11-74. Interagency transfer of personnel resulting from transfer of facility or function

When a facility or function is transferred from one state agency to another, classified employees may be transferred without change or modification in status. Such transfer of personnel is subject to the following conditions and provisions:

(1) Positions created in the receiving agency as a result of the transfer of a facility or function which are filled by employees being transferred in accordance with this Section need not be posted as vacant.

(2) If the job family level of transferring employees is not in the receiving agency's classification plan, the appropriate job families must be added to the plan on a temporary basis, not to exceed **6** months after the effective date of the transfer. Any such employee may be detailed to special duty, if necessary, to ensure that work assigned on a regular and consistent basis conforms to the employee's classification.

(3) The receiving agency shall give a transferring employee credit for all unused sick and annual leave the employee has accrued.

(4) The receiving agency shall not reduce the base salary of any employee at the time of the interagency transfer. If an employee must be reclassified to a higher job after transfer, a salary advancement is not required unless the rate of pay before promotion is below the new range. Subsequent salary changes must be in accordance with the Merit Rules.

(5) Except as specifically provided in this Section, all other Merit Rules governing the actions of employees and agencies remain in full force and effect, during and after the interagency transfer.

530:10-11-76. Voluntary demotion

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

(1) within the same job family, or

(2) in which the employee has previously had permanent status, or

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

(b) The Appointing Authority may require an employee to serve a trial period in the job to which the employee requests to be demoted. This trial period may not exceed **6** months and may be for shorter periods as determined by the Appointing Authority. The Appointing Authority shall notify the employee in writing before the effective date of the demotion that a trial period be served before such demotion shall become final. The Appointing Authority shall send the Human Capital Management Division written notice when a trial period is required for a demoted employee. The Appointing Authority may cancel

such trial period at any time. If the employee does not prove to be satisfactory in the new job during the trial period, the employee shall be reinstated to the former position or another in the same job family. The Appointing Authority shall give the employee written notice of the reasons for the failure to allow the employee to acquire permanent status in the job to which demoted and shall file a copy with the Human Capital Management Division.

Part 9 - EMPLOYEE GUIDELINES

530:10-11-91. Conduct of classified employees

(a) Every classified employee shall fulfill to the best of his or her ability the duties of the office or position conferred upon the employee and shall behave at all times in a manner befitting the office or position the employee holds. In performing official activities the classified employee shall pursue the common good, and, not only be impartial, but act so that there can be no question of impartiality.

(b) A classified employee shall not engage in any employment, activity or enterprise which has been determined to be inconsistent, incompatible, or in conflict with his or her duties as a classified employee or with the duties, functions or responsibilities of the Appointing Authority by which the person is employed.

(c) Each Appointing Authority shall determine and prescribe those activities within applicable laws, which, for employees under its jurisdiction, will be considered inconsistent, incompatible or in conflict with their duties as classified employees. In making this determination, the Appointing Authority shall give consideration to employment, activity or enterprise which:

(1) involves the use for private gain or advantage of state time, facilities, equipment and supplies; or, the badge, uniform, prestige or influence of one's state office or employment, or

(2) involves receipt or acceptance by the classified employee of any money or other consideration from anyone, other than the state, for the performance of an act which the classified employee would be required or expect to render in the regular course or hours of state employment or as a part of the duties as a state classified employee, or

(3) involves the performance of an act which may later be subject directly or indirectly to the control, inspection, review, audit or enforcement by such classified employee.

(d) Each classified employee shall devote full time, attention and effort to the duties and responsibilities of his or her position during assigned hours of duty.

530:10-11-93. Resignation prior to prohibited activity

Before any classified employee can participate in any prohibited activity described in the constitution or laws of the State of Oklahoma or rules promulgated thereunder, such employee must resign or be subject to the penalty provided by law. The Appointing Authority shall report such alleged prohibited activity to the appropriate authority in writing.

Part 11 - OTHER TRANSACTIONS

530:10-11-110. 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 530:10-7-17.
(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

530:10-11-111. Corrective discipline 1 [REVOKED]

530:10-11-113. Causes for suspension without pay, involuntary demotion and discharge 1 [REVOKED]

530:10-11-115. Required notice and opportunity to respond prior to involuntary demotion, suspension without pay or discharge [REVOKED]

530:10-11-117. Notice of appeal rights upon suspension without pay, involuntary demotion or discharge [REVOKED]

530:10-11-118. Involuntary demotion [REVOKED]

530:10-11-119. Suspension without pay [REVOKED]

530:10-11-120. Suspension with pay

(a) An Appointing Authority may suspend a classified employee from duty with pay for internal investigatory purposes to give a classified employee the required notice and opportunity to respond before involuntary demotion, suspension without pay, or discharge; or to require the employee to undergo a fit-for-duty examination to determine whether the employee is capable of performing the essential functions of the position in which employed. The Appointing Authority may require the employee to remain available during specified working hours to meet with investigators or other agency officials as required. A notice of suspension with pay, stating the beginning and ending dates and times and specifying any reporting requirements shall be issued to the employee in writing.
(c) If the employee was suspended with pay for investigatory purposes and is cleared, the Appointing Authority shall fully clear the employee's records in the custody of the agency and shall make every reasonable effort to fully clear any such records which are not in the custody of the agency. If the charges against the employee are confirmed, in whole or in part, a suspension with pay in accordance

with this Section shall not preclude an Appointing Authority from taking disciplinary action in accordance with Oklahoma law and the Merit Rules.

530:10-11-121. Discharge [REVOKED]

Part 13 - RESIGNATIONS

530:10-11-132. Method of resignation

To resign in good standing, an employee must give the Appointing Authority at least **14** calendar days prior notice unless the Appointing Authority agrees in writing to permit a shorter period of notice. A written resignation shall be supplied by the employee to the Appointing Authority. The Appointing Authority will supply the employee written confirmation of any shorter period of notice that is allowed.

530:10-11-133. Abandonment of position [REVOKED]

530:10-11-134. Resignation or leave without pay to accept an unclassified position

(a) No classified employee may be assigned to an unclassified or exempt position unless the employee so desires and such acceptance shall be transmitted in writing to the Administrator.

(b) Any classified employee shall be deemed to have resigned the classified position on the date of accepting an appointment to a position in the exempt or unclassified service of the state; except that, a person appointed to a temporary or acting position in the exempt or unclassified service, including appointment as an acting incumbent as provided in Section 840-5.5(A)(50) of Title 74 of the Oklahoma Statutes, may alternatively request leave without pay status in the classified position while assigned to the unclassified or exempt position. Such leave without pay shall not exceed **2** years from the date of the appointment to the unclassified service.

Subchapter 13 - Reduction-in-Force

Part 1 - GENERAL PROVISIONS FOR REDUCTION-IN-FORCE

530:10-13-1. Purpose

The purpose of the rules in this Subchapter is to implement the provisions of Sections 840-2.27A through 840-2.27(I) of the Oklahoma Personnel Act which pertain to reductions-in-force. The rules in this Subchapter establish general provisions for reductions-in-force and policies and procedures for recall and priority consideration for reemployment. The rules in this Subchapter governing reductions-in-force apply to classified employees within the executive branch only. This Subchapter is not a comprehensive listing of state and federal statutory provisions related to reductions-in-force and regulations promulgated thereunder, and is not intended to conflict with either state or federal law and regulations.

530:10-13-2. Definitions

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

"Affected job family levels" means those containing affected positions.

"Affected employees" means classified employees in affected positions.

"Affected positions" means positions being abolished or positions which are subject to displacement action.

"Agency"*means any office, department, board, commission, or institution of all branches of state government, except institutions within The Oklahoma State System of Higher Education.*

"Displacement or displace"*means the process of an employee accepting an offer of employment to an occupied or funded vacant position.*

"Displacement limit" *means any area within an agency in which displacement may not occur. These areas may include, but are not limited to, job families, units, and geographic areas within an agency.*

"Displacement opportunity"*means the circumstances under which an occupied or funded vacant position is subject to displacement by an affected employee.*

"Displacement privilege"*means the privilege an affected employee has to utilize a displacement opportunity.*

"Educational institution"*means an institution within The Oklahoma State System of Higher Education, a facility under the management or control of the Oklahoma State Department of Vocational and Technical Education, or a licensed private educational institution in the State of Oklahoma.*

"Personnel transaction" *means the record of the separation as a result of a reduction-in-force of a classified affected employee from an agency, or the record of the transfer or demotion of a classified affected employee.* [74:840-2.27B]

"Reduction-in-force" *means abolition of positions in an agency or part of an agency and the corresponding nondisciplinary removal of affected employees from such positions through separation from employment or through displacement to other positions.*

"Reorganization"*means the planned elimination, addition or redistribution of functions or duties either wholly within an agency, any of its subdivisions, or between agencies*.

"Severance benefits" *means employee benefits provided by the State Government Reduction-in-Force and Severance Benefits Act to affected employees separated through a reduction-in-force.*

"Years of service"*means current and prior service which is creditable for the Longevity Pay Plan. An affected employee shall not be required to have been continuously employed for two (2) years to be given credit for either current or prior service pursuant to the State Government Reduction-in-Force and Severance Benefits Act.*

530:10-13-3. Notice of reduction-in-force and time requirements

(a) **Cabinet Secretary approval.** Prior to the posting of any reduction-in-force notice, the notice shall be approved by the cabinet secretary for the agency conducting the reduction-in-force. [74:840-2.27C] If there is no incumbent cabinet secretary for the agency or if the appointing authority is governed by an elected official, the approval requirement shall not apply.

(b) **Notice.** At least 60 days before the scheduled beginning of reduction-in-force separations or as otherwise provided by law, the Appointing Authority shall post a notice in each office affected by the proposed reduction-in-force that a reduction-in-force will be conducted in accordance with the Oklahoma Personnel Act and Merit Rules. Such notice shall be posted for 5 days. The Appointing Authority shall provide a copy of the notice to the Administrator. A reduction-in-force shall not be used as a disciplinary action. [74:840 2.27C(A)]

(c) **Implementation plan.** The reduction-in-force implementation plan and subsequent personnel transactions directly related to the reduction-in-force shall be in compliance with rules adopted by the Administrator. The reduction-in-force implementation plan, including the description of and reasons for displacement limits and protections from displacement actions, and severance benefits that will be offered shall be posted in each office affected by the plan within 5 business days after posting of the reduction-in-force notice. At the discretion of the Appointing Authority, the reduction-in-force implementation plan may be posted concurrently with the reduction-in-force notice. The reduction-in-force implementation plan shall:

(1) Specify the position or positions to be abolished within specified units, divisions, facilities, agency-wide or any parts thereof, as determined by the Appointing Authority;

(2) Provide for retention of affected employees based on type of appointment;

(3) Require separation of probationary classified affected employees in affected job family levels, except those affected employees in probationary status after reinstatement from permanent classified status without a break in service, prior to the separation of any permanent classified affected employee in an affected job family level;

(4) Provide for the retention of permanent classified affected employees in job family levels and those affected employees in probationary status after reinstatement, based on years of service;

(5) Provide for exercise of displacement opportunities by permanent classified affected employees and those affected employees in probationary status after reinstatement if any displacement opportunities exist; and

(6) Provide for outplacement assistance and employment counseling from the Oklahoma Employment Security Commission and any other outplacement assistance and employment counseling that may be available. [74:840-2.27C(B)]

(d) **Review of fiscal components.** The Director of the Office of State Finance shall, within 5 business days of receipt, review the fiscal components of the reduction-in-force implementation plan and reject any plan that does not meet the requirements of Section 840-2.27C(D) of Title 74 of the Oklahoma Statutes.

(e) **Notice to State Employee Retirement Systems.** Within 30 days after the approval of a reduction-in-force implementation plan by the Office of State Finance, the Appointing Authority shall provide written notice of the approved plan to the Oklahoma Public Employees Retirement System or the Oklahoma Teachers' Retirement System, or a combination thereof to facilitate the possible purchase of termination credit if the affected employee(s) is a member of the aforementioned retirement system.

530:10-13-4. Agency-provided plans [REVOKED]

530:10-13-5. Displacement limits [REVOKED]

530:10-13-6. Equal employment opportunity (EEO)

In planning and conducting a reduction-in-force, the Appointing Authority shall consider the effect of decisions, such as establishment of displacement limits and selection of job family levels containing positions to be abolished, on the composition of the work force of the agency. If displacement limits are established in accordance with 530:10-13-5 and Section 840-2.27C of the Oklahoma Personnel Act, adverse impact will be assessed as recognized in state and federal laws, rules and guidelines. The Appointing Authority shall take appropriate action consistent with state and federal laws, rules and guidelines governing adverse impact.

530:10-13-7. Reductions-in-force not disciplinary [REVOKED]

530:10-13-8. Required freeze on personnel actions

(a) At least **14** calendar days before the reduction-in-force implementation plan is posted in accordance with Section 840-2.27C of Title 74 of the **Oklahoma Statutes** and 530:10-13-35, all personnel actions within affected job families shall be frozen, except:
(1) separations unrelated to the reduction-in-force,
(2) leave,
(3) disciplinary actions,
(4) other transactions specifically required by law,
(5) transactions specifically due to the reduction-in-force, and
(6) transactions the Appointing Authority certifies will not limit displacement opportunities for affected employees.
(b) This freeze shall remain in effect until the reduction-in-force implementation plan is posted.

530:10-13-9. Continuation of insurance upon separation by reduction-in-force

The Appointing Authority shall notify employees who are separated because of a reduction-in-force and who are ineligible for or who decline severance benefits pursuant to Section 840-2.27D of Title 74 of the **Oklahoma Statutes** of their rights to continue their insurance coverage under the Public Health Service Act, 42 U.S.C. § 300bb-1, et seq.

530:10-13-10. Appeal of reduction-in-force

Employees may only appeal a reduction-in-force to the Merit Protection Commission on the basis of procedural errors in the application of the reduction-in-force plan of the employing agency [74:840-6.2(J)]. A reduction-in-force shall not be used as a disciplinary action.

530:10-13-11. Option in lieu of reduction-in-force

Agencies may provide voluntary out benefits to eligible employees in accordance with the provisions of Section 840-2.28 of Title 74 of the **Oklahoma Statutes.**

530:10-13-12. Severance benefits

(a) Agencies shall provide mandatory severance benefits in accordance with the provisions of Section 840-2.27D of Title 74 of the Oklahoma Statutes to eligible classified employees, eligible classified employees on probationary status after reinstatement from permanent classified status without a break in service, and regular unclassified employees who are separated as a result of the same reasons that a reduction-in-force is conducted for classified employees. Employees who are eligible for Priority Reemployment Consideration in accordance with Section 8402.27C of Title 74 of the Oklahoma Statutes and Part 7 of this Subchapter who are employed by any agency before the scheduled date of reduction-in-force separations, are not eligible for severance benefits. Employees who are reemployed by the agency from which separated by a reduction-in-force less than 1 year after receiving severance benefits

are required to repay such benefits in accordance with Section 840-2.27E of Title 74 of the Oklahoma Statutes.
(b) An agency which is separating only unclassified employees with 1 year or more continuous service for budgetary reasons may provide severance benefits pursuant to Sections 840-2.27D and 840-5.1A of Title 74 of the Oklahoma Statutes.
(c) An eligible employee who accepts severance benefits shall be required to sign an agreement, in a form prescribed by the Administrator, acknowledging that the employee accepts the severance benefits provided by the Appointing Authority pursuant to the provisions of Section 840-2.27D of Title 74 of the Oklahoma Statutes. The form provides information to the affected employee concerning his or her rights and responsibilities under Section 840-2.27E of Title 74 of the Oklahoma Statutes. [74:840-2.27E]

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

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

Part 3 - REDUCTION-IN-FORCE PLAN REQUIREMENTS

530:10-13-30. Basic reduction-in-force plan [REVOKED]

530:10-13-31. Abolishing positions and retaining positions

The Appointing Authority shall *determine the specific position or positions to be abolished within specified units, divisions, facilities, agency-wide or any parts thereof* [74:840-2.27C]. The Appointing Authority shall determine which vacant positions will be retained. [74:840-2.27C].

530:10-13-32. Order of employee removal

(a) Agency-wide, or within displacement limits, if established, retention of affected employees shall be based on job family level and type of appointment [74:840-2.27C]. Subject to eligible classified employees accepting displacement offers, agencies shall separate probationary classified employees in affected job family levels, except those affected employees on probationary status after reinstatement from permanent classified status without a break in service, prior to the separation or voluntary demotion of any permanent classified employee from the same job family level [74:840 2.27C].
(b) Retention of permanent classified employees in affected job family levels and within displacement limits, if any are established, shall be based on years of service [74:840-2.27C].
(c) The Appointing Authority shall calculate retention points for all eligible classified employees, including those on an approved leave of absence. Eligible classified employees with more retention points shall be ranked higher; with the order of removal from a job family level in inverse order of that ranking. If tie scores occur, the ranking of employees who have the same total retention points shall be determined first by giving a veteran's preference over affected nonveterans who have equal retention points to the affected veteran and then by giving preference for retention according to years of service in the agency. If a tie continues to exist, retention status shall be determined by a method established

by the Appointing Authority and described in the reduction-in-force implementation plan [74:840-2.27C].

(d) For purposes of a reduction-in-force, any permanent classified employee on a detail to special duty shall be ranked on the basis of base job family level, not on the basis of the job to which detailed.

530:10-13-33. Calculation of retention points for years of service

(a) Affected employees shall be given credit for all current and prior service which is creditable for the Longevity Pay Plan, Section 840-2.18 of Title 74 of the **Oklahoma Statutes.** An employee shall not be required to have been continuously employed for **2** years to be given credit for either current or prior service.

(b) An employee shall be granted **1** point for each full month of full-time service. Points shall not be granted for any work in excess of full-time. Points will be prorated for each month during which the employee worked less than full-time or less than the full month. In no case shall more than **1** point per month be granted. Appointing Authorities shall make sure that pro rata computations are consistent in application and calculation within the agency.

(c) A break-in-service or leave-without-pay period of more than **30** calendar days shall not be included in the calculation of retention points unless the employee was on military leave or on leave-without-pay in accordance with Section 840-2.21 of Title 74 of the **Oklahoma Statutes.** Periods of leave without pay of **30** calendar days or less shall be counted as full-time service.

(d) The end date for the calculation of years of service shall be uniform within an agency and shall approximate the date the reduction-in-force implementation plan is posted.

530:10-13-34. Displacement opportunities and limits

(a) **Limitations on displacement opportunities.** Except as provided in this Section, displacement opportunities shall be offered to eligible classified employees. Displacement opportunities shall not be offered if the result would be to cause the displacement of a permanent classified employee with higher retention points. Employees who have no displacement opportunities or who choose not to exercise a displacement opportunity, employees who do not respond to an offer in accordance with 530:10-13-37, and employees who refuse an offer shall be separated in accordance with 530:10-13-38.*The appointing authority may protect from displacement action up to twenty percent (20%) of projected post-reduction-in-force employees in affected positions within displacement limits; provided that any fractional number resulting from the final mathematical calculation of the number of those positions shall be rounded to the next higher whole number. The appointing authority must explain why affected employees are being protected.* Employees must have received an overall rating of "meets standards" on the most recent performance evaluation in order to exercise a displacement opportunity. For the purposes of this Section, employees who have not been rated within the past **12** months shall be deemed to have received an overall rating of "meets standards" on the most recent performance evaluation. [74:840-2.27C]

(b) **Offers of displacement opportunities.** Starting with the employee having the highest retention points, displacement opportunities shall be offered to eligible classified employees and to displaced employees. Such offers shall be confined within any displacement limits established by the Appointing Authority. Options available will be offered in the order listed below. If an opportunity at one level, e.g. (1)(A), does not exist, an opportunity at the next lower level, e.g. (1)(B), shall be offered, if available. *If the affected employee has not held within the last five (5) years a position in the job family level or predecessor class in which the affected employee is otherwise eligible for a displacement opportunity,*

the appointing authority may determine that the affected employee does not possess the recent relevant experience for the position and deny in writing the displacement opportunity. [74:840-2.27C]

(1) Transfer within the same job family and level into a retained position which is currently:

(A) vacant and available for displacement in accordance with 530:10-13-31,

(B) held by a non-permanent employee (in order of appointment type), or

(C) held by the employee with the lowest retention points.

(2) Lateral transfer to a retained position in another job family previously held in the reverse order in which they were held by the employee on a permanent basis which is currently:

(A) vacant and available for displacement in accordance with 530:10-13-31,

(B) held by a non-permanent employee (in order of appointment type), or

(C) held by the employee with the lowest retention points.

(3) Voluntary demotion to a retained position in the next available lower level of the same job family which is currently:

(A) vacant and available for displacement in accordance with 530:10-13-31,

(B) held by a non-permanent employee (in order of appointment type), or

(C) held by the employee with the lowest retention points.

(4) Voluntary demotion to a retained lower level position in another job family previously held in the reverse order in which they were held by the employee on a permanent basis which is currently:

(A) vacant and available for displacement in accordance with 530:10-13-31,

(B) held by a non-permanent employee (in order of appointment type), or

(C) held by the employee with the lowest retention points.

(c) An eligible employee who exercises a displacement privilege shall be required to sign an agreement, in a form prescribed by the Administrator, acknowledging that the employee had an opportunity to receive severance benefits and affirmatively elected to exercise a displacement privilege and to forego such benefits. The form provides information to the affected employee concerning his or her rights and responsibilities under Section 840-2.27C of Title 74 of the**Oklahoma Statutes.** [74:840-2.27C(C)]

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

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

(1) a statement of the conditions necessitating the reduction-in-force;

(2) the estimated time schedule for the reduction-in-force;

(3) a description of the displacement process, and limits;

(4) listings of affected positions and employees, to include the following information (or if such lists are not posted, the location of the office where they are available for review) :

(A) all occupied and vacant positions to be abolished, showing in each case: geographical and administrative location, job family, level, and pay band for the position; the name, job family, level, and pay band, of the incumbent; and, for permanent employees, retention points and other lateral or lower

level job families in which the employee previously held permanent status, listed in the reverse order in which they were held;
(B) all positions and employees which are subject to displacement, showing the same information;
(C) other occupied and vacant positions and employees in affected job families, showing the same information. The agency may include all other positions in the agency in affected job families or may limit posting to ten percent of positions occupied by employees with the least number of retention points based on longevity dates in affected job families, and
(D) all retained funded vacant positions anywhere in the agency
(5) the schedule and procedure to be followed if an eligible employee chooses to accept a displacement offer for transfer or voluntary demotion in lieu of separation;
(6) the agency policy on issues related to partial payment of moving expenses for transferred employees in accordance with Section 500.51 of Title 74 of the **Oklahoma Statutes**;
(7) such other information as the Appointing Authority deems appropriate; and
(8) the method established by the Appointing Authority to break ties in retention points.

530:10-13-36. Written notice to employees

Appointing Authorities of executive branch agencies shall provide individual written notice to affected employees in abolished positions within **5** calendar days after posting of the implementation plan. Other employees affected through the exercise of a displacement opportunity shall be notified within **5** calendar days after being identified as being displaced. The written notice to employees shall:
(1) provide a description of the employee's retention status, including retention points calculation;
(2) offer an opportunity to notify a specified agency official in writing of any possible errors in the retention points calculation, and to request in writing a meeting with supervisors or agency officials;
(3) include the effective date of separation and instructions for exercising a displacement opportunity, if one is available; and
(4) provide notice of appeal rights for classified employees in accordance with 530:10-13-10.

530:10-13-37. Exercise of displacement privileges

To exercise a displacement privilege in lieu of separation, eligible employees shall follow the schedule and procedure included in the reduction-in-force implementation plan. Such procedure shall provide employees no less than **24** hours to respond following their receipt of a specific offer. An Appointing Authority may require employees to submit specific requests for transfer or voluntary demotion in writing, either by mail or in individual or group meetings.

530:10-13-38. Employee separations

An affected employee who does not agree pursuant to Section 840-2.27E of Title 74 of the**Oklahoma Statutes** to accept severance benefits and who does not have a displacement opportunity shall be separated by the reduction-in-force and shall not receive any severance benefits that would otherwise have been provided. [74:840-2.27C(D)]

Part 5 - RECALL RIGHTS

530:10-13-50. Eligibility for recall

(a) Consistent with any displacement limits adopted pursuant to Section 840-2.27C of Title 74 of the Oklahoma Statutes, permanent classified employees and employees in probationary status after reinstatement from permanent classified status without a break in service who are removed from a job family level as a result of a reduction-in-force in an agency shall be eligible for recall by that agency to the job family level from which removed for **18** months after the effective date of separation or demotion [74:840-2.27C].

(b) If there are persons eligible for recall to a job family level, an Appointing Authority may not appoint or reclassify persons to the job family level from the employment register, by internal action, such as promotion or reinstatement, or from Priority Reemployment Consideration Rosters [840-2.27C]. However, an Appointing Authority may reclassify an employee by involuntary demotion for cause to a job family level for which there is a recall list. The salary of a recalled employee shall be set in accordance with 530:10-7-8.

(c) Affected employees

who are reemployed by the agency from which separated as a result of a reduction-in-force less than **1** year after receiving severance benefits are required to repay such benefits in accordance with Section 840-2.27E of Title 74 of the **Oklahoma Statutes.**

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

530:10-13-51. Order of recall

Individuals who are eligible for recall shall be ranked in order of their retention points at the time the reduction-in-force implementation plan is posted, from high to low. [74:840-2.27C(E)] Offers of recall as described in 530:10-13-50 for classified positions shall be made first to the eligible individual having the highest retention points, regardless of whether the individual was separated or was removed from the job family level by voluntary demotion or lateral transfer to another job family level.

530:10-13-52. Forfeiture and expiration of recall rights

The right of an individual to be recalled to the job family level from which removed is subject to the following provisions and conditions:

(1) **Limitations on recall rights.** Recall rights pertain only to the job family level from which an employee is removed in the agency that conducted the reduction-in-force [74:840-2.27C]. An individual has no right to be recalled to a specific position or to be recalled by any other agency.

(2) **Forfeiture of recall rights.** The right of an individual to be recalled is forfeited if the person:

(A) submits a written notice to the agency that waives the right to be recalled.

(B) declines an offer of recall [74:840-2.27C].

(C) fails to respond to a written inquiry from the Appointing Authority relative to an offer of recall within **7** calendar days after the date of its mailing or **4** calendar days after the date of its delivery by personal service. The inquiry must include the date and time by which the person must contact the Appointing Authority.

(D) fails to report for duty within the time specified by the Appointing Authority; provided the person is given at least **14** calendar days.

(E) accepts an offer of recall.

(3) **Expiration of recall rights.** The right of an individual to be recalled expires if the agency:

(A) makes no appointments to the job family level within the **18** months after the effective date of the removal of the person from the job family level [74:840-2.27C];

(B) in making offers of recall to a job family level, does not reach the name of the individual on the recall list within **18** months after the effective date of the removal of the person from the job family level [74:840-2.27C].

530:10-13-53. Recall after multiple reductions-in-force

If any agency conducts a reduction-in-force which requires the removal of permanent employees from a job family level for which there is already an unexpired recall list from a previous reduction-in-force, the names of the persons removed from the job family level will be merged with names already on the list based on retention points.

Part 7 - PRIORITY CONSIDERATION FOR REEMPLOYMENT

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

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

(1) has posted a reduction-in-force notice and implementation plan and the employees are in positions covered by the plan and within the displacement limits established by the Appointing Authority; or

(2) is scheduled to be closed or abolished by law or court order. [74:840-2.27C]

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

(c) Employees who accept severance benefits:

(1) are eligible for Priority Reemployment Consideration in accordance with the provisions of Section 840-2.27C of Title 74 of the **Oklahoma Statutes,**

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

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

530:10-13-71. Agency priority reemployment consideration requirements

(a) Before any vacant position in the classified service is filled by the initial appointment of any person from an employment register, an Appointing Authority shall request a list of the names of persons appearing on the Priority Reemployment Consideration Roster for the appropriate job family level [74:840-2.27C]. The Appointing Authority shall give such persons priority consideration for reemployment and may appoint any person whose name appears on such list regardless of rank [74:840-2.27C]. Additionally, an Appointing Authority shall consider its Affirmative Action Plan in accordance with Section 840-2.1 of the Oklahoma Personnel Act and 530:10-3-31.

(b) An Appointing Authority may make an initial appointment from a certificate of eligibles as provided in 530:10-9-92, only after certifying in writing to the Administrator that any and all persons whose names appear on the Priority Reemployment Consideration Roster for the job family level were first given priority consideration for reemployment. This requirement does not mandate the appointment of a person from a Priority Reemployment Consideration Roster and does not apply to internal appointments and actions, such as, promotions and reinstatements.

530:10-13-72. Conditions of employment and entrance salary

Persons who are appointed from a Priority Reemployment Consideration Roster shall be employed in accordance with 530:10-9-102, if they are eligible for reinstatement as provided in that Section. The entrance salary of such persons shall be fixed in accordance with 530:10-7-4.

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

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

(1) declination of an offer of reemployment to a job having the same or higher rate of pay than the job from which removed [74:840-2.27C], that is located in a county in which the person has indicated a willingness to work;

(2) acceptance of an offer of reemployment to a job having the same or higher rate of pay than the job from which removed;

(3) failure to report for duty within the time specified by the Appointing Authority; provided the person is given at least **14** calendar days;

(4) recall to the job family level from which removed; or

(5) failure to meet any of the requirements for the job.

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

Subchapter 15 - Time and Leave

Part 1 - GENERAL PROVISIONS

530:10-15-1. Purpose

The purpose of the rules in this Subchapter is to establish leave regulations [74:840-1.6a(11); 74:840-2.20] for classified and unclassified employees of the State of Oklahoma who are subject to leave rules. [O]*ffices and positions of the State Senate and House of Representatives shall not be subject to . . .* [the Merit Rules governing] *involuntary leave without pay or furlough . . . No person chosen by election or appointment to fill an elective office shall be subject to any leave plan or regulation or shall such person be eligible for accrual of any leave benefits* [74:840-5.1]

530:10-15-2. General leave provisions

(a) Employees are responsible for following applicable Merit Rules and agency policy established in accordance with the Merit Rules when they request and use leave. Appointing Authorities have the authority and responsibility to monitor employee's leave usage and to take appropriate action when they have facts to show that an employee has abused leave or used leave fraudulently. Except as otherwise provided by law and the Merit Rules, agency policy regarding time and leave must be applied uniformly to all employees.

(b) All classified employees remain subject to the provisions of the Oklahoma Personnel Act while on leave.

(c) An employee who is requested or required by the Appointing Authority to undergo drug or alcohol testing during his or her normal hours of work shall be entitled to time-off from work without loss of compensation or leave.

530:10-15-3. Attendance

The Appointing Authority in each agency shall establish the working days, hours of attendance and place of work for employees within the agency, and may make other policies in regard to attendance as necessary. The Appointing Authority must make such policies known to employees.

(1) Attendance of employees may be considered by the Appointing Authority in decisions regarding promotions, pay increases, and discipline [74:840-2.20].

(2) Abuse of leave benefits or failure to maintain regular attendance may be grounds for dismissal. [74:840-2.20].

(3) Attendance policies shall be in compliance with the Family and Medical Leave Act of 1993 (29 U.S.C, 2654 et seq.) and the use of approved FMLA leave shall not be considered a negative factor in employment actions.

Part 3 - ANNUAL AND SICK LEAVE POLICIES

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

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

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

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

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

(A) Employment as a permanent classified employee;

(B) Employment as a probationary classified employee;
(C) Employment as a regular unclassified employee;
(D) Temporary or other time-limited unclassified employment;
(E) Paid leave;
(F) Leave without pay of **30** continuous calendar days or less; and
(G) Leave without pay in excess of **30** calendar days taken under Section 840- 2.21 of Title 74 of the **Oklahoma Statutes.** Any other leave without pay in excess of **30**calendar days shall not be counted as cumulative service.
(2) Periods of service that are described in (1) of this subsection, shall be combined for purposes of determining cumulative service and the total shall be expressed in whole years. Partial years, less than **12** months, are dropped.
(d) Annual leave and sick leave shall accrue only when an employee is actually working, on authorized leave with pay, or during the time the employee is using paid leave to supplement workers compensation benefits under Section Section 332 of Title 85. Leave shall not accrue after the last day the employee works.
(e) An employee using paid leave to supplement workers compensation benefits under Section Section 332 of Title 85 of the **Oklahoma Statutes** shall be in leave without pay status.
(f) An Appointing Authority may terminate an employee who is absent from work after the employee has exhausted all of his or her sick and annual leave accumulations unless the absence is covered by 530:10-15-45 or 530:10-15-49. Termination of a permanent classified employee under this subsection is subject to the pretermination hearing requirements of Section 840-6.4 of Title 74 of the**Oklahoma Statutes.** This subsection does not prevent an Appointing Authority from granting leave without pay according to 530:10-15-47.

530:10-15-11. Annual leave

(a) Annual leave is intended to be used for vacations, personal business, and other time off work not covered by other paid leave or holiday provisions. An employee may charge family and medical leave, taken in accordance with 530:10-15-45, against annual leave accumulations.
(b) Eligible employees shall accrue annual leave based upon hours worked (excluding overtime) , paid leave, and holidays [74:840-2.20] in accordance with 530:10-15-10 and the provisions in this subsection, not to exceed the total possible work hours for the month. The hourly rate is equal to the annual accrual divided by the number of work hours in the current year. Annual leave earned during one pay period shall not be available for use until the beginning of the following pay period.
(1) Annual leave shall be applied for by the employee and shall be used only when approved by the Appointing Authority.
(2) Part-time employees shall accrue annual leave in an amount proportionate to that which would be accrued under full-time employment [74:840-2.20].
(3) Annual leave earned during a pay period shall be prorated based upon the number of hours (excluding overtime hours) an employee is on the payroll [74:840-2.20].
(4) An Appointing Authority may require an employee to take annual leave whenever in the administrative judgment of the Appointing Authority such action would be in the best interests of the agency; except that the employee shall not be required to reduce accrued annual leave below 5 days. An Appointing Authority shall not apply this rule in lieu of 530:10-11-120. Leaves of absence for internal investigatory purposes shall be administered according to 530:10-11-120.
(5) Unused accrued annual leave shall be accumulated for no more than the maximum leave accumulation limits specified in 530:10-15-10 or at the discretion of the Appointing Authority, employees may accrue up to the accumulation limit plus the accrual for one year. If employees are

permitted to accumulate above the accumulation limit, such excess must be used during the same calendar year in which it accrues or within twelve months of the date on which it accrues. Employees shall not be paid for excess leave above the accumulation limit; if an employee was transferred to an agency by statute or executive order all accumulated leave will be transferred.

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

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

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

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

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

530:10-15-12. Sick leave

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

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

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

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

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

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

Appendix B - Schedule of Annual and Sick Leave Accumulation Limits and Yearly Accruals

ANNUAL AND SICK LEAVE ACCUMULATION LIMITS AND YEARLY ACCRUALS [74:840-2.20(2)] Note: "Days" refers to 8-hour working days.				
	Annual Leave		**Sick Leave**	
Years of Cumulative Service	**Yearly Accrual**	**Accumulation Limit**	**Yearly Accrual**	**Accumulation Limit**
Less than 5 years	15 days/year	30 days*	15 days/year	No limit.
5 but less than 10 years	18 days/year	60 days*	15 days/year	No limit.
10 to 20 years	20 days/year	60 days*	15 days/year	No limit.
Over 20 years	25 days/year	60 days*	15 days/year	No limit.
*Except as provided in 530:10-15-11(b)(5) Note: Accrual rate is an hourly rate equal to the annual accrual divided by the number of work hours in the current year.				

Part 5 - MISCELLANEOUS TYPES OF LEAVE

530:10-15-40. Enforced leave

(a) The Appointing Authority may grant a probationary or permanent employee time off from regular duties, with compensation for absence necessary when some member of his or her immediate family or household requires the employee's care because of illness or injury, or in the case of death in the immediate family or household or in the case of personal disaster. Enforced leave shall be charged against the employee's sick leave and may not be granted in excess of accumulated sick leave. The number of days granted will be governed by the circumstance of the case, but in no event shall they exceed 10 working days in any calendar year.

(b) Immediate Family is defined as spouse, children, parents, brothers, sisters, including step, grand, half, foster, or in-law relationships.

(c) Household is defined as those persons who reside in the same home, who have reciprocal duties and provide financial support for one another. This term shall include foster children and legal wards even if they do not live in the household. The term does not include persons sharing the same general house or when the living style is primarily that of a dormitory or commune.

(d) Personal Disaster is defined as an unforeseeable, catastrophic event such as the destruction of the employee's residence.

530:10-15-41. Organizational leave

(a) *A permanent classified employee or a regular unclassified employee shall be entitled to take leave with pay for not to exceed three (3) days a year to attend meetings of job-related professional organizations of which that employee is a member upon receiving permission from the appointing authority. The denial by an appointing authority …* [of] *organizational leave shall be in writing and state the reasons for denying said leave* [74:840-2.25(A)].

(b) *The leave authorized by this section shall not be used for lobbying activities which include the lobbying of legislative or executive branch elected officials within state-owned or leased buildings*[74:840-2.25(B)].

530:10-15-42. Educational leave

Educational leave with pay may be granted at the discretion of the Appointing Authority for a period not to exceed **1** year, provided, however, the Appointing Authority may grant such extensions of leave as may appear best to serve the interests of the agency. Extensions shall not be for more than**1** additional year. On educational leave, annual and sick leave shall accrue. The Appointing Authority may also grant leave of absence without pay for educational purposes.

530:10-15-43. Holidays

(a) Holidays shall be granted in accordance with state law and the Governor's proclamations as they are observed by the individual agencies in accordance with their work load and policies.

(b) To be eligible to receive holiday pay, an employee shall be in pay status or on furlough for the entire regularly-scheduled workday either the workday before or the workday after the holiday. An employee shall not be eligible to be paid for holidays which occur either before the employee's entry on duty date or after the last day the employee works. The receiving Appointing Authority shall pay an employee who transfers from another agency for any holidays occurring after the last day worked in the sending agency. An employee who is recalled, reemployed, or reinstated shall not be paid for any holiday occurring after the last day worked while previously employed and before entry on duty.

(c) Appointing Authorities shall pay full-time employees for holidays based on an 8-hour workday. Full-time employees who are eligible for holiday pay under (b) of this Section and who are scheduled to work either more or less than 8 hours on a holiday shall receive the equivalent of 8 hours of holiday pay or compensatory time off.

(d) Appointing Authorities shall prorate holiday pay for part-time employees based on one of the following methods:

(1) Holiday pay as a percentage of normally scheduled hours worked divided by full- time hours; or

(2) Holiday pay equal to regular pay for hours normally worked if a holiday occurs on a normally scheduled work day.

(e) If a full-time or part-time employee's scheduled hours worked plus holiday hours total less than the employee's normally scheduled hours during the workweek, the Appointing Authority shall account for the difference exercising one or more of the following options:

(1) Work additional hours during the same workweek;

(2) Charge to accumulated annual leave; or

(3) Record as leave without pay under 530:10-15-47.

(f) If an employee's scheduled hours worked plus holiday hours are more than 40 hours in a workweek, the Fair Labor Standards Act requires that only hours actually worked be counted as hours worked in accordance with the Fair Labor Standards Act and 530:10-7-12.

(g) For employees who are required to work in fire suppression duties on a holiday, the Appointing Authority shall pay the employee for the holiday based on an 8-hour workday times the employee's base rate of pay at the time of payment. For employees who are required to work on a holiday in duties other than fire suppression and for employees whose day off falls on a holiday, the Appointing Authority shall either:
(1) reschedule the employee's holiday to be taken within 180 days; or
(2) pay the employee for the holiday based on an 8-hour workday times the employee's base rate of pay at the time of payment.
(h) If a holiday is rescheduled, the employee must take the rescheduled holiday after occurrence of the holiday. A rescheduled holiday may not be used to substitute for absences occurring prior to the actual holiday.
(i) An Appointing Authority may request an extension of the 180 days for taking holiday time off up to an additional 180 days providing the Appointing Authority submits proper documentation to the Human Capital Management Division justifying the extension. All extensions are subject to the approval of the Human Capital Management Division.

530:10-15-44. Military leave of absence and restoration to position

(a) Military leave of absence and right to restoration to former position shall be granted in accordance with Section 209 of Title 44, Sections 25.4, 25.5 and 25.7 of Title 51, and Section 48 of Title 72 of the **Oklahoma Statutes**; the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C., 4301 et seq.) ; and such rights and privileges as these laws provide.
(b) Military leave shall be granted to classified and unclassified employees who are a member of any component of the Armed Forces of the United States or the Reserve Components, to include the Army & Air National Guard and the Army, Navy, Air Force, Marine Corps & Coast Guard Reserves, when ordered by proper authority to active or inactive duty (includes weekend drills and training exercises) or service. Such employees are entitled to leave of absence without loss of status or seniority.
(c) The National Guard and Reserves Component - The first 30 regularly scheduled work days of military leave of absence during any federal fiscal year (October 1 to September 30) are with pay. If the period of military status extends beyond 30 days, the employee's absence for the period beyond 30 days is governed by applicable leave rules. Accrued compensatory leave, holiday leave, annual leave, or leave without pay may be requested to cover this period of time. During the remainder of such leave of absence the Appointing Authority may elect to pay the employee an amount equal to the difference between his or her regular state pay and his or her military pay, except that the employee shall receive the difference between his or her full regular pay and his or her military pay when ordered by proper authority to active or inactive service during the period that Operation Enduring Freedom is in effect. The military pay could be verified through a Leave and Earnings Statement provided by the Military.
(d) An employee who is requested to report for physical examination in connection with military service is not considered absent from duty during the time required for the examination and travel.
(e) An employee must notify the immediate supervisor of the requirement for military leave and provide as much advance notice as possible.
(f) A supervisor does not have the right to request an employee or the federal government to reschedule military exercises for the convenience of the agency.

530:10-15-45. 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 servicemember shall be entitled to a total of 26 weeks of leave during a 12-month period to care for the servicemember. 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 servicemember 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 servicemember 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) refer to this Section;
(3) describe the reason for the family and medical leave;
(4) specify the type of leave the employee is requesting to account for the time off; and
(5) 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 employees the following options 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 530:10-15-47.
(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.

530:10-15-46. Court and jury services

(a) A state employee, directed by the proper authority or in obedience to a subpoena, shall be entitled to time-off from work without loss of compensation or leave to serve in a capacity described in paragraphs (1) through (4) of this subsection. Such time shall be counted as hours worked in accordance with the Fair Labor Standards Act and 530:10 7 12.
(1) A jury member;
(2) A witness on behalf of the federal government, the state of Oklahoma, or a political subdivision of the state;
(3) A witness or party before a state agency, board, commission, or legislative body; or
(4) A witness, party, attorney, representative, or spokesperson in the employee's official capacity as a state employee.
(b) A state employee shall take annual leave or leave without pay, at the employee's discretion, for the time absent to serve:
(1) as a party in private litigation;
(2) as a witness to testify as an individual or a paid expert in private litigation;
(3) as an attorney outside of the employee's official capacity as a state employee; or
(4) in any other capacity of court and jury services not covered in subsection (a) of this

Section.
(c) The Appointing Authority may require the employee to submit a copy of the subpoena, summons, or other court order or process as a prerequisite for determining whether or not leave is to be taken.
(d) State officers and employees are prohibited from receiving expert witness fees when acting in their official capacities as state employees. [Ethics Rules 257:20-1-3]
(e) Any jury fees received by the employee in accordance with state statute can be retained by the employee. [28 O.S. § 86]

530:10-15-47. Leave of absence without pay

(a) **Conditions and provisions.** An Appointing Authority may approve a request from a permanent or probationary employee for leave without pay. The request shall be in writing and shall include the reasons for the leave and the estimated length of the leave requested by the employee. The approval of the leave shall also be in writing, and it shall specify the date the employee is to return to work. Leave without pay is subject to the following conditions:
(1) Leave without pay shall not be approved for more than **12** months. However, an employee on leave without pay may submit a written request for an extension before the end of the approved leave period. The Appointing Authority may grant extensions if the total length of the original leave without pay plus any extensions does not exceed **2** years. Any extension granted shall be to a specified expiration date.
(2) An employee may return to work before the specified date of return if the Appointing Authority approves a written request from the employee to return earlier.
(3) Failure of a classified employee to report for work on the specified date of return shall be cause for disciplinary action.
(4) Leave without pay for probationary employees shall be in accordance with 530:10-11-36.
(5) The Appointing Authority may cancel leave without pay at any time and require the employee to return to work before the specified date of return. The employee shall be notified of the reasons for cancellation by certified mail or personal service and given **7**calendar days to return to work. Failure of a classified employee to report for work as directed shall be cause for disciplinary action.
(6) Section 530:10-13-9 provides for a special type of leave without pay so that an employee can continue insurance coverage after a reduction-in-force. A leave without pay period in accordance with 530:10-13-9 is not subject to other Merit Rules about leave of absence without pay.
(7) If an employee is absent from work without proper authorization, the employee shall not receive pay for such absence. An Appointing Authority has the authority and responsibility to take appropriate action if fraudulent leave usage or leave abuse is detected.
(8) Leave without pay in accordance with this Section shall not for any purpose be considered a break in service.
(b) **Rights upon return from leave of absence without pay.** A properly executed leave of absence without pay shall accord the employee the right to be returned by the Appointing Authority to a position in the same job family and level as the original position and in the same geographical area unless waived by the employee. The layoff provisions of the Oklahoma Personnel Act and the Merit Rules shall apply if there are no positions in that job family level and geographical area or if the job family has been abolished.

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

(a) **Policy.** An Appointing Authority may place classified and unclassified employees on involuntary leave without pay (furlough) for up to a total of **184** hours in any **12** month period in accordance with

this Section. An Appointing Authority may only furlough employees when it is necessary to reduce expenditures or when it is required because of a temporary decline or cessation of work activities.

(b) **Required announcement of reasons for furlough.** Before beginning a furlough, an Appointing Authority shall announce in writing the reasons that require it. The Appointing Authority shall post this announcement throughout the agency and send it to the Governor, the Office of Management and Enterprise Services. This announcement is not part of the furlough plan required in (c) of this Section, and it is not subject to the approval of the Administrator.

(c) **Required plan for implementation of furlough.**

(1) Before beginning a furlough, an Appointing Authority shall develop an equitable and systematic plan for the furlough and shall submit the plan to the Human Capital Management Division for review and approval. The Administrator of the Human Capital Management Division shall disapprove any plan that is not in substantial compliance with the Merit Rules.

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

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

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

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

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

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

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

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

(A) exclude specified employees from the furlough,

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

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

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

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

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

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

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

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

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

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

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

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

(e) **Required notice to employees.** Appointing Authorities shall give employees who report a job related illness or injury copies of this Section, Section 840-2.21, and the agency's policies and procedures for complying with this Section and the law. The procedures shall include instructions about requesting leave without pay under Section 840-2.21.

(f) **Placement of employee on leave without pay.** Appointing Authorities shall refer to this Section when they place an employee on leave without pay under Section 840-2.21. The Appointing Authority shall not require employees to exhaust paid sick and annual leave accumulations before placing them on leave without pay [74:840-2.21]. The Appointing Authority shall continue paying the employee's basic

plan insurance coverage and dependent insurance benefit allowance while the employee is on leave without pay, and the leave shall not be a break in service [74:840-2.21].

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

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

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

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

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

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

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

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

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

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

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

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

(k) **Reinstatement upon separation.** A classified employee shall be eligible for reinstatement to either classified or unclassified employment with any state agency for **12** months after the date of separation

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

530:10-15-50. Administrative leave

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

530:10-15-51. Disaster relief volunteer leave

Section 840-2.24 of Title 74 of the **Oklahoma Statutes** establishes eligibility, standards, and procedures for disaster relief volunteer leave.

§ 74-840-2.24. Participation in specialized disaster relief services--Leave with pay

A. 1. As used in this subsection, “disaster” means disasters designated at level III and above in the American Red Cross Regulations and Procedures.

2. Any state employee in the executive branch of state government who is a certified disaster service volunteer of the American Red Cross or a member of the United States Air Force Auxiliary Civil Air Patrol, with the authorization of the chief executive officer of the state agency, may be granted a leave with pay not to exceed fifteen (15) working days in any twelve-month period to participate in specialized disaster relief services within the State of Oklahoma for the American Red Cross or the United States Air Force Auxiliary Civil Air Patrol, upon the request of the American Red Cross or the United States Air Force Auxiliary Civil Air Patrol and with the approval of the office of the Governor of this state, without the loss of pay, annual leave, sick leave, accrued overtime wages or compensatory time. The agency shall compensate an employee granted leave time under this section at his or her regular rate of pay for those regular work hours during which the employee is absent from work.

3. Notwithstanding the provision of paragraph 2 of this subsection, state employees certified as disaster volunteers shall not exceed five hundred (500) participants at any one time. A list of such employees will be coordinated with the Department of Civil Emergency Management and the office of the Governor of this state. Within sixty (60) days of any request made by the American Red Cross or the United States Air Force Auxiliary Civil Air Patrol, a report shall be prepared by the American Red Cross or the United States Air Force Auxiliary Civil Air Patrol and submitted to the Governor's office stating the reasons and needs for any request made.

B. Any state officer or employee in the executive branch of state government authorized by the employing agency of the officer or employee to volunteer in a disaster relief activity during a presidentially declared national disaster in Oklahoma after May 1, 1999, for a period of not more than

six (6) months after the date of the presidentially declared national disaster, shall not have to use accrued leave or need to make up any time due to the performance of their volunteer activities.

C. Private employers are encouraged to allow their employees to take leave in order to participate in volunteer disaster service programs.

D. School administrators are encouraged to allow students, sixteen (16) years of age or older to be out of school to participate in volunteer disaster service programs.

530:10-15-52. Leave sharing

Section 840-2.23 of Title 74 of the **Oklahoma Statutes** establishes eligibility, standards and procedures for state employees to share annual and sick leave.

Shared Leave Statute | §74-840-2.23.

A. There is hereby created the state leave sharing program. The purpose of the state leave sharing program is to permit state employees to donate annual or sick leave to a fellow state employee who has exhausted, or will exhaust, all types of paid leave and:

Who is eligible for and requires family leave pursuant to the provisions of the Family and Leave Medical Act of 1993, 29 U.S.C., 2601 et seq.; or

Who is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused or is likely to cause the employee to take leave without pay or terminate employment;

Immediately after the death of a relative or household member, provided that the total leave received for this purpose shall not exceed five (5) days in any calendar year; or

4. Who is affected by a presidentially declared national disaster in Oklahoma after May 1, 1999, for a period of eighteen (18) months after the date of the presidentially declared national disaster if:

the employee suffered a physical injury as a result of the disaster,

the spouse, relative, or household member of the employee suffered a physical injury or died as a result of the disaster, or

c. the domicile of the employee or the home of a relative of the employee was damaged or destroyed as a result of the disaster.

B. As used in this section:

“Relative of the employee” shall be limited to the spouse, child, stepchild, grandchild, grandparent, stepparent, or parent of the employee;

“Household members” means those persons who reside in the same home, who have reciprocal duties to and do provide financial support for one another. This term shall include foster children and legal

wards even if they do not live in the household. The term does not include persons sharing the same general house, when the living style is primarily that of a dormitory or commune;

"Severe" or "extraordinary" means extreme or life threatening;

"State employee" means a permanent classified employee or a regular unclassified employee with one (1) year or more continuous service with the state. The term "state employee" does not include classified employees in probationary status or unclassified employees on temporary or other limited term appointments, except that those employees are eligible to receive shared leave as provided in paragraph 4 of subsection A of this section and the leave with pay authorized by Section 840-2.23A of this title related to a presidentially declared national disaster; and

"Terminal" means likely to result in death within two (2) calendar years.

C. An employee may be eligible to receive shared leave pursuant to the following conditions:

The chief administrative officer of the employee determines that the employee meets the criteria described in this section; and

The employee has abided by state policies regarding the use of leave.

D. An employee may not donate annual or sick leave to an eligible employee without the permission of the chief administrative officer of the donating employee's agency.

E. An employee may donate annual or sick leave to another employee provided the donation does not cause the annual leave balance of the employee to fall below eighty (80) hours and provided the donation does not cause the sick leave balance of the employee to fall below eighty (80) hours.

F. Except as otherwise provided for in this subsection, the chief administrative officer of the employee shall determine the amount of donated leave an employee may receive and may authorize an employee to use up to a maximum of two hundred sixty-one (261) days of donated leave during total state employment. If the employee is suffering from an illness which has been certified in writing by a licensed physician or health care practitioner as being terminal and the employee who either has reached or shall reach in the near future the maximum amount as set out in this subsection, the chief administrative officer of the employee may approve additional donated leave upon written request of the employee.

G. The chief administrative officer of the employee shall require the employee to submit, prior to approval or disapproval of shared leave pursuant to paragraph 1 of subsection A of this section, a medical certificate from a licensed physician or health care practitioner verifying the need for the leave and expected duration of the illness, injury, impairment, or physical or mental condition for which the leave is donated.

H. Donated annual or sick leave is transferable between employees in different state entities with the agreement of both chief administrative officers of the entities.

Donated annual or sick leave is transferable between employees on an hour-to-hour basis irrespective of the hourly wage of the donating or receiving employee.

J. Any donated leave may only be used by the recipient for the purposes specified in this section.

K. All forms of paid leave available for use by the recipient must be used prior to using donated leave.

L. Any donated leave not used by the recipient during each occurrence as determined by the chief administrative officer of the employee shall be returned to the donor. The donated leave remaining will be divided among the donors on a prorated basis based on the original donated value and returned at its original donor value and reinstated to the original leave balance of each donor.

M. All donated leave must be given voluntarily. No employee shall be coerced, threatened, intimidated, or financially induced into donating annual or sick leave for purposes of the leave sharing program.

N. Employees may not donate excess annual or sick leave that the donor would not be able to otherwise take.

530:10-15-53. Disaster leave due to the explosion at the Alfred P. Murrah Federal Building on April 19, 1995 [EXPIRED]

530:10-15-54. Paid administrative leave due to physical injury caused by the explosion at the Alfred P. Murrah Federal Building on April 19, 1995 [EXPIRED]

530:10-15-55. Paid administrative leave for state employees as the result of the bombing at the Alfred P. Murrah Federal Building on April 19, 1995 [REVOKED]

530:10-15-56. Paid administrative leave to attend trial of defendants charged with bombing of the Alfred P. Murrah Federal building [EXPIRED]

530:10-15-57. Paid leave for state employees affected by national disasters

Section 840-2.23A of Title 74 of the **Oklahoma Statutes** establishes eligibility, standards and procedures for paid leave for employees affected by a presidentially-declared national disaster.

§74-840-2.23A. National disaster leave

A. An appointing authority may grant leave with pay not to exceed fifteen (15) working days to a state employee who is affected by a presidentially declared national disaster in Oklahoma after May 1, 1999, if:

1. The employee suffered a physical injury as a result of the disaster;
2. A relative or household member of the employee, as defined by subsection B of Section 840-2.23 of Title 74 of the Oklahoma Statutes, suffered a physical injury or died as a result of the disaster; or

3. The domicile of the employee or the domicile of a relative of the employee, as defined by subsection B of Section 840-2.23 of Title 74 of the Oklahoma Statutes, was damaged or destroyed as a result of the disaster.

B. The authority to grant leave with pay pursuant to subsection A of this section shall extend for a period of not more than eighteen (18) months after the date of a presidentially declared national disaster.

C. Annual leave, sick leave, or compensatory time which was charged to a state employee as a result of the presidentially declared national disaster resulting from the May 3, 1999, tornadoes that would have otherwise been eligible for the leave provision in subsection A of this section, may be reinstated by the appointing authority. A state employee entitled to leave with pay pursuant to this section who was charged leave without pay shall be compensated at the base rate of pay of the employee.

530:10-15-58. Leave for reserve municipal police officers and reserve deputy sheriffs

(a) Employees who are reserve municipal police officers pursuant to Section 34-401 of Title 11 of the Oklahoma Statutes and employees who are reserve deputy sheriffs pursuant to Section 547 of Title 19 of the Oklahoma Statutes and who miss work in performing their duties in case of emergency shall not have to use any accrued leave or make up any time due to the performance of their reserve duties.

(b) Employees subject to the provisions of subsection (a) may be required, upon the request of the Appointing Authority, to provide appropriate documentation from the applicable law enforcement authority that identifies the nature of the emergency and the period of time of the employees involvement.

Part 7 - LEAVE WHEN OFFICES ARE CLOSED OR SERVICES REDUCED

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

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

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

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

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

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

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

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

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

(e) Employees who are responsible for basic minimum services who do not report to work have the following options to account for leave:
(1) Charge the absence to accumulated compensatory time;
(2) Charge the absence to accumulated annual leave;
(3) Make up lost time in a manner consistent with the FLSA, if the Appointing Authority determines that office hours and schedules permit.
(f) An employee who leaves earlier than a designated early dismissal time, or who arrives later than a designated late arrival time, shall be charged leave for the excess time.

530:10-15-72. Leave when services are temporarily reduced due to hazardous weather conditions (automatically allowed authorized absences) [REVOKED]

Subchapter 19 - Uniform Employee Grievance Procedure [Revoked]

Editor's Note: *Effective 8-26-94, the rules in this Subchapter 19 (530:10-19-1 through 530:10-19-93) were transferred from the Office of Personnel Management to the Merit Protection Commission pursuant to 74 O.S., § 841.9(F), to "remain in effect until duly modified by the Commission." The Commission subsequently promulgated new rules at OAC 455:10-19, effective 7-13-95. The Office of Personnel Management revoked rules in this Subchapter by emergency action on 1-1-95 and permanent action on 7-13-95.*

Subchapter 21 - Employee Assistance Program

Part 1 - GENERAL PROVISIONS

530:10-21-1. Purpose and scope

(a) The purpose of the EAP is to *provide assistance to state agencies in their management of employees whose personal problems may have a negative impact on job performance and to provide for assessment, referral, consultation, and problem resolution assistance to state employees and their family members seeking corrective help with medical or mental health problems, including alcohol or drug abuse and emotional, marital, familial, financial or other personal problems* [74:840-2.10(A)].
(b) *The Legislature and the judicial branch of state government may utilize the services of the State Employee Assistance Program at their discretion* [74:840-2.10(G)].
(c) *To ensure equitable treatment of employees,* the rules in this Subchapter shall apply to all agency employee assistance programs in existence or which may be established in the future [74:840-2.10(C)].

530:10-21-2. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

530:10-21-3. EAP policy

(a) The EAP is designed to:

(1) Help employees overcome personal problems on a confidential, professional, and humane basis, without jeopardizing the employee's job, and

(2) Secure for employees a continuum of services, from prevention to treatment to reintegration.

(b) Participation in the EAP is voluntary, except where participation is required by other state or federal law. There is no charge to employees or family members for EAP services.

530:10-21-5. EAP records

(a) Records and information that relate to participation by an employee or family member in the EAP *shall be confidential* except as provided in Subsection (b) of this Section [*N]either the records nor the testimony of an Employee Assistance Program professional shall be subject to subpoena unless a participant poses a threat to deliberately harm the participant or others.*[74:840-2.10(D)]

(b) EAP staff and EAP professionals may have access to EAP records within their agency as necessary to perform the duties and responsibilities of their job. EAP staff and EAP professionals may disclose confidential information relating to a participant under the following circumstances:

(1) The participant consents in writing to the release of information;

(2) The participant's employing agency requests verification of an employee's appointment with an EAP professional for the purpose of granting authorized absence according to 530:10-21-7. The

disclosure shall be limited to the date and time of the employee's appointment with the EAP professional;
(3) The EAP professional determines that the participant poses a threat to deliberately harm the participant or others [74:840-2.10(D)];
(4) There is *reason to believe that a child under the age of eighteen (18) years has had physical injury or injuries inflicted upon the child by other than accidental means where the injury appears to have been caused as a result of physical abuse, sexual abuse, or neglect* [10:7103(A)];
(5) There is *reason to believe that avulnerable adult is suffering from abuse, neglect, or financial exploitation* [43A:10-104(A)];
(6) A court of competent jurisdiction orders the inspection, release, or disclosure of confidential information.
(c) Records and information relating to participation by an employee in the EAP *shall be maintained separate and apart from regular personnel records and shall not become part of the employee's personnel file* [74:840-2.10(D)].
(d) Participants in the EAP shall have a right of access to their own EAP records [74:840-2.10(D)].
(e) The provisions of this Section shall remain effective regardless of whether the participant has ceased participation in the EAP or has terminated employment with the state.

530:10-21-7. EAP-related absences from work

(a) An Appointing Authority may establish a policy permitting employees to consult with an EAP professional without loss of pay or accumulated leave. Except as otherwise provided by law and the Merit Rules, the Appointing Authority must apply the policy uniformly to all employees. At the request of the employee's agency, EAP staff shall verify to the employing agency the date and time of an employee's appointment with an EAP professional in connection with this policy.
(b) An employee may request sick or annual leave to consult with an EAP professional.

530:10-21-9. Employee participation in the EAP

(a) An employee may be referred to the EAP by his or her supervisor, Appointing Authority, or other authorized personnel, or may contact the EAP without a referral.
(b) No employee shall prevent another employee from contacting the EAP.
(c) Appointing Authorities shall inform all employees of services provided by the EAP and shall distribute EAP-related materials to employees at the request of the EAP. Appointing Authorities may refer any employee to the EAP whose personal problems are having a negative impact on job performance, including employees who test positive for drug or alcohol use and employees who commit acts or threats of violence in the workplace.
(d) An employee shall not be disciplined or otherwise prejudiced in his or her employment by participating in or requesting assessment and referral assistance from the EAP in resolving personal problems. However, nothing in this Subchapter *shall be construed to conflict with an appointing authority's responsibility and authority to maintain discipline or to take disciplinary measures against employees for misconduct or unacceptable performance. Further, participation or non-participation in any state employee assistance program shall not excuse an employee from discipline or otherwise affect the terms and conditions of such employee's employment status or opportunities for advancement with the state* [74:840-2.10(E)].
(e) Participation in the EAP shall be on a voluntary basis [74:840-2.10(A)], except where participation is required by other state or federal law.

Part 3 - STATE EMPLOYEE DEBRIEFING AND COUNSELING SERVICES

530:10-21-10. Purpose and scope

(a) The purpose of the rules in this part is to implement the provisions of Section 840-2.10a of the Oklahoma Personnel Act which pertains to debriefing and counseling services provided to employees who are affected by violent or traumatic events that occur in the workplace of the following agencies:
(1) The Department of Human Services;
(2) The Department of Mental Health and Substance Abuse;
(3) The Department of Corrections;
(4) The Department of Transportation; and
(5) The Office of Juvenile Affairs.
(b) The agencies identified in (a) shall provide or contract to provide debriefing and counseling services to its employees who are affected by violent or traumatic events that occur in the workplace.
(c) At the discretion of the Appointing Authority, an agency may provide counseling services to household/family members of the affected employee.

530:10-21-11. Definitions

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

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

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

530:10-21-12. Employee participation

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

Subchapter 23 - Employee Recognition

Part 1 - GENERAL PROVISIONS

530:10-23-1. Purpose

The purpose of the rules in this Subchapter is to establish an on-the-job employee performance recognition program that encourages outstanding job performance and productivity, promotes excellence in job performance, and provides recognition for work units with exceptional performance.

530:10-23-3. Employee performance recognition programs

(a) At the discretion of the Appointing Authority, agencies may establish employee performance recognition programs to recognize individual employees or work units with exceptional job performance records or for other significant contributions to the agency. Agencies may not request additional funding from the Legislature in order to fund employee performance recognition programs.

(b) Recognition awards may consist of distinctive wearing apparel, service pins, plaques, writing pens, or other awards. The value of recognition awards may not exceed $150.00 per recognized employee each fiscal year.

(c) In addition to the recognition awards as provided in Subsection (b), agencies may provide cash awards to recognize outstanding performance in the workplace by the employees of the agency. Cash awards may not exceed $500.00 per recognized employee each fiscal year.

(d) The awards authorized in this Section may be presented at a formal or informal ceremony, banquet, or reception, the cost of which may be funded from monies available in the agency's operating funds. [74:4121]