

**OPM 02-25**

**DATE:** April 19, 2002

**TO:** All Appointing Authorities

**FROM:** Oscar B. Jackson, Jr., Administrator and  
Cabinet Secretary of Human Resources

**RE:      **Emergency Amendments to Merit Rules of  
Personnel Administration****

Attached are emergency amendments to the Merit Rules that were approved by Governor Keating and became effective March 28, 2002.

These amendments are necessary to make the rules consistent with statutory changes made during the 2001 Legislative Session. Amendments were also made to Merit Rule 530:10-7-14 to clarify the rule and make it easier to read.

A complete set of all currently-effective Merit Rules adopted by the Office of Personnel Management, including these emergency rules, are available on the OPM website at [www.opm.state.ok.us](http://www.opm.state.ok.us).

Permanent amendments to the Merit Rules are currently awaiting gubernatorial and legislative approval. If the permanent amendments are approved, they will become effective July 1, 2002. In June, OPM will issue an updated supplement to the August 1997 Merit Rule Book. The updated supplement will include all permanent and emergency amendments to the Merit Rules adopted by OPM since the publication of the rulebook.

Please direct any questions regarding these emergency amendments to Kimberlee Williams, Chief Policy Attorney, at (405) 522-1736.

Attachment

## TITLE 530. OFFICE OF PERSONNEL MANAGEMENT

### CHAPTER 10. MERIT SYSTEM OF PERSONNEL ADMINISTRATION RULES

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### PART 1. GENERAL PROVISIONS

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

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

*(b) The Oklahoma Merit Protection Commission or the Administrator of the Office of Personnel Management may levy an administrative fine not to exceed Five Thousand Dollars (\$5,000.00) against any person, whether subject to the provisions of the merit system or in unclassified service, who after proper notice fails or refuses, within a reasonable period of time, to implement a written order of the Oklahoma Merit Protection Commission or the Administrator of the Office of Personnel Management. 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)]*

~~(b)~~ (c) *Any person against whom an administrative fine is levied who continues the violation for an unreasonable period of time, as determined by the Oklahoma Merit Protection Commission or Administrator of the Office of Personnel Management, 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)].*

~~(e)~~ (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)].*

#### SUBCHAPTER 7. SALARY AND PAYROLL

##### PART 1. SALARY AND RATES OF PAY

###### **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 career progression, except as follows: ~~within the new pay band, except as provided in paragraph (3) of this subsection.~~

~~(A) The Appointing Authority shall set an employee's salary on promotion or career progression at least 5% above the employee's salary before the promotion or career progression advancement, unless 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, (in which case the employee's salary shall be set at the maximum rate of pay for the new pay band). However, if the employee's salary before promotion is more than 5% below the minimum of the new salary band, the Appointing Authority shall set the employee's salary on promotion or career progression to at least the minimum of the new pay band.~~

~~(B) The Appointing Authority may set an employee's salary on promotion or career progression up to 20% above the employee's salary before promotion or career progression, or any rate within the hiring range established for the position in an approved salary administration plan. 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 at any rate 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.~~

~~(3) 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 for 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 when transferred interagency.** An Appointing Authority shall set the salary of an employee who receives an interagency transfer to the same job or another with the same pay band assignment, at the same rate of pay received before transfer.~~

~~(e) **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 on intra-agency upon 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]~~

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

A classified employee working in an institutional setting as defined by Section 840-2.15(D) of Title 74 of the Oklahoma Statutes shall receive a minimum of two (2) hours work if the employee is required to report to work while on-call. [74:840-2.29]

### **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 promotion to a different job family level or career progression to a different job family level. [74:840-2.17]

## SUBCHAPTER 13. REDUCTION-IN-FORCE

### PART 1. GENERAL PROVISIONS FOR REDUCTION-IN-FORCE

#### 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 and unclassified 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 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.

**"Eligible classified employee"** means a permanent classified employee or a classified employee on probationary status after reinstatement from permanent classified status without a break in service in an affected position who is eligible for displacement opportunities or severance benefits.

**"Eligible regular unclassified employee"** means a regular unclassified service employee with ~~over six months~~ one year or more continuous service in an affected position who is eligible for severance benefits.

**"Limited-term unclassified employee"** means an unclassified affected employee whose employment status is temporary or time-limited and whose employment status does not make the employee eligible for participation in a state retirement system.

**"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.

*"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.*

## **PART 7. PRIORITY CONSIDERATION FOR REEMPLOYMENT**

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

(a) ~~Probationary and permanent~~ Permanent employees, ~~and~~ regular unclassified full-time employees with ~~over 6 months~~ one (1) year or more continuous service, 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 schedule 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 plan and implementation schedule and the employees are in positions covered by the plan and within the displacement limits established by the Appointing Authority; or

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

(b) To be placed on the Priority Reemployment Consideration Roster for a job family level, a person shall apply to the Office of Personnel Management and meet all requirements for the job, including passing any required examination [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 on the examination [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 employed by any agency 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 Priority Reemployment Consideration.

## **SUBCHAPTER 17. EMPLOYEE PERFORMANCE MANAGEMENT SYSTEM AND CAREER ENHANCEMENT PROGRAMS**

### **PART 3. EMPLOYEE PERFORMANCE MANAGEMENT SYSTEM**

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

(a) *The Office of Personnel Management shall make available one standard performance management system to be used by all agencies for completing employee service ratings.*

*Agencies shall implement this new system on or before January 1, 2000. Until January 1, 2000, agencies may continue to use employee service rating systems which were approved or provided by the Administrator prior to November 1, 1999. The purpose of this employee performance management system is to evaluate the performance of each classified, unclassified and exempt employee in the executive branch of state government except those in the exempt unclassified service as specified in paragraphs 1 and 2 of subsection A of Section 840-5.5 and those employees employed by the institutions under the administrative authority of The Oklahoma State System of Higher Education [74:840-4.17].*

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

- (1) An objective evaluation of the employee, by the immediate supervisor, of the performance of the employee within the assigned duties of the job;*
- (2) The identification of the strengths and deficiencies of the employee;*
- (3) Corrective actions, if necessary, to correct deficiencies;*
- (4) An interview with the employee by the immediate supervisor who shall provide the employee with a copy of the service ratings; and*
- (5) The opportunity for the employee to submit written comments regarding the service rating [74:840-4.17].*

*(c) Each employee shall be rated thirty (30) days prior to the end of the probationary period. Thereafter, each employee shall be rated no less than once each year [74:840-4.17].*

*(d) The agency shall use the available service ratings of current or former state employees in decisions regarding promotions, appointments, demotions, performance pay increases, and discharges. Reductions-in-force shall not be considered discharges [74:840-4.17].*

*(e) The agency shall retain a copy of the service rating for each employee of the agency. ~~A copy of the service rating shall be furnished to the Administrator of the Office of Personnel Management for review to determine compliance with the provisions of this section and shall be retained in the file on the employee~~ employee's personnel file [74:840-4.17].*

*(f) The basic document to be used in conducting performance evaluations is the Performance Management Process form (OPM-111), a form prescribed by the Administrator. The form contains spaces for the supervisor to describe a list of accountabilities on which the employee will be evaluated. The form also lists behaviors on which state employees will be evaluated. The form provides spaces for the supervisor to enter an overall accountability rating, an overall performance rating, and a summary/development plan. The form requires signature by the employee, the supervisor, and the reviewer.*

## **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.

#### **530:10-23-2. RESERVED**

**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. Awards must be funded from monies available in the agency's operating funds.

(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 award.

(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. The total of all cash awards provided pursuant to this Subsection shall not exceed \$5,000 in any fiscal year.

