

# **STATE PERSONNEL INTERCHANGE PROGRAM**

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**State of Oklahoma  
Office of Personnel Management**

## **The Program**

### ***What is the State Personnel Interchange Program?***

In 1985, the Oklahoma Legislature created the State Personnel Interchange Program and gave the Administrator of the Oklahoma Office of Personnel Management responsibility for establishing programs to facilitate the interchange of employees among state governmental entities, evaluating the efficient utilization and deployment of state personnel, and adopting rules necessary to carry out the provisions of the State Personnel Interchange Program.

### ***Who may participate in the State Personnel Interchange Program?***

All employees in the classified and unclassified service are eligible for interchange. Participation by individual employees and agencies is voluntary.

### ***How long is an interchange?***

All interchange assignments are temporary and may not exceed 12 months in any 36-month period.

### ***How will an employee be affected by participation in an interchange?***

Work assigned to a Participating Employee by a Receiving Agency is exempt from the classification and compensation provisions of the Oklahoma Personnel Act. Thus, an employee may be given the opportunity to be assigned for up to 12 months to another agency performing work assignments that differ from his or her regular work assignments. Both state employees and agencies benefit—employees receive valuable experience they normally would not have the opportunity to receive, and state agencies have additional options for temporarily meeting staffing needs.

Participating Employees shall not lose any rights, status, or benefits, to which they would otherwise be entitled, as a result of their participation in the program, e.g., salary, seniority, promotion, reinstatement, insurance, and retirement.

Whenever an interchange agreement is terminated in accordance with the Oklahoma Personnel Act and the Merit Rules, the Participating Employee is entitled to return to his or her previous class or job family level or its successor class or job family level, if one exists in the sending agency. Otherwise, the reduction-in-force provisions of 74:840-2.27A, et seq. apply.

### ***Does a Participating Employee remain an employee of the Sending Agency during an interchange?***

During the term of the interchange, Participating Employees are considered employees of the Sending Agency for all purposes other than supervision and remain bound by the policies of the Sending Agency. All parties to an interchange may agree, however, to waive certain provisions as long as the waiver does not violate state and federal law. For example, if Sending Agency policy provides for compensatory time for certain FLSA-exempt employees who work overtime, and one of those employees is being interchanged to a Receiving Agency where overtime is likely, the Participating Employee may choose to waive the compensatory time provision. In this event, the Participating Employee's waiver of compensatory time becomes part of the agreement or contract. FLSA non-exempt employees may not waive compensatory time or overtime payments.

Any Participating Employee who suffers injury, occupational disease, or death, arising out of and in the course of an assignment to a Receiving Agency or sustained in the discharge of duties in connection with the assignment shall be considered an employee of the Sending Agency, and shall not be deprived of any right or expectancy that would otherwise accrue pursuant to the laws of this state governing labor and workers' compensation.

The Receiving Agency is responsible for all costs and liabilities arising from the performance of work assigned to the Participating Employee by the Receiving Agency that is found to be contrary to law and public policy by a court of competent jurisdiction.

***Is there anything else the parties to an interchange need to know?***

A participating classified or unclassified employee may be assigned to a classified or unclassified position for the duration of the assignment without regard to the status of the employee in the Sending Agency.

An employee's class shall not be adversely affected by another employee's participation in an interchange. For example, if an employee occupying a position in a supervisory classification only supervises one employee and that employee is interchanged to another agency, the supervising employee will not lose his or her right to the supervisory classification for that reason.

Participating Employees may neither receive nor accept any compensation from the Receiving Agency to which they are assigned. A Receiving Agency may, however, in accordance with applicable laws and policies, reimburse the per diem and travel expenses of any Participating Employee.

**The Procedure**

The Office of Communications of the Office of Personnel Management is responsible for disseminating information about the interchange program, for providing technical assistance to agencies in executing personnel interchanges, and for reviewing and approving documents pertaining to individual interchanges.

There are three forms that may be used in the execution of an interchange: *Personnel Interchange Agreement* (OPM-107) OR *Personnel Interchange Contract* (OPM-108), AND *Request for Personnel Action* (OPM-14 or equivalent)

Agencies shall use *either* the *Personnel Interchange Agreement* or the *Personnel Interchange Contract*. The *Personnel Interchange Agreement* is used when the Sending Agency *does not charge* the Receiving Agency for services. The *Personnel Interchange Contract* is used when the Sending Agency *does charge* the Receiving Agency for services. The Sending Agency uses a *Request for Personnel Action* in executing all interchanges, whether by Agreement or Contract. The Receiving Agency coordinates the submission of documents to the Office of Personnel Management.

## **Oklahoma Personnel Act <sup>1</sup>**

### **840-3.9. Short title**

Sections 840-3.9 through 840-3.14 of this title shall be known and may be cited as the “State Personnel Interchange Program.”

### **840-3.10. Public policy**

A. It is the policy of this state that:

1. State agencies in all branches of state government shall provide, whenever possible, such services as shall be required by other entities of state government; and
2. All entities of state government shall provide required services without charge or, when it is not possible to provide such services without charge, on a contractual basis.

B. “Agency” or “agencies” shall include agencies, boards or commissions in all branches of state government and “employee” or “employees” shall include persons employed in all branches of state government when used in Sections 840-3.10 through 840-3.14 of this title.

### **840-3.11. Establishment of interchange programs—Rules and regulations**

The Administrator of the Office of Personnel Management is hereby directed to establish programs to facilitate the interchange of employees among state governmental entities, to evaluate the efficient utilization and deployment of state personnel, and to adopt rules necessary to carry out the provisions of the State Personnel Interchange Program. The State Personnel Interchange Program and rules promulgated hereunder shall apply to both unclassified and classified employee services.

### **840-3.12. Eligible employees**

All employees in the classified and unclassified service are eligible for interchange.

### **840-3.13. Procedures, requirements and restrictions for assignment**

- A. All personnel interchange assignments are intended to be temporary in nature. An individual's period of assignment to any receiving agency shall not exceed twelve (12) months in any thirty-six-month period; except that the period of assignment for mentor executives participating in the mentor program established by Section 840-3.8 of this title shall not exceed twenty-four (24) months in any thirty-six-month period.
- B. An individual shall be assigned as a participating employee only upon the individual's freely given written consent, without any form of coercion or duress. Personnel interchanges shall be executed by mutual consent agreement by the appointing authority of the sending agency, the appointing authority of the receiving agency, and the participating individual.
- C. A participating employee shall be considered an employee of the sending agency for all purposes other than supervision. The receiving agency shall be responsible for all costs and liabilities arising from the performance of work assigned to the participating employee by the receiving agency which is found to be contrary to law and public policy by a court of competent jurisdiction.

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<sup>1</sup> 74 O.S. (2001 Supp.) §§ 840-3.9, et seq.

- D. A participating classified or unclassified employee may be assigned to a classified or unclassified position for the duration of the assignment without regard to the status of the employee in the sending agency.
- E. Work assigned to a participating employee by a receiving agency shall be exempt from the classification and compensation provisions of the Oklahoma Personnel Act. Further, although all agencies are encouraged to resolve employee complaints at the lowest possible level, nothing in this section shall be construed to require a receiving agency to establish or adopt a grievance procedure pursuant to Section 840-6.2 of this title, to hear formal grievances, or to designate a grievance manager. Whenever an interchange agreement is terminated in accordance with the Oklahoma Personnel Act and rules promulgated by the Administrator of the Office of Personnel Management, the participating employee shall be entitled to return to the previous class or job family level of the employee or its successor class or job family level, if one exists in the sending agency. Otherwise, the reduction-in-force provision of Section 840-2.27 of this title<sup>2</sup> shall apply.
- F. Except as provided in subsection E of this section, a participating employee who is assigned to a receiving agency shall neither lose, or suffer diminution of, any right, power, privilege, or benefit to which the employee would otherwise be entitled, including but not limited to salary, seniority, promotion, reinstatement, insurance, retirement, classified or unclassified status, progressive discipline, and use of grievance and appeals procedures. An employee's class or job family level shall not be adversely affected by another employee's participation in an interchange.
- G. Any participating employee who suffers injury, occupational disease, or death, arising out of and in the course of an assignment to a receiving agency or sustained in the discharge of duties in connection with said assignment shall be considered an employee of the sending agency, and shall not be deprived by virtue of participating in said program of any right or expectancy that would otherwise accrue pursuant to the laws of this state governing labor and workers' compensation.
- H. Except as provided in this section, a participating employee shall neither receive nor accept any compensation from the receiving agency to which the employee is assigned. Any receiving agency shall, in accordance with any applicable laws and policies, reimburse the per diem and travel expenses of any participating employee assigned thereto.
- I. Nothing in the State Personnel Interchange Program is intended to preclude the adoption of rules governing the interchange of employees of state governmental entities via other interchange provisions, such as leaves of absence without pay and career executive appointments.

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<sup>2</sup> 74 O.S. (2001) §§ 840-2.27A, et seq.

## ***Merit System of Personnel Administration Rules***

### **530:10-17-50. Purpose**

The purpose of the rules in this Part is to implement the public policy stated in the State Personnel Interchange Program, Sections 840-3.9 et seq. of the Oklahoma Personnel Act.

### **530:10-17-51. State personnel interchange program policies [REVOKED]**

### **530:10-17-52. State personnel interchange agreements and contracts**

Employee interchanges made in accordance with the Act and the Merit Rules shall be executed by mutual agreement or contract by the sending agency, the receiving agency and the participating employee, subject to the following conditions and provisions:

- (1) The agreement or contract shall be in the standard format and on the standard form provided by the Office of Personnel Management. Both the personnel interchange agreement and the personnel interchange contract contain information regarding the terms and conditions of the interchange and are signed by the Appointing Authority of the sending and receiving agencies and by the participating employee. Employee interchanges shall be by agreement if the receiving agency does not reimburse the sending agency and by contract if the receiving agency reimburses the sending agency.
- (2) The agreement or contract shall be signed voluntarily by the sending agency, the receiving agency, and the participating employee.
- (3) The receiving agency shall submit an original agreement or contract signed by the Appointing Authorities of the sending and receiving agencies and the participating employee to the Office of Personnel Management. The Administrator shall review and approve each agreement or contract before the effective date of the interchange.

**STATE PERSONNEL INTERCHANGE PROGRAM  
AGREEMENT**

This agreement between \_\_\_\_\_ (the **Sending Agency**) \_\_\_\_\_ (the **Receiving Agency**) and \_\_\_\_\_ (the **Participating Employee**), with the prior approval of the Office of Personnel Management (OPM), is made and shall be carried out in accordance with 74 O.S. (2000 Supp.) §§ 840-3.9 et seq. and OAC 530:10-17-50 et seq.

**Section 1. Participating Employee**

The **Participating Employee** agrees to a temporary interchange in working assignment from the **Sending Agency** to the **Receiving Agency** beginning \_\_\_\_\_, 200\_, and ending \_\_\_\_\_, 200\_. This assignment shall not exceed 12 months in any 36-month period [74:840-3.13(A)]. During the assignment, the **Participating Employee** shall be assigned to the **Receiving Agency** according to the following work schedule:

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The **Participating Employee** shall neither lose nor suffer diminution of any right, power, privilege, or benefit to which he or she would otherwise be entitled, including but not limited to salary, seniority, promotion, reinstatement, insurance, retirement, classified or unclassified status, progressive discipline, and use of grievance and appeals procedures [74:840-3.13(F)]. Work assigned to a **Participating Employee** by a **Receiving Agency** shall be exempt from the classification and compensation provisions of the Oklahoma Personnel Act [74:840-3.13(E)]. A **Participating Employee** who is assigned work by the **Receiving Agency**, which is not exempt from the provisions of the Fair Labor Standards Act (29 U.S.C. § 201 et seq.), is subject to its overtime provisions and OAC 530:10-7-12, **Payment of overtime**.

Whenever this agreement is terminated in accordance with 74 O.S. (2000 Supp.) §§ 840-3.9 et seq., the **Participating Employee** shall be entitled to return to his or her previous class or its successor class, if one exists [74:840-3.13(E)]. Otherwise, the reduction-in-force provision of 74 O.S. (2000 Supp.) §§ 840-2.27A, et seq. shall apply [74:840-3.13(E)].

The employee agrees to the interchange and the provisions of this agreement freely and without coercion [74:840-3.13(B)].

## ***Section 2. Sending Agency***

The **Sending Agency** agrees to suffer, without charge to the **Receiving Agency** or the **Participating Employee**, the temporary loss of the services and work products of the **Participating Employee** for the period of the interchange.

The **Participating Employee** shall be considered an employee of the **Sending Agency** for all purposes other than supervision [74:840-3.13(C)]. A **Participating Employee** who suffers injury, occupational disease, or death, arising out of and in the course of an assignment to a **Receiving Agency**, or sustained in the discharge of duties in connection with his or her assignment shall be considered an employee of the **Sending Agency**, and shall not be deprived by virtue of participating in the State Personnel Interchange Program of any right or expectancy that would otherwise accrue pursuant to the laws of this state governing labor and workers' compensation [74:840-3.13(G)].

The **Sending Agency** shall ensure that the **Participating Employee's** compensation, benefits, and other rights and privileges are continued during the period of the interchange.

## ***Section 3. Receiving Agency***

The **Receiving Agency** shall provide normal supervision, work assignments, and appraisal(s) of performance, and shall be responsible for all costs and liabilities arising from the performance of work assigned to the **Participating Employee** by the **Receiving Agency** which is found to be contrary to law and public policy by a court of competent jurisdiction [74:840-3.13(C)].

The **Participating Employee** shall neither receive nor accept any compensation from the **Receiving Agency** [74:840-3.13(H)]. The **Receiving Agency** shall, in accordance with any applicable laws and policies, reimburse the **Participating Employee** for any per diem and travel expenses incurred during the interchange [74:840-3.13(H)].

## ***Section 4. Sending Agency, Receiving Agency, and Participating Employee***

The **Sending Agency**, the **Receiving Agency**, and the **Participating Employee** agree to the implementation of necessary procedures regarding requests for, approval of, and recording of leave; delivery of paycheck(s) and performance appraisal(s); and other necessary communications between the **Sending Agency** and the **Participating Employee**.

This agreement is terminable at will by any party to the agreement upon \_\_\_\_\_ calendar days written notice to the other parties to the agreement and to OPM.

This agreement is not effective unless approved by OPM before the beginning date of the interchange.

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**Sending Agency—Appointing Authority** **Date**

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**Receiving Agency—Appointing Authority** **Date**

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**Participating Employee** **Date**

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**INSTRUCTIONS FOR FILING WITH OPM**

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**THE PERSONNEL INTERCHANGE AGREEMENT MUST BE SUBMITTED TO OPM FOR *PRIOR APPROVAL*. IT MUST BE ACCOMPANIED BY A *REQUEST FOR PERSONNEL ACTION (OPM-14)* FORM COMPLETED BY THE SENDING AGENCY.**

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**OFFICE OF PERSONNEL MANAGEMENT**

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**Approved** **Date**

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**Rejected** **Date**

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**Reason for Rejection** **Date**

**DISTRIBUTION AFTER REVIEW BY THE OFFICE OF PERSONNEL MANAGEMENT**

\_\_\_\_ Sending Agency    \_\_\_\_ Participating Employee    \_\_\_\_ Receiving Agency    \_\_\_\_ OPM

**STATE PERSONNEL INTERCHANGE PROGRAM**  
**CONTRACT**

This contract between the \_\_\_\_\_ (the **Sending Agency**), the \_\_\_\_\_ (the **Receiving Agency**), and \_\_\_\_\_ (the **Participating Employee**), with the prior approval of the Office of Personnel Management (OPM), is made and shall be carried out in accordance with 74 O.S. (2000 Supp.) §§ 840-3.9 et seq., and OAC 530:10-17-50 et seq.

**Section 1. Participating Employee**

The **Participating Employee** agrees to a temporary interchange in working assignment from the **Sending Agency** to the **Receiving Agency** beginning \_\_\_\_\_, 200\_, and ending \_\_\_\_\_, 200\_. This assignment shall not exceed 12 months in any 36-month period [74:840-3.13(A)]. During the assignment, the **Participating Employee** shall be assigned to the **Receiving Agency** according to the following work schedule:

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The **Participating Employee** shall neither lose nor suffer diminution of any right, power, privilege, or benefit to which he or she would otherwise be entitled, including but not limited to salary, seniority, promotion, reinstatement, insurance, retirement, classified or unclassified status, progressive discipline, and use of grievance and appeals procedures [74:840-3.13(F)]. Work assigned to a **Participating Employee** by a **Receiving Agency** shall be exempt from the classification and compensation provisions of the Oklahoma Personnel Act [74:840-3.13(E)]. A **Participating Employee** who is assigned work by the **Receiving Agency**, which is not exempt from the provisions of the Fair Labor Standards Act (29 U.S.C. §§ 201 et seq.), is subject to its overtime provisions and OAC 530:10-7-12, **Payment of overtime**.

Whenever this agreement is terminated in accordance with 74 O.S. (2000 Supp.) §§ 840-3.9 et seq., and OAC 530:10-17-50 et seq., the **Participating Employee** shall be entitled to return to his or her previous class or its successor class, if one exists [74:840-3.13(E)]. Otherwise, the reduction-in-force provision of 74 O.S. (2000 Supp.) §§ 840-2.27A, et seq. shall apply [74:840-3.13(E)].

**Section 2. Sending Agency**

The **Sending Agency** agrees to suffer the temporary loss of the services and work products of the **Participating Employee** for the period of the interchange. In exchange for the services of the **Participating Employee**, the **Receiving Agency** agrees to reimburse the **Sending Agency** for all

wages and other personal services expenditures associated with the **Participating Employee**. Such reimbursement shall be in the amount of \$ \_\_\_\_\_ per month, plus overtime payments, if applicable.

The **Participating Employee** shall be considered an employee of the **Sending Agency** for all purposes other than supervision [74:840-3.13(C)]. A **Participating Employee** who suffers injury, occupational disease, or death, arising out of and in the course of an assignment to a **Receiving Agency**, or sustained in the discharge of duties in connection with his or her assignment shall be considered an employee of the **Sending Agency**, and shall not be deprived by virtue of participating in the State Personnel Interchange Program of any right or expectancy that would otherwise accrue pursuant to the laws of this state governing labor and workers' compensation [74:840-3.13(G)].

The **Sending Agency** shall ensure that the **Participating Employee's** compensation, benefits, and other rights and privileges are continued during the period of the interchange.

### ***Section 3. Receiving Agency***

The **Receiving Agency** shall provide normal supervision, work assignments, and appraisal(s) of performance, and shall be responsible for all costs and liabilities arising from the performance of work assigned to the **Participating Employee** by the **Receiving Agency** which is found to be contrary to law and public policy by a court of competent jurisdiction [74:840-3.13(C)].

The **Participating Employee** shall neither receive nor accept any compensation from the **Receiving Agency** [74:840-3.13(H)]. The **Receiving Agency** shall, in accordance with any applicable laws and policies, reimburse the **Participating Employee** for any per diem and travel expenses incurred during the interchange [74:840-3.13(H)].

### ***Section 4. Sending Agency, Receiving Agency, and Participating Employee***

The **Sending Agency**, the **Receiving Agency**, and the **Participating Employee** agree to the implementation of necessary procedures regarding requests for, approval of, and recording of leave; delivery of paycheck(s) and performance appraisal(s); and other necessary communications between the **Sending Agency** and the **Participating Employee**.

This agreement is terminable at will by any party to the agreement upon \_\_\_ calendar days written notice to the other parties to the agreement and to OPM.

This agreement is not effective unless approved by OPM before the beginning date of the interchange.

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**Sending Agency—Appointing Authority** **Date**

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**Receiving Agency—Appointing Authority** **Date**

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**Participating Employee** **Date**

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**INSTRUCTIONS FOR FILING WITH OPM**

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**THE PERSONNEL INTERCHANGE AGREEMENT MUST BE SUBMITTED TO OPM FOR *PRIOR APPROVAL*. IT MUST BE ACCOMPANIED BY A *REQUEST FOR PERSONNEL ACTION (OPM-14)* FORM COMPLETED BY THE SENDING AGENCY.**

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**OFFICE OF PERSONNEL MANAGEMENT**

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**Approved** **Date**

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**Rejected** **Date**

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**Reason for Rejection** **Date**

**DISTRIBUTION AFTER REVIEW BY THE OFFICE OF PERSONNEL MANAGEMENT**

\_\_\_ Sending Agency    \_\_\_ Participating Employee    \_\_\_ Receiving Agency    \_\_\_ OPM