

OPM 00-56

DATE: October 20, 2000

TO: All Appointing Authorities

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

James L. Howard, Executive Director
Oklahoma Merit Protection Commission

**RE: AGENCY SELF-EVALUATION AND HUMAN
RESOURCE MANAGEMENT PLAN**

Enclosed is a copy of the FY 2001 Agency Self-Evaluation and Human Resource Management Plan (ASE) that was developed by the Merit Protection Commission and the Office of Personnel Management at the recommendation of the Human Resources Management Advisory Committee. The purpose of the ASE is to provide state agencies with a tool to assess human resource activities, identify areas for improvement, and develop a strategic plan for lawful and effective human resource management.

The ASE has been updated to reflect recent statutory and rule changes. Please complete and return Part 3 (pages 17-18) of the ASE to the Office of Personnel Management by January 31, 2001. A copy of the ASE has been distributed to each Appointing Authority, agency personnel officer, and AA/EEO officer; however, only one copy need be completed for each agency.

If you have any questions or need additional copies, please contact Kimberlee Williams at (405) 522-1736.

Enclosure

PART 1. AGENCY SELF-EVALUATION CHECKLIST

Prepared by: _____ HR Period covered: _____
 _____ EEO Date evaluation completed: _____

This document is designed to provide general guidelines for agency self-evaluation and human resource management planning, and is not an all-inclusive compilation of personnel law. It is not intended and should not be used as a substitute for legal counsel. Items in bold-face type are required by statute or rule, and should be interpreted as mandatory. (Exception: Some agencies may have statutory exemptions from specific provisions of law.) **Items not listed in bold-face type are recommended for consideration as general human resources management planning guidelines. Non-Merit System agencies may disregard the sections applying only to classified employees.**

A. MANAGEMENT PRACTICES

	Has agency implemented ?	Person(s) Responsible	Due Date	Date of Review or Completion
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All Employees

A-1. Develop and adopt a written affirmative action plan [O.S. 74:840-2.1(A); 530:10-3-31]			As soon as possible after 6/30	
A-2. File affirmative action plan with the Office of Personnel Management. (Institutions within The Oklahoma State System of Higher Education file with the Oklahoma State Regents of Higher Education.) [O.S. 74:840-2.1(A); 530:10-3-33(b)]			9/1	
A-3. Maintain data reflecting composition of agency workforce by race or ethnic group and gender [530:10-3-34]			N / A	
A-4. Retain affirmative action plans and workforce composition data at least 1 year after acceptance of plan [General Records Disposition Schedule 3-9]			N / A	

A. MANAGEMENT PRACTICES

Has agency implemented ?

Person(s) Responsible

Due Date

Date of Review or Completion

All Employees (continued)

A-5. Post Consolidated EEO Poster at each work location [Satisfies all Fed. posting requirements]			N / A	
A-6. Adopt and distribute policy prohibiting sexual harassment, establishing sanctions, and notifying employees of procedures for filing complaints. [29 CFR §1604.11(f)]			N / A	
A-7. Identify essential functions (fundamental job duties) of all positions [ADA, 42 U.S.C. § 12112]			Review annually	
A-8. Verify tribal affiliation of employees listing Native American as race/national origin for affirmative action purposes [O.S. 74:840-2.1(E)]			Within 30 days of appointment	
A-9. Maintain confidentiality of personal information in employee records; allow access to personnel files only as authorized by the Open Records Act [O.S. 51:24A.7; O.S. 74:840-2.11]			N / A	
A-10. Have new employees sign loyalty oath [O.S. 51:36.1 and 51:36.2A]			Upon hire or EOD	
A-11. Prepare and file EEO-4 Report [42 USC §2000e-8(c)]			Prepare annually; file biannually	

A. MANAGEMENT PRACTICES

Has agency implemented ?

Person(s) Responsible

Due Date

Date of Review or Completion

All Employees (continued)

A-12. Retain and destroy personnel records according to Consolidated General Records Disposition Schedule [67 O.S. §§ 206, 210]			N / A	
A-13. Determine essential agency functions (basic minimum services) in case of hazardous weather, and inform employees who staff such functions [74:840-2.20A(B)]			N/A	
A-14. Have current copy of Oklahoma Personnel Act on file			Review and update annually	
A-15. Develop agency employee handbook or personnel policy manual [distribute to employees upon hire]			Update as needed	
A-16. Maintain records which could be basis for illegal discrimination (I-9, tribal verification, work comp, benefits, etc.) separately from personnel files [Section 1630.14 of EEOC's Technical Assistance Manual]			N / A	

Classified Employees Only

A-17. Distribute Merit System of Personnel Administration Rules to classified employees [O.S. 74:840-1.19]			Upon hire / upon receipt of new books	
A-18. Distribute emergency and permanent Merit			Upon revision by OPM or	

Rules for Employment update to classified employees			MPC	
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Comments:

B. SELECTION & PLACEMENT

Has agency implemented ?

Person(s) Responsible

Due Date

Date of Review or Completion

All Employees

B-1. Complete immigration form I-9 [8 U.S.C. §1324a(b)(3)]			Within 3 days of hire	
B-2. Retain I-9 and supporting documents for 1 year after person is no longer employed, provided the records are at least 3 years old and no legal action is pending [General Records Disposition Schedule 3-44]			N / A	
B-3. Retain applications, resumes, and other applicant information for 2 years [General Records Disposition Schedule 3-4]			N / A	
B-4. Notify OESC of new hires (If on the OPM Agency Payroll System, simply enter new hire information into the system) [O.S. 40:2-802]			Within 20 days of hire	

Classified Employees Only

B-5. Return certificate to Office of Personnel Management [530:10-9-76]			Within 30 days after the void date	
B-6. File promotional plan with Office of Personnel Management; post plan in prominent places throughout agency [O.S. 74:840-4.15(A); 530:10-11-51(a)]			When updated	

B. SELECTION & PLACEMENT

Has agency
implemented
?

Person(s)
Responsible

Due
Date

Date of Review
or Completion

Classified Employees Only (continued)

B-7. Post vacancy notices in accordance with promotional plan in transparent, secured enclosures [O.S. 74:840-4.15(A); 530:10-11-51(a)]			At least 5 working days before closing date	
B-8. Establish policy on testing for promotions [O.S. 74:840-4.11 and 4.12(D); 530:10-9-35]			N / A	
B-9. Post general promotional opportunities for continuous multiple vacancies [O.S. 74:840-4.15; 530:10-11-53]			N/A	

Unclassified Employees Only

B-10. Establish policy / procedure for notifying unclassified employees of “at will” status [O.S. 74:840-5.1A(A)]			Upon hire	
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Comments:

C. TRAINING & DEVELOPMENT

Has agency
implemented
?

Person(s)
Responsible

Due
Date

Date of Review
or Completion

All Employees

C-1. Complete Performance Management Process forms [O.S. 74:840-4.17(C); 530:10-17-31(c)]			Within 30 days of end of probationary period; annually thereafter	
C-2. Provide copies of all performance management process forms to the Office of Personnel Management [O.S. 74:840-4.17(F); 530:10-17-31(e)]			Annually	
C-3. Provide employees a copy of the list of accountabilities to be used in the evaluation of performance [530:10-5-3(b)(6)(B)]			Upon hire, promotion, demotion, transfer or revision of task list	
C-4. Provide training for discrimination complaints investigator (if investigator has been designated for the agency) [530:10-3-22]			Prior to investigating complaints	
C-5. Provide mandatory training for civil rights or affirmative action administrators and officers [O.S. 74:840-2.1(F)]			Annually	

C. TRAINING & DEVELOPMENT

Has agency implemented ?

Person(s) Responsible

Due Date

Date of Review or Completion

All Employees (continued)

C-6. Provide mandatory training for supervisors (24 hours of training within 12 mos. of promotion to supervisory position, which must include training in performance management process and progressive discipline; thereafter, 12 hours annually) [O.S. 74:840-3.1(B); 530:10-17-93]			Within 12 mo. of appt. /annually thereafter	
C-7. Provide training and certification for personnel professionals [O.S. 74:840-1.6A(18); 530:10-17-132]			Within 6 mo. of appt. /annually thereafter	
C-8. Maintain records of training of all supervisory employees; report level of compliance for previous year to OPM at request of Administrator [530:10-17-95; 530:10-17-97]			Ongoing	
C-9. Establish system for strategic planning for staff development and training needs and expenditures			N / A	
C-10. Provide orientation program to new employees			As soon as possible after hire	

Comments:

D. COMPENSATION & BENEFITS

Has agency
implemented
?

Person(s)
Responsible

Due
Date

Date of Review
or Completion

All Employees

D-1. File semi-annual Personnel Transactions Report with OPM [O.S. 74:840-2.14(B) & (C)]			1/15 & 7/15	
D-2. Compensate non-exempt employees for overtime in compliance with Fair Labor Standards Act [29 U.S.C. § 201 et seq.]			N / A	
D-3. Retain payroll records for at least 3 years [General Records Disposition Schedule 3-21A and 3-45A]			N / A	
D-4. Provide written policy explaining FMLA rights and obligations to each employee [29 C.F.R. § 825.301(a)(1)]			Upon hire/ when updated	
D-5. Retain records relating to FMLA and other leave for at least 3 years [29 C.F.R. §825.500; General Records Disposition Schedule 3-22, 3-23, 3-94]			N / A	
D-6. Maintain group health insurance coverage for employees on FMLA leave [29 U.S.C. §2614(c)(1)]			N / A	
D-7. Designate insurance and retirement coordinator [O.A.C. 360:10-3-3]			N / A	

D. COMPENSATION & BENEFITS

Has agency implemented ?

Person(s) Responsible

Due Date

Date of Review or Completion

All Employees (continued)

D-8. Obtain written agreement that employee may be required to take compensatory time in lieu of overtime pay [29 U.S.C. §553.23; 530:10-7-12(c)(1)]			Prior to allowing overtime	
D-9. Provide a copy of the most current member handbook to each participating member of OPERS [590:1-1-5]			As needed	
D-10. Report use of pay movement mechanisms to OPM [530:10-7-1.2(c)]			1/1	
D-11. Review positions for FLSA exempt/non-exempt status			Annually	
D-12. Distribute current retirement, benefit plans and options to employees			N / A	
D-13. Update current benefits information			N / A	
D-14. Make employees aware of Productivity Enhancement Program (PEP) [O.S. 74:4111 et seq.]			N / A	

Classified Employees Only

D-15. Notify employees of new or revised job family descriptors / make copies available upon request [530:10-5-8(d)(3)]			Upon adoption / revision of JFD	
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D-16. Make current job family descriptor and position description questionnaire (OPM-39) for each position available [530:10-5-3(b)(6)(A)]			Upon request	
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D. COMPENSATION & BENEFITS

Has agency implemented ?

Person(s) Responsible

Due Date

Date of Review or Completion

Classified Employees Only (continued)

D-17. Review job family descriptors [530:10-5-3(b)(1)]			Annually	
D-18. Provide copy of overtime policy to OPM / make available to interested persons on request [530:10-7-12(a)]			N / A	
D-19. Submit Salary Administration Plan for classified positions [530:10-7-1.1]			Annually	

Comments:

E. EMPLOYEE RELATIONS

Has agency
implemented
?

Person(s)
Responsible

Due
Date

Date of Review
or Completion

All Employees

E-1. Post updated copy of Section 840-2.5 of Title 74 of Okla. Statutes (“whistleblower”) [455:10-3-6(d)]			N / A	
E-2. Establish, distribute and post written policy on drug and alcohol testing (required only if agency conducts such testing) [O.S. 40:551 et seq.]			At least 30 days prior to testing if policy is new or revised	
E-3. Conduct exit interview of departing employees			Upon separation	

Classified Employees Only (Agencies may--but are not required to--adopt grievance procedures and progressive discipline policies for unclassified employees)

E-4. Establish written grievance resolution policy or adopt policy established by Merit Rules [O.S. 74:840-6.2(A); 455:10-19-20(a)]			N / A	
E-5. Designate employee(s) to receive and process formal grievances [O.S. 74:840-6.2(G); 455:10-19-20(b)(2)]			N / A	

E. EMPLOYEE RELATIONS

Has agency
implemented
?

Person(s)
Responsible

Due
Date

Date of Review
or Completion

Classified Employees Only (continued)

E-6. Schedule designated employee(s) to attend required training for formal grievance process [O.S. 74:840-6.2(H); 455:10-19-20(b)(4)]			Within 6 months of designation	
E-7. Display name, address, and phone number of employee(s) designated to receive and process formal grievances in prominent location(s) [455:10-19-7]			N / A	
E-8. Provide statistical report on grievances to the Oklahoma Merit Protection Commission [O.S. 74:840-6.2(I)]			8/1	
E-9. Maintain grievance records separately from personnel files [O.S. 74:840-6.2(I); 455:10-19-4]			N / A	
E-10. Establish written progressive discipline policy and file with MPC; or adopt policy established by Merit Rule [O.S. 74:840-6.3; 455:10-11-5(a)]			N / A	
E-11. Furnish employees a copy of progressive discipline policy [455:10-11-5(b)]			N / A	
E-12. Provide progressive discipline statistical report to the Oklahoma Merit Protection Commission [455:10-11-9(b)]			8/1	

E. EMPLOYEE RELATIONS

Has agency
implemented
?

Person(s)
Responsible

Due
Date

Date of Review
or Completion

All Employees—Required only if RIF is planned

<p>E-13. Conduct RIF in compliance with Oklahoma Personnel Act and Merit Rules [O.S. 74:840-2.27A through 74:840-2.27I; 74:840-2.28; and 530:10-13-1 et seq. of the Merit Rules for Employment]</p>				
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Comments:

F. HEALTH, SAFETY & SECURITY

Has agency implemented ?

Person(s) Responsible

Due Date

Date of Review or Completion

All Employees

F-1. Maintain record of workers compensation injuries which result in loss of time beyond shift or require medical attention [O.S. 85:24.1]			N / A	
F-2. Have workers compensation claim forms on site(s) [O.S. 85:24.1]			N / A	
F-3. Maintain standard workers compensation policy through State Insurance Fund [O.S. 85:2b(A)(2)]			N / A	
F-4. Post notice that employees are covered under the Workers' Compensation Act and that workers' compensation counselor services are available at Workers' Compensation Court [O.S. 85:43(D)]			N / A	
F-5. Designate agency safety officer (Agencies less than 25 full- or part-time employees exempt) [O.S. 40:403(E)(1)]			N / A	
F-6. Provide safety classes (Agencies less than 25 full- or part-time employees exempt) [O.S. 40:403(E)(2)]			Quarterly	

F. HEALTH, SAFETY & SECURITY

Has agency
implemented
?

Person(s)
Responsible

Due
Date

Date of Review
or Completion

All Employees (continued)

<p>F-7. Post EAP information and contacts in all work locations</p>			<p>N / A</p>	
<p>F-8. Establish and distribute written policy on violence in the workplace</p>			<p>N / A</p>	

Comments:

Part 2. Agency Human Resource Management Plan

(The Human Resource Management Plan should be specifically tailored for the needs of your agency. However, the following questions may assist you in the development of your agency's plan.)

1. What is your agency's mission statement?
2. What is the mission statement of your agency's human resource management program?
3. What are the stated objectives and goals of your human resource management program?
4. Compare the effectiveness of your agency's human resource management program with previous years' efforts. (It may be helpful to make comparisons in specific areas, such as recruitment and retention, staff development and training, employee performance appraisal, and employee recognition and incentives.)
5. Does your agency's human resource management program have a plan or program for the following:
 - a. Tracking of staff training and development needs and expenditures?
 - b. Ensuring compliance with annual performance evaluation requirement?
 - c. Encouraging employee participation in the development of agency HR programs?
 - d. Conducting workforce planning?
 - e. Ensuring lawful hiring practices?
 - f. Merit System agencies only: Monitoring unclassified authorizations?
6. Do any changes or improvements need to be made to your agency's HR management program as a result of conducting the agency self-evaluation? If so, have you identified the corrective action needed and established target dates for completion?
7. Could utilization of any of the following programs benefit your agency:
 - a. Direct Hire [74:840-4.13(C); 530:10-9-110 through 530:10-9-121]?
 - b. Delegation of Human Resource Functions [74:840-1.15(D); 530:10-1-30 through 530:10-1-53]?
 - c. State Work Incentive Program [74:840-5.16]?
 - d. Carl Albert Public Internship Program [74:840-3.2 through 74:840-3.7; 530:10-17-70 through 530:10-17-84]?**
 - e. State Personnel Interchange Program [74:840-3.9 through 74:840-3.14; 530:10-17-50 through 530:10-17-52]?**
 - f. Certified Public Manager Program [74:840-3.15; 530:10-17; 530:10-17-110 through 530:10-17-115]?**

Part 3. Agency Survey

Name of Agency _____

Date _____

Name of Person Completing Survey _____

(To allow us to contact you if we have questions about your responses)

Please return your responses to Part 3 to OPM (ATTN: Agency Services Unit). Attach additional sheets of paper if needed.

1. How useful was the self-evaluation?

- a. Very useful
- b. Useful
- c. Somewhat useful
- d. Not at all useful

Comments:

2. On a scale of 1 to 5 (Example: 1=poor, 3=average, 5=excellent), how would you rate the following parts of the self-evaluation?

- _____ Part 1. Agency Self-Evaluation Checklist Agency
- _____ Part 2. Human Resource Management Plan
- _____ Appendix A. Key to Abbreviations
- _____ Appendix B. Federal Laws
- _____ Appendix C. Laws and Rules / Subject Referral
- _____ Index
- _____

Comments:

3. What changes to the self-evaluation do you feel would make the plan more helpful?

Comments:

4. Please specify any statutes, rules or recommended personnel practices you believe should be added to the self-evaluation.

Comments:

5. Additional comments or suggestions?

Comments:

Appendix A.

Key to Abbreviations

AA	Affirmative action
ADA	Americans with Disabilities Act
ADEA	Age Discrimination in Employment Act
COBRA	Consolidated Omnibus Budget Reconciliation Act
EAP	Employee Assistance Program
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
FLSA	Fair Labor Standards Act
FMLA	Family Medical Leave Act
IRCA	Immigration Reform and Control Act of 1986
JFD	Job Family Descriptor
MPC	Merit Protection Commission
O.S.	Oklahoma Statutes
OESC	Oklahoma Employment Security Commission
OPERS	Oklahoma Public Employees Retirement System
OPM	Office of Personnel Management
OSF	Office of State Finance
OSHA	Occupational Safety and Health Act
RIF	Reduction-in-force
Title VII	Title VII of the Civil Rights Act of 1964
U.S.C.	United States Code
USERRA	Uniformed Services Employment and Reemployment Rights Act
VEVRAA	Vietnam Era Veteran's Readjustment Assistance Act of 1974

WARN

Workers Adjustment and Retraining Notification Act

Appendix B. Federal 2000

LAW OR REGULATION	POSTING REQUIREMENT	ENFORCEMENT AGENCY	COVERAGE*	SUMMARY*
FAIR LABOR STANDARDS ACT (FLSA) [29 USC §201 et seq.]	Yes - work location (EEO Consolidated Poster)	U.S. Department of Labor; Wage & Hour Public Contracts Division	All employers; however states are immune from private suits in federal and state courts	Federal minimum wage is \$5.15/hr. Overtime must be paid after 40 hrs/wk at time-and-one-half (comp time allowed for public employers). Executives, administrative, professional and outside sales employees are exempt from overtime provisions. Child labor protection.
WALSH-HEALEY PUBLIC CONTRACTS ACT [41 USC §35 et seq.]	Yes - work location	Same as above	Employers with government contracts in excess of \$10,000	Employer must pay the prevailing minimum wage, time-and-one-half after 40 hrs./wk.
DAVIS-BACON ACT [40 USC §276a et seq.]	Yes - work location	Same as above	Employers with contracts in federally financed construction in excess of \$2,000	Employer must pay specified minimum hourly rates.
EQUAL PAY ACT OF 1963 (amends FLSA) [29 USC §206 (d)]	Yes - work location (EEO Consolidated Poster)	Equal Employment Opportunity Commission	Employers subject to FLSA	Prohibits pay differences on basis of sex.
IMMIGRATION REFORM & CONTROL ACT OF 1986 (IRCA) [8 USC §1324a et seq.]	Not specified	Spec. Counsel's Office, U.S. Justice Department	Verification requirement applies to employers of 1 or more employees. Antidiscrimination provisions apply to employers of more than 3 employees.	Employer must verify the employment authorization of newly hired employees. Prohibits discrimination in hiring and firing on the basis of national origin or citizenship status.
CIVIL RIGHTS ACT OF 1991 [Amended Title VII]	No	EEOC	Employers with 15 or more employees	Amends Title VII and the ADA to permit parties complaining of intentional discrimination to have a jury decide to award damages for emotional injuries and/or punitive damages. The Act also overturns several Supreme Court decisions.
CIVIL RIGHTS ACT, TITLE VII [42 USC 2000e et seq.]	Yes - hiring and work location (EEO Consolidated Poster)	EEOC	Employers with 15 or more employees	Prohibits discrimination because of race, color, national origin, religion, sex, pregnancy (including childbirth or related condition) in any term, condition or privilege of employment.
EXECUTIVE ORDER 11246 (1965) [41 CFR 60; amended by EO 11375]	Yes - hiring and work location	U.S. Department of Labor; Office of Federal Contract Compliance Programs	Employers with government contracts in excess of \$50,000 and over 50 employees	Prohibits discrimination against employee/applicant and requires affirmative action to ensure employment without regard to race, sex, color, religion or national origin. Revised Order No. 4 requires affirmative action to eliminate present/future effects of past discrimination against women and minorities.
AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA) [29 USC 621 et seq.]	Yes - hiring and work location (EEO Consolidated Poster)	EEOC	Employers with 20 or more employees; however, states are not subject to suit by private individuals. Age discrimination is also banned by state law.	Prohibits discrimination against employees/applicants 40 years of age or older.

LAW OR REGULATION	POSTING REQUIREMENT	ENFORCEMENT AGENCY	COVERAGE*	SUMMARY*
REHABILITATION ACT OF 1973, SECTION 503 [29 USC 701 et seq.]	Yes - hiring and work location (EEO Consolidated Poster)	U.S. Department of Labor; Office of Federal Contract Compliance Programs	Employer with government contracts in excess of \$2,500	Prohibits discrimination against defined handicapped persons. Employers with 50 or more employees and contracts of \$50,000 or more must prepare written AA program.
AMERICANS WITH DISABILITIES ACT (ADA) [42 USC 12101-12217]	Yes - hiring and work location	EEOC	Employers with 15 or more employees	Prohibits employers from discriminating against employees or applicants on the basis of a disability. AIDS, mental illness, drug addiction (not current users of illegal drugs) and alcoholism are considered disabilities. Employer may be required to reasonably accommodate a physical or mental disability unless the accommodation would impose an undue hardship.
VIETNAM ERA VETERAN'S RE-ADJUSTMENT ASSISTANCE ACT OF 1974 (VEVRAA) [38 USC 4100 et seq.]	Yes - hiring and work location	U.S. Department of Labor; Office of Federal Contract Compliance Programs	Employers with government contracts in excess of \$10,000	Requires affirmative action to employ and advance in employment qualified veterans of the Vietnam era. If employer has at least 50 employees and contracts in excess of \$50,000, must have written affirmative action plan.
CONSUMER CREDIT PROTECTION ACT, TITLE III [15 USC §1601 et seq.]	No	U.S. Department of Labor, Wage and Hour Division	All employers subject to FLSA	Restricts garnishment withholding to 25% of disposable income. Limits employer's actions relative to discharge.
FAIR CREDIT REPORTING ACT [15 USC §1681 et seq.]	No	Federal Trade Commission	All employers	Employer must disclose to applicants/employees the intent to use, and results of, credit reports.
EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988 [29 USC §2001 et seq.]	Yes - hiring and work location	U.S. Department of Labor, Wage & Hour Division	All employers except those in security or pharmaceutical industries. Federal, local and state government employees specifically exempted from protections of Act.	Prohibits employers from using lie detector tests either for pre-employment screening or during the course of employment. Testing permitted if theft is suspected.
CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT (COBRA) [amends various §§ in titles 7, 10, 15, 19, 29, 33, 40, 42 and 47 of USC]	No	Internal Revenue Service	Employers with 20 or more employees	Employers must extend the option of continued insurance to employee, spouse and dependents who otherwise would lose such coverage as a consequence of the employee's termination or other specified circumstances.
NATIONAL LABOR RELATIONS ACT [29 USC §151 et seq.]	Prior to representation election	National Labor Relations Board	Employers doing \$50,000 of business. (States are not subject to the NLRA.)	Employer is required to recognize and deal with union desired by a majority of employees in bargaining unit. Unfair labor practices prohibited.
OSHA (FEDERAL GUIDELINES) [29 USC	Yes (EEO Consolidated	U.S. Department of Labor, Enforcement actions	All employers. (States are not subject to OSHA.)	Employer required to furnish safe employment to designated workplace standards, required to have

LAW OR REGULATION	POSTING REQUIREMENT	ENFORCEMENT AGENCY	COVERAGE*	SUMMARY*
651 et seq.]	Poster)	reviewed by the Occupational Safety & Health Review Commission		accident prevention program, safety training and scheduled safety inspections.
DRUG-FREE WORKPLACE ACT [41 USC §701 et seq.]	No	Administrator for Federal Procurement Policy in the Office of Management and Budget	Employers with federal contracts of \$25,000 or more	Requires employers to provide a drug-free workplace by providing written statements and awareness programs to employees. Requires employers to track and report all drug-related employee convictions resulting from workplace activity.
WORKERS ADJUSTMENT & RETRAINING NOTIFICATION ACT [29 USC 2101 et seq.]	No	U.S. Department of Labor	Employers with 100 or more employees	Employer must give 60-day advance written notice to employees and local government in the event of a closing or mass layoff of 50 or more employees.
FEDERAL MILITARY SELECTIVE SERVICE ACT	No	U.S. Department of Labor, Office of Veteran's Reemployment Rights	All employers	Employer must give an employee returning from U.S. military service the same wages, benefits, and rights as the employee would have received had he/she not left. Employee must reapply within 90 days of release from service.
UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT [38 USC 4301 et seq.]	No	U.S. Department of Labor, Veterans' Employment and Training Services	All employers	Prohibits discrimination against persons who serve in the uniformed services; grants employees reemployment rights following a leave of absence due to military service, so long as the cumulative length of service does not exceed 5 years; allows employees the option to continue health insurance coverage with the employer for up to 18 months while on military duty.

* Please note that the federal statutes covered in this outline have been greatly summarized. For additional information, please consult the text of the statutes.

See also: Public Health Service Act, 42 USC §300bb-1 et seq.
Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 USC §601 et seq.

APPENDIX C. LAWS AND RULES SUBJECT REFERRAL

A. MANAGEMENT PRACTICES

- A-1. Title 74 O.S., §840-2.1(A) states “All agencies, boards, commissions, departments, and offices of each branch of state government, except institutions within The Oklahoma State System of Higher Education, shall submit an affirmative action plan to the Office of Personnel Management annually by September 1 following the end of the fiscal year ending June 30. Institutions within The Oklahoma State System of Higher Education shall submit an affirmative action plan to the Oklahoma State Regents for Higher Education in accordance with standards established by the Oklahoma State Regents for Higher Education.”**

Merit Rule 530:10-3-31 states, “Each agency in all branches of state government, except institutions within The Oklahoma State System of Higher Education, shall develop and adopt a written affirmative action plan [74:840-2.1]. Affirmative action plans for executive branch agencies, except institutions within The Oklahoma State System of Higher Education, shall conform to the requirements established by the Act and the Merit Rules and shall be subject to the approval of the Administrator [74:840-2.1(B)].”

Questions concerning the above cite may be directed to Janice Wadkins, Employment Relations Services, Office of Personnel Management, 521-3082.

- A-2. Title 74 O.S., §840-2.1(A) is printed above (A-1).**

Merit Rule 530:10-3-33(b) states, “All agencies, boards, commissions, departments, and offices of each branch of state government, except institutions within The Oklahoma State System of Higher Education, shall submit an affirmative action plan to the Office of Personnel Management annually no later than September 1 following the end of the fiscal year ending June 30 [74:840-2.1(A)]. Appointing Authorities should submit plans as soon as possible following the end of the fiscal year.”

Questions concerning the above cite may be directed to Janice Wadkins, Employment Relations Services, Office of Personnel Management, 521-3082.

- A-3. Merit Rule 530:10-3-34 states, “Each agency shall maintain data reflecting the composition of its workforce by race or ethnic group and gender for the purpose of complying with state and federal reporting requirements. Each agency shall submit this information to the Office of Personnel Management at the request of the Administrator.”**

Questions concerning the above cite may be directed to Janice Wadkins, Employment Relations Services, Office of Personnel Management, 521-3082.

- A-4. Refer to General Records Disposition Schedule 3-9.**

Questions concerning the above cite may be directed to Janice Wadkins, Employment Relations Services, Office of Personnel Management, 521-3082.

- A-5. The Consolidated EEO Poster satisfies all Federal posting requirements.**

- A-6. Title 29 C.F.R. §1604.11(f) states, “Prevention is the best tool for the elimination of sexual harassment. An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned.”
- A-7. Title 42 U.S.C. §12112 states, “As used in subsection (a) of this section, the term ‘discriminate’ includes: ...
(6) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity.”

Questions concerning the above cite may be directed to David Hays, Classification, Office of Personnel Management, 521-6329.

- A-8. Title 74 O.S., §840-2.1(E) states in pertinent part, “For affirmative action purposes, any person who lists American Indian as his race or national origin shall, within thirty (30) days of his appointment, verify his 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 his tribal affiliation.”

Questions concerning the above cite may be directed to Janice Wadkins, Employment Relations Services, Office of Personnel Management, 521-3082.

- A-9. Title 51 O.S., §24A.7, states:
- A. “A public body may keep personnel records confidential:
 - 1. Which relate to internal personnel investigations including examination and selection material for employment, hiring, appointment, promotion, demotion, discipline, or resignation; or
 - 2. Where disclosure would constitute a clearly unwarranted invasion of personal privacy such as employee evaluations, payroll deductions, employment applications submitted by persons not hired by the public body, and transcripts from institutions of higher education maintained in the personnel files of certified public school employees; provided, however, that nothing in this subsection shall be construed to exempt from disclosure the degree obtained and the curriculum on the transcripts of certified public school employees.
 - B. All personnel records not specifically falling within the exceptions provided in subsection A of this section shall be available for public inspection and copying including, but not limited to, records of:
 - 1. An employment application of a person who becomes a public official;
 - 2. The gross receipts of public funds;
 - 3. The dates of employment, title or position; and
 - 4. Any final disciplinary action resulting in loss of pay, suspension, demotion of position, or termination.
 - C. Except as may otherwise be made confidential by statute, an employee of a public body shall have a right of access to his own personnel file.
 - D. Public bodies shall keep confidential the home address of any person employed or formerly employed by the public body.”

Title 74 O.S., §840-2.11 states, “State employee home addresses, state employee home telephone numbers, and state employee social security numbers shall not be open to public inspection or disclosure.

Questions concerning Title 51 O.S., §24A.7 may be directed to the Office of the Attorney General, 521-3921.

A-10. Title 51 O.S., §36.1, states “Every officer and employee of the State of Oklahoma, or of a county, school district, municipality, public agency, public authority, or public district thereof, who, on or after July 1, 1953, is appointed or elected to office, or who after said date is employed, for a continuous period of thirty (30) days or more, in order to qualify and enter upon the duties of his office or employment and/or receive compensation, if any, therefor, shall first take and subscribe to the loyalty oath or affirmation required by the Act and file the same as hereinafter set forth. Provided, that a public employee who is employed or whose employment is extended on a fiscal year basis and who has duly taken and filed the oath required by this Act in order to qualify for and enter upon, or continue in, the duties of his employment, need not again file such an oath so long as his said employment, or reemployment is continuous or conservative (probably should read consecutive).”

Title 51 O.S., §36.2A states, “The oath or affirmation required by this Act, same being cumulative to the oath of office required by 51 O.S. 1961, §2, shall be as follows:

I do solemnly swear (or affirm) that I will support the Constitution and the laws of the United States of America and the Constitution and the laws of the State of Oklahoma, and that I will faithfully discharge, according to the best of my ability, the duties of my office or employment during such time as I am (Here put name of office, or, if an employee, insert, ‘An Employee of _____’ followed by the complete designation of the employing officer, agency , authority, commission, department or institution.)

Affiant

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary public or other office authorized to administer oath or affirmations.”

Questions concerning the above cites may be directed to Rebecca Adams, Ethics Commission, 521-3451.

A-11. 42 U.S.C. §2000e-8(c) states, “Every employer, employment agency and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such

records as are reasonably necessary to carry out the purposes of this title, including, but not limited to, a list of applicants who wish to participate in such programs, including the chronological order in which applications were received, and to furnish to the Commission upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may apply to the Commission for an exemption from the application of such regulation or order, and, if such application for an exemption is denied, bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief. If any person required to comply with the provisions of this subsection fails or refuses to do so, the United States district court for the district in which such person is found, resides, or transacts business, shall, upon application of the Commission, or the Attorney General in a case involving a government, governmental agency or political subdivision, have jurisdiction to issue such person an order requiring him to comply.”

Questions concerning the EEO-4 Report may be directed to Janice Wadkins, Employment Relations Services, Office of Personnel Management, 521-3082.

A-12. Title 67 O.S., §206 states, “The head of each agency shall:

- (a) Establish and maintain an active, continuing program for the economical and efficient management of the records of the agency.**
- (b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of the persons directly affected by the agency’s activities.**
- (c) Submit to the Administrator, in accordance with the standards established by him, schedules proposing the length of time each state record series warrants retention for administrative, legal or fiscal purposes after it has been created or received by the agency. The head of each agency shall submit lists of state records in his custody that are not needed in the transaction of current business and that do not have sufficient administrative, legal or fiscal value to warrant their further keeping for disposal in conformity with the requirements of Section 210 of this title.**
- (d) Cooperate with the Administrator in the conduct of surveys made by him pursuant to the provisions of this act.**
- (e) Comply with the rules, regulations, standards and procedures issued by the Administrator.”**

Title 67 O.S., §210 states, “Except as otherwise provided by law, no state record shall be destroyed or otherwise disposed of unless it is determined by the Archives and Records Commission that the record has no further administrative, legal, fiscal, research or historical value.”

Questions concerning the above cites may be directed to Tom Kremm, Department of Libraries, 521-2502.

- A-13. Title 74 O.S., §840-2.20A(B) states, “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 and ensuring that employees who staff such functions are so informed. Leave alternatives for those employees not responsible for basic minimum services shall be established by the Administrator of the Office of Personnel Management.”**
- A-14. Have current copy of Oklahoma Personnel Act on file [recommended practice, no cite].**
- A-15. Develop agency employee handbook or personnel policy manual and distribute to employees [recommended practice, no cite].**
- A-16. Refer to Section 1630.14 of EEOC’s Technical Assistance Manual.**
- A-17. Title 74 O.S., §840-1.19 states, “It shall be the responsibility of each appointing authority to distribute copies of the Merit System of Personnel Administration Rules promulgated and published by the Administrator of the Office of Personnel Management or the Merit Protection Commission, respectively, to all classified employees at the request of the Administrator or the Executive Director.”**
- A-18. Title 74 O.S. §840-1.19 is printed above (A-17).**

B. SELECTION AND PLACEMENT

- B-1. Title 8 U.S.C., §1324a(b)(3) states, “The requirement referred to in paragraphs (1)(B) and (3) of subsection (a) of this section are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, the requirements specified in the following paragraphs...**
 - (3) Retention of verification form. After completion of such form in accordance with paragraphs (1) and (2), the person or entity must retain the form and make it available for inspection by officers of the Service, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending-**
 - (A) in the case of the recruiting or referral for a fee (without hiring) of an individual, three years after the date of the recruiting or referral, and**
 - (B) in the case of the hiring of an individual-**
 - (i) three years after the date of such hiring, or**
 - (ii) one year after the date the individual’s employment is terminated, whichever is later.**
- B-2. Title 8 U.S.C., §1324a(b)(3) is printed above (B-1). Refer to the General Records Disposition Schedule 3-44.**

- B-3. Refer to the General Records Disposition Schedule 3-4.**
- B-4. 40 O.S., §2-802 states in pertinent part,**
- A. “Employers doing business in the State of Oklahoma shall report to the Oklahoma Employment Security Commission, the hiring or employment of any person who resides or works in this state to whom the employer anticipates paying earnings.**
 - B. Such report shall contain the employee’s name, address, social security number, date of employment, state of employment, along with the employer’s name, address, and federal identification number.**
 - C. The report must be made within twenty (20) days of hiring, or twice monthly, not less than twelve (12) nor more than sixteen (16) days apart if reported electronically or magnetically. The report may be made by mailing a copy of the employee’s W-4 form, by submitting a fax transmission of the employee’s W-4 form, by submitting electronic media in a format that can be used by the Oklahoma Employment Security Commission, or by any other means authorized by the Oklahoma Employment Security Commission.”**
- B-5. Merit Rule 530:10-9-76 states, “If an appointment is not made within 30 calendar days of the date a certificate is issued, such certification shall be voided. The Administrator may consider an Appointing Authority’s written request to extend the life of a certificate for an additional 30 calendar days. All certificates issued shall be returned to the Office of Personnel Management within 30 calendar days after the void date.”**

Questions concerning the above cite may be directed to Emilou Hiebert, Recruitment, Office of Personnel Management, 521-6360.

- B-6. Title 74 O.S., §840-4.15(A) states, “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 Personnel Management. In order to give qualified employees an opportunity to apply for and be considered for possible promotions, the vacancy notices shall be posted conspicuously in transparent, secured enclosures situated in prominent locations throughout the agency, at least five (5) working days prior to the closing date for the receipt of applications by the appointing authority. 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 vacant supervisory position. Each agency’s promotional posting plan shall describe where promotional notices will be posted and require that all vacancy or promotional notices be posted conspicuously in transparent, secured enclosures. Notices must be posted throughout the agency. However, an agency’s plan may limit the posting of notices for a vacancy in a work unit, local office, or administrative area to within that location, if the vacancy is to be filled by an employee from the same location. The posting shall include:**
- 1. A copy of the job family descriptor;**
 - 2. Identification of the job family level of the vacancy or vacancies;**
 - 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.”

Merit Rule 530:10-11-51(a) repeats the statutory language of 74 O.S., §840-4.15(A).

Questions concerning the above cites may be directed to Hank Batty, Employee Selection Services, Office of Personnel Management, 521-6333.

B-7. Title 74 O.S. §840-4.15(A) and Merit Rule 530:10-11-51(a) are printed above (B-6).

Questions concerning the above cites may be directed to Hank Batty, Employee Selection Services, Office of Personnel Management, 521-6333.

- B-8. Title 74 O.S. §840-4.11 states, “The Administrator may promulgate rules to provide for the establishment of noncompetitive appointments including, but not limited to, the positions of unskilled labor, attendants, aides, janitors, food service helpers, or custodial or similar types of employment when the character of the work makes it impracticable to supply the needs of the service effectively by competitive examination. All such persons appointed shall serve a probationary period in accordance with the rules adopted by the Office of Personnel Management and the provisions of the laws of the State of Oklahoma and shall acquire permanent status and be subject to the same rules as other classified employees. Such persons shall be required to pass promotional examinations as prescribed by the laws of the State of Oklahoma and the rules and regulations adopted by the Office of Personnel Management before they may be promoted to a higher classification.”

Title 74 O.S. §840-4.12(D) states, “Promotional examinations for promotion within an agency, unless requested by the agency, shall not be required; provided that said promotion is in accordance with rules adopted by the Administrator and is in accordance with a plan adopted by the promoting agency. Every employee promoted within an agency shall serve a six-month trial period in the job level to which the employee is promoted, unless the trial period is waived, in writing, by the appointing authority. At any time during a trial period, the appointing authority may return the employee to the level from which the employee was promoted upon written notification to the employee as to such action and the reason therefor, and the employee shall not have the right to appeal.

Merit Rule 530:10-9-35 states, “Examinations for promotion, demotion, transfer, and reinstatement shall not be required unless specified in the agency's promotional plan. However, any incumbent who is promoted from a noncompetitive position, as described in 530:10-9-95, to a competitive job shall successfully pass any examination required by the Administrator for that job [74:840-4.11].”

Questions concerning the above cites may be directed to Hank Batty, Employee Selection Services, Office of Personnel Management, 521-6333.

- B-9. Title 74 O.S., §840-4.15(B) states, “The appointing authority may elect to post general promotional opportunities in accordance with the provisions of this section 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.”

Merit Rule 530:10-11-53 in pertinent part, repeats the statutory language of 74 O.S. §840-4.15(B).

Questions concerning the above cites may be directed to Hank Batty, Employee Selection Services, Office of Personnel Management, 521-6333.

B-10. Title 74 O.S., §840-5.1A states:

- A. “Within state government, persons appointed to a position in the unclassified service after June 30, 1996, shall serve at the pleasure of the appointing authority. Appointing authorities shall not convey any right or expectation of continued employment to such unclassified employees. The appointing authority may separate such unclassified employees at any time with or without cause. No provision of the Oklahoma Personnel Act [74:840-1.1 et seq.] shall be construed as granting any property interest in employment to any unclassified service employee.
- B. Nothing in this section is intended to change the status of any unclassified employee appointed to a position on or before June 30, 1996.
- C. This section shall not apply to persons in positions in institutions under the jurisdiction of the Oklahoma State Regents for Higher Education or subject to the University Hospitals Authority Model Personnel System created pursuant to Section 3211 of Title 63 of the Oklahoma Statutes.”

C. TRAINING AND DEVELOPMENT

C-1. Title 74 O.S., §840-4.17(A) states, “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 regular 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 Section 840-5.5 of this title and those employees employed by the institutions under the administrative authority of The Oklahoma State System of Higher Education.”

Title 74 O.S., §840-4.17(C) states, “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.”

Merit Rule 530:10-17-31(a) in pertinent part, repeats the language of Title 74 O.S., §840-4.17(A). Merit Rule 530:10-17-31(c) repeats the language of Title 74 O.S., §840-4.17(C).

Questions concerning the above cites may be directed to Joe Davenport, Personnel Assessment, Office of Personnel Management, 521-6305.

C-2. Title 74 O.S., §840-4.17(F) states, “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.”

Merit Rule 530:10-17-31(e) in pertinent part, repeats the language of Title 74 O.S., §840-4.17(F).

Questions concerning the above cites may be directed to Joe Davenport, Personnel Assessment, Office of Personnel Management, 521-6305.

- C-3. Merit Rule 530:10-5-3(b)(6)(B) states in pertinent part, “Appointing Authorities are responsible for ensuring that...each employee is given a copy of the...list of accountabilities to be used in evaluating the employee’s performance, as required in 530:10-17-31...”.

Questions concerning the above cite may be directed to Joe Davenport, Personnel Assessment, Office of Personnel Management, 521-6305.

- C-4. Merit Rule 530:10-3-22, states:
- (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 complete:
- (1) four days of initial discrimination complaints investigator training either conducted by the Office of Personnel Management or approved by the Administrator; and
 - (2) a minimum of one investigation under the guidance of a senior EEO investigator, designated by the Administrator. The senior EEO investigator shall advise and support the investigator in developing competency in investigating complaints of discrimination; and
 - (3) a minimum of six hours of classroom instruction or 0.6 Continuing Education Units (CEUs) in training related to the subjects listed in subsection (b) each calendar year and other annual training that may be announced by the Administrator. Persons who complete annual training shall submit proof of completion that is acceptable to the Administrator.
- (b) Discrimination complaints investigator training shall provide participants with a current knowledge of:
- (1) Oklahoma and federal equal employment opportunity laws and rules;
 - (2) theories of discrimination and burdens of proof;
 - (3) planning and conducting complete and impartial investigations;
 - (4) techniques for interviewing witnesses;
 - (5) collecting relevant evidence;
 - (6) documenting the record of investigation; and
 - (7) preparing the written report of investigation.
- (c) 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.
- (d) The Administrator will certify that a person has completed the training requirements for investigating complaints of discrimination after the Administrator:
- (1) determines the person has completed the initial training requirements established in (a)(1) of this Section, and
 - (2) 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.
- (e) 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.”

Questions concerning the above cite may be directed to Janice Wadkins, Employment Relations Services, Office of Personnel Management, 521-3082.

- C-5. Title 74 O.S., §840-2.1(F)(1) states, “The Administrator of the Office of Personnel Management shall establish qualification requirements for personnel serving as agency civil rights or affirmative action administrators, officers, coordinators and other personnel responsible for civil rights compliance or

affirmative action for executive branch agencies. Such qualification requirements shall include, but not be limited to, knowledge of federal and state civil rights, affirmative action, and equal employment laws and regulations. Such personnel shall be subject to the training requirements specified by the Office of Personnel Management. The Administrator shall be authorized to bill agencies for the training of personnel professionals pursuant to this paragraph to recover reasonable costs associated with the training. Monies received for such training shall be deposited in the Office of Personnel Management Revolving Fund. Expenditure of such funds collected for the training shall be exempt from any expenditure limit for the Office of Personnel Management established by law. Effective December 1, 1995, complaints of alleged illegal discrimination shall be investigated only by personnel trained pursuant to the requirements of the Administrator, unless otherwise provided by federal or state law. This paragraph shall not apply to such personnel of the Oklahoma Merit Protection Commission or the Oklahoma Human Rights Commission.”

Questions concerning the above cite may be directed to Janice Wadkins, Employment Relations Services, Office of Personnel Management, 521-3082.

C-6. Title 74 O.S., §840-3.1 states:

- A. “Each supervisor employed as of January 1, 1993, by a state agency, board or commission in the executive branch of state government, excluding those within The Oklahoma State System of Higher Education, shall attend, prior to December 31, 1993, a training program for supervisory personnel. The training program shall be established pursuant to subsection D of this section.
- B. Employees appointed to supervisory positions after January 1, 1993, shall complete twenty-four (24) hours of training pursuant to subsection D of this section within twelve (12) months of assuming such supervisory position. Thereafter, supervisors are required to complete twelve (12) hours of training pursuant to subsection D of this section each year. The appointing authority of each agency shall ensure each supervisory employee is notified and scheduled to attend such required training and shall make time available for each such employee to complete the training.
- C. As used in this section "supervisor" means a classified or unclassified employee who has been assigned authority and responsibility for evaluating the performance of subordinates.
- D.
 1. The Administrator of the Office of Personnel Management shall promulgate any rules necessary to develop and implement training programs for supervisory personnel which shall include courses related to the effective performance of an agency manager or supervisor. Rules authorized by this subsection shall require supervisors to attend such training within a reasonable period of time determined by the Administrator.
 2. Training programs for supervisors under this section may be approved by the Office of Personnel Management; provided, however, such programs shall be subject to standards developed by the Office of Personnel Management. All state agencies, boards and commissions may participate in any such government employee training program established by an institution that is a member of The Oklahoma State System of Higher Education and approved by the Office of Personnel Management as provided for in this paragraph.”

Merit Rule 530:10-17-93 states:

- (a) Beginning November 1, 1999, all supervisors shall complete 12 hours of supervisory training according to this Part each calendar year [74:840-3.1].
- (b) Persons appointed to supervisory positions after November 1, 1999, shall complete 24 hours of supervisory training according to this Part within 12 months before or after assuming a supervisory position [74:840-3.1]. Supervisors shall complete training courses in the State of Oklahoma Performance Management Process and progressive discipline within the first 12 months of being appointed to a supervisory position.

- (c) The appointing authority of each agency shall make sure each supervisory employee is notified and scheduled to attend required supervisory training and shall make time available for each supervisory employee to complete the training [74:840-3.1].
- (d) Training courses conducted by employing agencies, public and private schools, and colleges and universities may count toward supervisory training requirements if the coursework meets the definition for supervisory training in 530:10-17-91.

Questions concerning the above cite may be directed to Larry Fisher, Human Resource Development Services, Office of Personnel Management, 522-0762.

C-7. Title 74 O.S., §840-1.6A(18) states that in addition to other duties imposed by law, the Administrator shall: “Establish standards for continuing training, including affirmative action, and certification of personnel professionals in the executive branch of state government, excluding institutions within The Oklahoma State System of Higher Education. Employees appointed to professional personnel positions shall complete an initial training program within six (6) months after assuming the professional personnel position. Thereafter, they shall complete annual training requirements. Each appointing authority shall ensure that all professional personnel employees are notified of, and scheduled to attend, required training programs and shall make time available for employees to complete the programs. The Administrator shall be authorized to bill agencies for the training of personnel professionals pursuant to this paragraph to recover reasonable costs associated with the training. Monies received for such training shall be deposited in the Office of Personnel Management Revolving Fund. Expenditure of such funds collected for the training shall be exempt from any expenditure limit on the Office of Personnel Management established by law.”

Merit Rule 530:10-17-132 states:

- (a) Beginning July 15, 1996, all employees assigned to professional personnel positions in the executive branch, excluding employees within The Oklahoma State System of Higher Education, shall attend a minimum of **4** days or **2.4 Continuing Education Units (CEUs)** of training in professional personnel administration conducted through the Office of Personnel Management, and successfully complete an examination prescribed by the Administrator in order to attain certification as a personnel professional. Employees appointed to personnel professional positions after July 15, 1996, shall attend the training and successfully complete the examination within **6** months of appointment. [74:840-1.6A(18)]
- (b) Service as an instructor for all or part of the course may be counted toward the training requirement. Employees serving as instructors must successfully complete the prescribed examination to attain certification as a personnel professional.
- (c) Employees who have been certified as personnel professionals by the Administrator shall thereafter annually complete a minimum of **8** hours of training in professional personnel administration to maintain certification. [74:840-1.6A(18)] The Administrator may approve training that is not conducted by the Office of Personnel Management as meeting the annual training requirements.
- (d) The Appointing Authority of each agency with an employee assigned to a professional personnel position shall ensure the employee is notified and scheduled to attend required personnel professionals training and shall make time available for the employee to complete the training. [74:840-1.6A(18)]

Questions concerning the above cites may be directed to Larry Fisher, Human Resource Development Services, Office of Personnel Management, 522-0762.

- C-8. Merit Rule 530:10-17-95 states, "Employing agencies shall keep records of the training of all supervisory employees and shall submit reports of supervisory training to the Office of Personnel Management at the request of the Administrator."

Merit Rule 530:10-17-97 states, "Each spring, the Administrator will notify agencies of the method for reporting their level of compliance with these requirements for the previous calendar year. The Administrator shall provide a summary of the reports to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate."

- C-9. Establish system for strategic planning for staff development and training needs and expenditures [recommended practice; no cite].
- C-10. Provide orientation program to new employees [recommended practice; no cite].

D. COMPENSATION AND BENEFITS

- D-1. Title 74 O.S., §840-2.14(B) & (C) state:
- B. "All agencies, boards, and commissions shall report all reallocation decisions for both classified and unclassified positions and all adjustments to pay grades or salary assignments for classes in the unclassified service to the Office of Personnel Management on a semiannual basis. The Office of Personnel Management shall submit the semiannual reports to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives, along with an analysis of statewide reallocation decisions.
- C. All agencies, boards, and commissions shall report to the Office of Personnel Management on a semiannual basis all transactions in both the classified and unclassified service involving the establishment of new positions that have not been authorized specifically by legislative action. Agencies shall report the transactions for the six-month period ending June 30 or December 31. The Office of Personnel Management shall forward the semiannual reports to the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives, accompanied by an analysis of agency decisions concerning such positions."

Questions concerning the above cite may be directed to Ron Thatcher, Classification, Office of Personnel Management, 521-6347.

- D-2. Refer to Title 29 U.S.C., §201(1) through §201(40).
- D-3. Refer to General Records Disposition Schedule 3-21A and 3-45A.
- D-4. Title 29 C.F.R., §825.301(a)(1) states, "If an FMLA-covered employer has any eligible employees and has any written guidance to employees concerning employee benefits or leave rights, such as in an employee handbook, information concerning FMLA entitlements and employee obligations under the FMLA must be included in the handbook or other document. For example, if an employer provides an employee handbook to all employees that describes the employer's policies regarding leave, wages, attendance, and similar matters, the handbook must incorporate information on FMLA rights and responsibilities and the employer's policies regarding the FMLA. Informational publications describing the Act's provisions are available from local offices of the Wage and Hour Division and may be incorporated in such employer handbooks or written policies."
- D-5. Title 29 C.F.R., §825.500, states in pertinent part, "FMLA provides that covered employees shall make, keep and preserve records pertaining to their obligations under the Act in accordance with the

recordkeeping requirements of section 11(c) of the Fair Labor Standards Act (FLSA) and in accordance with these regulations.”

Refer also to the General Records Disposition Schedule 3-22, 3-23, 3-94.

- D-6. Title 29 U.S.C., §2614(c)(1) states in pertinent part, “Except as provided in paragraph (2), during any period that an eligible employee takes leave under section 2612 of this title, the employer shall maintain coverage under any ‘group health plan’ (as defined in section 5000(b)(1) of Title 26) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave.”
- D-7. O.A.C. 360:10-3-3 states, “The appointing authority or governing body of each participating entity shall designate an Insurance Coordinator and at least one Alternate to properly enroll members of the entity. Any information given by an Insurance Coordinator shall not supersede or modify the statutes, Rules in this title or any Insurance Coordinator’s Guide governing the Group Insurance Plan. Insurance Coordinators representing retirees may be provided by the retirement system from which the retiree is receiving benefits.”
- D-8. Merit Rule 530:10-7-12(c)(1) states, “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).”

Questions concerning the above cite may be directed to Jim Lippert, Management Services, Office of Personnel Management, 521-2169.

- D-9. O.A.C. 590:1-1-5, states:
- (a) “Retirement Coordinators shall be appointed for each participating county, city, town or county hospital and each State agency to serve as a representative between the Retirement Board and the participating Employer.
 - (b) These Retirement Coordinators shall be responsible for the enrollment, assistance of the completion of forms, and instructions to the members on behalf of the participating employer relating to the Oklahoma Public Employees Retirement System.
 - (c) The Retirement Coordinator shall be responsible for insuring that each participating member of the System is provided a copy of the most current Member Handbook, each year’s Summary Annual Report, and all other official notices from the System. Each Retirement Coordinator shall establish and maintain sufficient documentation to verify compliance with this rule, and shall furnish said verification upon request to the system.”

Questions concerning the above cite may be directed to Russell Nash, Oklahoma Public Employees Retirement System, 858-6737.

- D-10. Merit Rule 530:10-7-1.2(c) states, “An Appointing Authority using any of the pay movement mechanisms listed in subsection (a) shall annually report the pay movement mechanisms used to the Office of Personnel Management no later than January 1 of each year on a form prescribed by the Administrator. The report shall include information for the twelve-month period ending on December 31 of each year and shall include the type of pay mechanisms used, frequency, amounts

provided, and affected job families and classifications for both classified and unclassified employees. The report shall also include a projection of the pay movement mechanisms to be used and anticipated costs for the remainder of the fiscal year. [74:840-2.17]”

Questions concerning the above cite may be directed to Jim Lippert, Management Services, Office of Personnel Management, 521-2169.

- D-11. Review positions for FLSA exempt/non-exempt status [recommended practice; no cite].
- D-12. Distribute current retirement, benefit plans and options to employees [recommended practice; no cite].
- D-13. Update current benefits information [recommended practice; no cite].
- D-14. Refer to the “Incentive Awards for State Employees Act”, Title 74 O.S., §4111 through §4120.

Questions concerning the above cites may be directed to Joe Davenport, Personnel Assessment, Office of Personnel Management, 521-6305.

- D-15. Merit Rule 530:10-5-8(d)(3) states, “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.”
- D-16. Merit Rule 530:10-5-3(b)(6) states, “Appointing Authorities are responsible for ensuring that: ...
(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.”

Questions concerning the above cite may be directed to David Hays, Classification, Office of Personnel Management, 521-6329.

- D-17. Merit Rule 530:10-5-3(b)(1) states, “Appointing Authorities are responsible for ensuring that:
(1) job family descriptors are reviewed at least annually and the Office of Personnel Management is notified of any recommended changes in job family descriptors;”.

Questions concerning the above cite may be directed to David Hays, Classification, Office of Personnel Management, 521-6329.

- D-18. Merit Rule 530:10-7-12(a) states, “An Appointing Authority shall neither require nor allow 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 Office of Personnel Management. 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.”

Questions concerning the above cite may be directed to Jim Lippert, Management Services, Office of Personnel Management, 521-2169.

- D-19. Merit Rule 530:10-7-1.1 states, “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 hiring ranges for all positions within the agency’s classification plan. Components of a salary administration plan include but are not limited to conditions under which the Appointing Authority may establish a hiring rate above the midpoint of the pay range, skill-based pay programs, and other pay movement mechanisms authorized by 74:840-2.17. The salary administration plan may be amended at any time and submitted to the Administrator for approval of the amended plan.”

E. EMPLOYEE RELATIONS

- E-1. Merit Rule 455:10-3-6(d) states, “Each state agency, department, institution, board and commission in all branches of state government, including all institutions in The Oklahoma State System of Higher Education, shall prominently post a copy of Section 840-2.5 of Title 74 of the Oklahoma Statutes in locations where it can reasonably be expected to come to the attention of all employees [74:840-2.5(C)].”

Questions concerning the above cite may be directed to Scott Lange, Merit Protection Commission, 525-9144.

- E-2. Refer to the “Standards for Workplace Drug and Alcohol Testing Act”, Title 40 O.S., §551 through §565.
- E-3. Conduct exit interviews [recommended practice; no cite].
- E-4. Title 74 O.S., §840-6.2(A) states, “The Oklahoma Merit Protection Commission shall establish standard internal agency grievance resolution procedures for classified state employees. The procedures shall encourage prompt and equitable resolution of grievances at the lowest possible level within the employing agency. Each appointing authority shall either use the procedures established by the Commission or adopt other procedures which address the specific needs of their agencies. All procedures shall contain the minimum requirements established pursuant to this section.”

Merit Rule 455:10-19-20(a) states in pertinent part:

- (a) “The appointing authority shall use the internal agency grievance resolution steps established in Part 7 of this subchapter or adopt other grievance resolution procedures which address the specific needs of their agencies [74:840-6.2(A)]. The appointing authority shall file a copy of any adopted resolution procedures, including revisions, with the Commission. Any adopted grievance resolution procedure shall include a general statement certifying that the procedure contains minimum requirements which:
- (1) encourage resolution of disputes within the agency quickly, informally and at the lowest possible level;
 - (2) require prompt resolution of grievances within established time periods; and
 - (3) guarantee the employee the right to be represented by a person of his or her own choosing at each step of the procedure, except the initial informal discussion with his or her immediate

supervisor;

- (4) reflect the name, address and telephone number of the person(s) designated to receive and process formal grievances.”

Questions concerning the above cites may be directed to Scott Lange, Merit Protection Commission, 525-9144.

- E-5. Title 74 O.S., §840-6.2(G) states, “The appointing authority of each classified agency shall designate employees of the agency to receive and process internal agency grievances. Within six (6) months after designation to serve in this capacity, these employees shall complete the training programs established by the Commission. Upon successful completion, such employees shall be certified to perform the duties associated with receiving and processing internal agency grievances.”

Merit Rule 455:10-19-20(b)(2) states, “The appointing authority shall: ...

- (2) designate an employee or employees within the agency to receive and process formal grievances [74:840-6.2(G)]. If the appointing authority does not designate such employee(s), the appointing authority shall be the grievance manager; ...”

Questions concerning the above cites may be directed to Scott Lange, Merit Protection Commission, 525-9144.

- E-6. Title 74 O.S., §840-6.2(H) states, “The appointing authority of each classified agency shall ensure that employees designated to receive and process internal agency grievances are scheduled to attend and notified of the required training and shall make time available for employees to complete the training.”

Merit Rule 455:10-19-20(b)(4) states, “The appointing authority shall: ...

- (4) ensure employee(s) designated to receive and process formal grievances are scheduled to attend and notified of required Commission training and shall make time available for employees to complete training [74:840-6.2(H)].”

Questions concerning the above cites may be directed to Scott Lange, Merit Protection Commission, 525-9144.

- E-7. Merit Rule 455:10-19-7 states, “Each appointing authority shall prominently display a notice reflecting the name, address and telephone number of the employee(s) designated to receive and process formal grievances. Such notices shall be displayed in locations where they can reasonably be expected to come to the attention of employees.”

Questions concerning the above cite may be directed to Scott Lange, Merit Protection Commission, 525-9144.

- E-8. Title 74 O.S., §840-6.2(I) states, “Each agency shall maintain records of each grievance filed as well as summary information about the number, nature and outcome of all grievances filed. Agencies shall keep records of grievances separate and apart from other individual employee personnel files. Agencies shall report grievance information and related statistical data to the Oklahoma Merit Protection Commission pursuant to rules adopted by the Commission. An employee or former employee shall have a right of access to the grievance record of grievances he or she filed after the grievance procedure has been completed.”

Merit Rule 455:10-19-5(b) states, "The appointing authority shall provide to the Commission, on a fiscal year basis, a grievance report containing the following information:

- (1) the number of grievances filed, resolution time for each grievance and the nature and outcome of each grievance; and
- (2) the pay band, sex and race of each employee filing a grievance.

Questions concerning the above cites may be directed to Scott Lange, Merit Protection Commission, 525-9144.

- E-9. Title 74 O.S., §6.2(I) states in pertinent part, "Agencies shall keep records of grievances separate and apart from other individual employee personnel files."

Merit Rule 455:10-19-4 states, "The appointing authority shall maintain a record of each formal grievance filed. Grievance records shall be maintained separate and apart from other individual employee personnel files [74:840-6.2(I)]."

Questions concerning the above cites may be directed to Scott Lange, Merit Protection Commission, 525-9144.

- E-10. Title 74 O.S., §840-6.3 states:

- A. "Each appointing authority shall establish written policies and procedures for progressive discipline of employees according to the rules established by the Oklahoma Merit Protection Commission. Sections 530:10-11-111 and 10-11-113 of the Oklahoma Administrative Code promulgated by the Administrator of the Office of Personnel Management are hereby transferred to the Oklahoma Merit Protection Commission and shall remain in effect until duly amended by the Commission.
- B. Progressive discipline is a system designed to ensure not only the consistency, impartiality and predictability of discipline, but also the flexibility to vary penalties if justified by aggravating or mitigating conditions. Typically, penalties range from verbal warning to discharge, with intermediate levels of a written warning, suspension or demotion. Absent mitigating circumstances, repetition of an offense is accompanied by a generally automatic progression to the next higher level of discipline.
- C. Each supervisor shall be responsible for applying discipline when necessary that is progressive in nature, appropriate for the offense, and equitable. Each supervisor shall consider aggravating or mitigating circumstances when determining the proper disciplinary action. Each supervisor shall use prompt, positive action to avoid more serious disciplinary actions. The Oklahoma Merit Protection Commission shall promulgate rules to establish the requirements and guidelines for discipline."

Merit Rule 455:10-11-5(a) states:

- (a) The appointing authority shall use the progressive discipline phases outlined in this subchapter and may adopt other progressive discipline steps which address the specific needs of his or her agency [74:840-6.3(A)]. The appointing authority shall file a copy of any adopted progressive discipline policy, including revisions, with the Commission. Any adopted progressive discipline policy shall include a general statement certifying that the policy contains minimum requirements which:
 - (1) ensure the consistency, evenhandedness and predictability of discipline; and
 - (2) ensure the flexibility to vary penalties if justified.

Questions concerning the above cites may be directed to Scott Lange, Merit Protection Commission, 525-9144.

- E-11. Merit Rule 455:10-11-5(b) states, “The appointing authority shall furnish to each employee a copy of the progressive discipline policy, including revisions, used by the agency.”

Questions concerning the above cite may be directed to Scott Lange, Merit Protection Commission, 525-9144.

- E-12. Merit Rule 455:10-11-9(b) states:
(b) ”The appointing authority shall provide to the Commission on an annual basis, a discipline report containing the following information:
(1) the number of formal disciplinary actions taken, by type of discipline;
(2) the pay band, sex and race of each employee receiving formal discipline.”

Questions concerning the above cite may be directed to Scott Lange, Merit Protection Commission, 525-9144.

- E-13. Refer to Title 74 O.S., §§840-2.27A through §840-2.27I, §840-2.28, and Subchapter 13 of the Merit Rules for Employment.

Questions concerning the above cites may be directed to David Hays, Classification, Office of Personnel Management, 521-6329.

F. HEALTH, SAFETY & SECURITY

- F-1. Title 85 O.S., §24.1, states:
A. “Every employer shall keep a record of injuries, which result in the loss of time beyond the shift or which require medical attention away from the work site, fatal or otherwise, received by his employees in the course of their employment.
B. Within ten (10) days or a reasonable time thereafter, after the occurrence of such injury a report thereof shall be made in writing by the employer to the Court and to the employer’s workers’ compensation insurance carrier, if any, upon blanks to be procured from the Court for that purpose. Such reports shall state the name and nature of the business of the employer, the location of his establishment or place of work, the name, address and occupation of the injured employee, the time, nature, and cause of the injury and such other information as may be required by the Administrator.
C. Any employer who refuses or neglects to make a report as required by this section shall be liable for an administrative violation and subject to a fine by the Administrator of not more than One Thousand Dollars (\$1,000.00).”
- F-2. Title 85 O.S., §24.1 is printed above (F-1).
- F-3. Title 85 O.S., §2b(A)(2) states, “Except as otherwise provided, the state and all its institutions of higher education, departments, instrumentalities, institutions and public trusts of which it or they are beneficiaries shall insure against liability for workers’ compensation with the State Insurance Fund and shall not insure with any other insurance carrier unless:
(a) the State Insurance Fund refuses to accept the risk when the application for insurance is made;
(b) specifically authorized by law; or
(c) the state entity can obtain workers’ compensation insurance coverage at the same cost or a lower

cost from another insurance carrier licensed in this state. For the first fiscal year beginning subsequent to the satisfaction of any agreement entered into pursuant to subsection K of Section 173 of this title and the next three fiscal years thereafter, not to exceed fifteen (15) state entities each fiscal year may leave the State Insurance Fund and obtain workers' compensation insurance coverage pursuant to this subparagraph. Beginning with the fourth fiscal year thereafter, all state entities may obtain workers' compensation insurance coverage pursuant to this subparagraph.

- F-4. Title 85 O.S., §43(D) states, "Each employer shall post a notice advising employees that they are covered by the Workers' Compensation Act and that workers' compensation counselor services are available at the Workers' Compensation Court. The form of the notice shall be prescribed by the rules of the Court. No other notice to the employee shall be required other than said poster required by this section; provided that nothing in this subsection shall be construed to toll the Statute or Limitations provided above."
- F-5. Title 40 O.S., §403(E)(1) states, "Every employer having twenty-five (25) or more full- or part-time employees shall: (1) Designate an employee who shall coordinate all safety programs of the employer".
- F-6. Title 40 O.S., §403(E)(2) states in pertinent part, "Every employer having twenty-five (25) or more full- or part-time employees shall: ... (2) Provide safety classes to each type or class of employee no less than quarterly...".
- F-7. Post EAP information and contacts in all work locations [recommended practice; no cite].

Questions concerning the State Employee Assistance Program may be directed to Robert Stevens, Office of Personnel Management, 947-7576.

- F-8. Establish and distribute written policy on violence in the workplace [recommended practice; no cite].

Questions concerning the policies on violence in the workplace may be directed to Robert Stevens, Office of Personnel Management, 947-7576.

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