OPM 01-13

TO: All Appointing Authorities

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

DATE: January 30, 2001

RE: **Proposed Permanent Amendments to Merit Rules**

I have scheduled a public hearing for comments on proposed permanent amendments to the Merit System of Personnel Administration Rules. The rules hearing will be at **2:00 p.m., Wednesday, February 7, 2001,** at the Oklahoma Department of Transportation Commission Room, 200 Northeast 21st Street, Oklahoma City. I hope you or your representative(s) will attend.

If you would like to make comments on the proposed amendments but are unable to attend the public hearing, I will consider written comments received at the Office of Personnel Management by Friday, February 16, 2001, at 5:00 p.m. Written comments should be sent to Oscar B. Jackson, Jr., Office of Personnel Management, 2101 North Lincoln Boulevard, Room G-80, Oklahoma City, OK 73105, ATTENTION: Kimberlee Williams. Written comments may also be faxed to (405) 524-6942 or emailed to kimberlee.williams@opm.state.ok.us.

Following is an explanation of the proposed amendments. Copies of the proposals are attached. If you have questions regarding the rule proposals, please contact Kimberlee Williams at (405) 522-1736.

Page	Rule	Reason for proposed amendments
1	530:10-3-33.8	Statutory change made during 2000 Legislative Session.
2	530:10-7-6	Supersede emergency rule currently in effect. (Proposal is substantially the same as emergency rule.)
2	530:10-7-11	Supersede emergency rule currently in effect. (Proposal is identical to emergency rule.)
3	530:10-7-22	Statutory change made during 2000 Legislative Session.

Page	Rule	Reason for proposed amendments
3	530:10-9-9	Clarify reasons why names may be removed from registers and delete duplicative and obsolete language.
4	530:10-9-34	Statutory change made during 2000 Legislative Session.
5	530:10-9-35	Statutory change made during 2000 Legislative Session.
5	530:10-11-51	Statutory change made during 2000 Legislative Session.
6	530:10-15-11	Clarify that "separation" does not include intra-agency personnel transactions for purposes of payment of annual leave.
7	530:10-15-57	Provide reference to national disaster leave statute in rules.
7	530:10-17-84	Statutory change made during 2000 Legislative Session.
8	530:10-17-170	Statutory change made during 2000 Legislative Session.
9	530:10-17-173	Statutory change made during 2000 Legislative Session.
9	530:10-21-1	Statutory change made during 2000 Legislative Session.
9	530:10-21-2	Statutory change made during 2000 Legislative Session.
10	530:10-21-5	Statutory change made during 2000 Legislative Session.
12-13	Appendix A (Salary Schedule)	Two proposals—one proposed salary schedule reflects a 10% increase over the current schedule, and one reflects a 13% increase.

TITLE 530. OFFICE OF PERSONNEL MANAGEMENT

CHAPTER 10. MERIT SYSTEM OF PERSONNEL ADMINISTRATION RULES

SUBCHAPTER 3. AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT OPPORTUNITY

PART 3. AFFIRMATIVE ACTION

530:10-3-33.8. Personnel transaction report

All affirmative action plans shall include a report of personnel transactions. The report shall be an agency-wide summary of personnel transactions showing the progress made toward achieving any affirmative action goals for the preceding year. An Appointing Authority shall:

(1) List the total number of employees and the total number of male, female, individual minority, and total minority employees present at the beginning of the preceding plan period and the corresponding numbers at the end of the period. If the numbers for the beginning of the period are inconsistent with the numbers submitted in the preceding plan, the Appointing Authority shall include an explanation for the differences;

(2) List the number of male, female, individual minority, and total minority employees affected by the following types of personnel transactions during the period;

(A) **New hires.** This type includes new full-time appointments, transfers in, reinstatements, and recalls, but does not include temporary, part-time, or time-limited appointments;

(B) **Promotions.** In addition to promotions, this type includes direct reclassifications resulting in a higher rate of pay, and any other transactions resulting in an employee being reclassified to a different state job with a higher pay band assignment or to a higher level within the same job family;

(C) **Demotions.** This group includes both voluntary and involuntary demotions, direct reclassifications to a job with a lower pay band, and any other transactions resulting in an employee being assigned to a lower pay band <u>or to a lower level in the same job family</u>;

(D) **Separations.** This group includes discharges, resignations, transfers out, retirements, reduction-in-force, or other voluntary or involuntary separation from full-time employment with the agency, but not including the separation of persons on temporary, part-time, or time-limited appointments;

(3) List summary information on a form prescribed or approved by the Administrator, including but not limited to: staffing numbers at the beginning and end of the period, gains and losses during the period, personnel transaction goals for hiring and promotions goals for the preceding period, and the actual numbers of new hires, promotions, demotions, and separations. If the agency is authorized **15** or more full-time-equivalent employees, the Appointing Authority shall include the hiring goals and any optional promotional goals for the preceding period on the form.

SUBCHAPTER 7. SALARY AND PAYROLL

PART 1. SALARY AND RATES OF PAY

530:10-7-6. ~~Data processing~~ Sign-on pay incentive

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

(1) individuals not currently employed in state government; ~~and who are hired to fill professional-level data processing jobs as determined by the Administrator of the Office of Personnel Management~~

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

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

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

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

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

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

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

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

(b) The pay incentive shall consist of scheduled periodic payments over the employee's first two years of continuous service in the targeted job families, not to exceed a total of $2,500 in any 12-month period. Payments may not be made prospectively or prorated. No payment shall be made under the plan until the employee has completed at least six months of continuous service in the targeted job family.

(c) At the discretion of the Appointing Authority, the following persons filling positions in the targeted job families may be included in the plan:

(1) Persons not currently employed in state government;

(2) Current state employees during their first two years of continuous state employment in the targeted job family; and

(3) Former state employees following a break in service of at least 30 days.

(d) Appointing Authorities who choose to implement the pay incentive shall submit a written plan to the Administrator of the Office of Personnel Management and the Director of the Office of State Finance prior to implementation. The plan shall identify the job families to which the pay incentive will be applicable and shall document the critical recruitment and retention problems and the agency's rationale for the plan. The plan may provide for different pay incentives for different job families at the discretion of the Appointing Authority. The plan shall also identify the criteria for eligibility and shall include information concerning the funding of the pay incentive from the agency's existing budget. The plan shall be signed by the Appointing Authority, and this signature requirement may not be delegated. No payment shall be made under this Section until the plan has been reviewed and accepted by the Administrator.

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

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

SUBCHAPTER 9. RECRUITMENT AND SELECTION

PART 1. GENERAL PROVISIONS

530:10-9-9. Disqualifications

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

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

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

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

~~(3)~~ (4) the person made a false statement of material fact in an application for employment or otherwise misrepresented himself or herself during the application process.

~~(4)~~ (5) the person has used or attempted to use political pressure or bribery to secure an advantage in the examination or appointment process.

~~(5)~~ (6) even with reasonable accommodation, the person is unable to perform the duties of the job or position(s) or is unable to do so without risk to himself or herself, the agency, or others, beyond that risk normally associated with such duties.

~~(6) the person uses or possesses any controlled dangerous substance not specifically and legally prescribed, or habitually uses alcoholic beverages to excess.~~

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

~~(8) the person has been convicted of any infamous crime or other crime involving moral turpitude.~~

~~(9)~~ (8) the person has failed to submit an application correctly or within the prescribed time limits.

~~(10)~~ (9) the person has failed to maintain a record of current address at the Office of Personnel Management as evidenced by the return of a letter by the U.S. Post Office, if properly addressed to the last address of record.

~~(11)~~ (10) the person has, within **2** years prior to the date of certification, been discharged for delinquency, misconduct, absenteeism, inability to perform the same type job for which applying or other disciplinary reason or has resigned in lieu of such dismissal from any public or private employer. The Appointing Authority may extend the **2**-year restriction for good cause.

~~(12)~~ (11) the agency has exercised a selective qualification as established in 530:10-9-74.

~~(13)~~ (12) an individual is ineligible for employment due to citizenship or residence requirements as prescribed in 530:10-9-75.

(b) Action initiated by an Appointing Authority under (a)(1), (a)(7), and (a)~~(10)~~(9) of this Section shall be subject to the approval of the Administrator. Any person who is disqualified shall be notified in writing of this action and the reason for it. At the appropriate time, the Administrator shall notify an individual of the right to appeal. The party initiating the action, whether the Administrator or an Appointing Authority, shall be independently responsible for justifying the action, for both the nature and accuracy of the supporting information, and for the retention of that information pending appeal of the action.

PART 3. WRITTEN AND PERFORMANCE TESTS

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

~~No written test shall be required when the minimum qualifications for the job require a bachelor's degree or its equivalent, plus **3** years of qualifying work experience. Applicants shall be rated according to training and experience for that job [74:840-4.12].~~

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

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

SUBCHAPTER 11. EMPLOYEE ACTIONS

PART 5. PROMOTIONS

530:10-11-51. Promotional posting

(a) *The appointing authority shall post* <u>*announcements of a*</u> *vacancy or vacancies* ~~*in a particular class of positions*~~ *in accordance with a promotional plan filed by the agency with the Office of Personnel Management*. [A copy of this plan shall be posted throughout the agency.] *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.* <u>*Promotional posting shall be required for initial entry into a job family at any level. Promotional posting shall also be required for entry into any supervisory position or level.*</u> *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* . [74:840-4.15~~(A)~~] <u>The Appointing Authority shall post all promotional opportunities to vacant positions and to all supervisory levels. Promotional posting is not required for career progression.</u>

(b) *The posting shall include:*

~~(1) *A copy of the class specification* [74:840-4.15(A)(1)];~~

~~(2) *The salary grade and range* [74:840-4.15(A)(2)];~~

~~(3) *The anticipated number of vacancies* [74:840-4.15(A)(3)];~~

~~(4) *The specific location of work* [74:840-4.15(A)(4)];~~

~~(5) *The time limits and procedure for filing an application with the appointing authority* [74:840-4.15(A)(5)];~~

~~(6) *Any additional factors which the appointing authority will consider in filling the vacancy* [74:840-4.15(A)(6)]. For example, if the Appointing Authority intends to give preference to an incumbent in a position at the time of the reallocation of the position to a higher class, the Appointing Authority shall include that information as an additional factor.~~

<u>(1) *A copy of the job family descriptor;*</u>

<u>(2) *Identification of the job family level of the vacancy or vacancies;*</u>

<u>(3) *The pay band and range;*</u>

(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.* For example, if the Appointing Authority intends to give preference to an incumbent in a position at the time of the reallocation of the position to a higher level job, the Appointing Authority shall include that information as an additional factor. [74:840-4.15]

SUBCHAPTER 15. TIME AND LEAVE

PART 3. ANNUAL AND SICK LEAVE POLICIES

530:10-15-11. Annual leave

(a) Annual leave is intended to be used for vacations, personal business, and other time off work not covered by other paid leave or holiday provisions. An employee may charge family and medical leave, taken in accordance with 530:10-15-45, against annual leave accumulations.

(b) Eligible employees shall accrue annual leave on a calendar month basis [74:840-2.20] in accordance with 530:10-15-10 and the provisions in this subsection.

(1) Annual leave shall be applied for by the employee and shall be used only when approved by the Appointing Authority.

(2) Part-time employees shall accrue annual leave in an amount proportionate to that which would be accrued under full-time employment [74:840-2.20].

(3) Annual leave earned during a pay period shall be prorated in accordance with the days an employee is on the payroll [74:840-2.20].

(4) An Appointing Authority may require an employee to take annual leave whenever in the administrative judgment of the Appointing Authority such action would be in the best interests of the agency; except that the employee shall not be required to reduce accrued annual leave below **5** days. An Appointing Authority shall not apply this rule in lieu of 530:10-11-120. Leaves of absence for internal investigatory purposes shall be administered according to 530:10-11-120.

(5) Unused accrued annual leave shall be accumulated for no more than the maximum leave accumulation limits specified in 530:10-15-10, except as provided in this paragraph. At the discretion of the Appointing Authority, employees may accumulate more than the maximum annual leave accumulation limits shown in the schedule, provided that such excess is used during the same year in which it accrues. Employees shall not be paid for excess leave above the accumulation limit; such excess accumulations shall be used for leave purposes in the agency where it was accrued or, if an employee was transferred to an agency by statute or executive order, in the agency to which the employee was transferred regardless of where the leave was accrued, only while the employee is continuously employed.

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

(7) An employee who transfers to another agency may have accrued annual leave transferred at the option of the Appointing Authority to which transferred, or such

Appointing Authority may require that all or a portion of the annual leave be paid by the agency from which the employee is transferred before the transfer. The amount of annual leave paid by the agency from which the employee is transferred and the amount of annual leave transferred with the employee shall not exceed the accumulation limits established in Section 840-2.20 of Title 74 of the **Oklahoma Statutes**.

(8) Any employee who is separated from the state service shall be paid or shall have payment made to the employee's estate for any annual leave accumulated up to and including the accumulation limit except as otherwise provided in the Merit Rules. Employees who resign from a classified position to accept an unclassified position within the same agency, and employees who resign an unclassified position to accept a classified position within the same agency, are ineligible for payment of accrued annual leave.

(9) Annual leave shall be charged against an employee's annual leave balance based on the amount of time an employee is absent from work during the employee's assigned work schedule. Holidays falling within a period of annual leave shall not be charged to annual leave.

(10) Any probationary or permanent employee who leaves the employ of an agency shall receive payment for the accrued number of hours of annual leave in accordance with the hourly rate. Payment may only be withheld pending settlement of a legal debt to the agency. If a person is reemployed within a period of **1** month from the date of separation, any portion of the accumulated annual leave which has not yet been paid may be reinstated.

PART 5. MISCELLANEOUS TYPES OF LEAVE

530:10-15-57. Paid leave for state employees affected by national disasters

Section 840-2.23A of Title 74 of the **Oklahoma Statutes** establishes eligibility, standards and procedures for paid leave for employees affected by a presidentially-declared national disaster.

SUBCHAPTER 17. EMPLOYEE PERFORMANCE MANAGEMENT SYSTEM AND CAREER ENHANCEMENT PROGRAMS

PART 7. CARL ALBERT PUBLIC INTERNSHIP PROGRAM

530:10-17-84. Executive Fellows program; conversion

(a) **Eligibility.** An Executive Fellow *shall be eligible for appointment to a position in the classified or unclassified service of the state and shall be deemed as meeting all other statutory requirements* if the participant has:

(1) Been certified by the Appointing Authority as having successfully completed a **2**-year internship within a 3-year period; and

(2) *Met all requirements of* education and experience~~; *and*~~

~~(3) Successfully completed any required examination~~ [74:840-3.5].

(b) **Direct conversion.** If there is no break in service after successful completion of a **2**-year internship, the conversion to a position in the classified service shall be exempt from the:

(1) application and certification procedures described in 530:10-9,

(2) probationary period described in Part 3 of 530:10-11, and

(3) posting requirements in Part 5 of 530:10-11, if the conversion is to a job which is consistent with the duties and responsibilities of the Executive Fellow internship.

(c) **Salary upon direct conversion.** If there is no break in service, the salary shall be determined in accordance with 530:10-7-3.

(d) **Conversion following a break in service.** If the Executive Fellow is separated after successful completion of a **2**-year internship and before being converted to the classified service, the agency shall meet the internal posting requirements of Part 5 of 530:10-11 before the person is reinstated and converted to the classified service, and may require a probationary period in accordance with 530:10-9-102.

(e) **Roster.** The Administrator shall maintain a roster of Executive Fellows who have submitted a written request for eligibility for appointment to a position in the classified or unclassified service of the state upon successful completion of a **2**-year Executive Fellows internship. Appointing authorities or their designees may request this roster from the Office of Personnel Management. Additionally, Executive Fellows may make application for employment directly with state agencies. The following requirements must be met before an agency may hire an Executive Fellow from the roster:

(1) The Administrator must certify that the person meets the current minimum qualifications for the job;

(2) The Administrator may require the person to pass a qualifying examination before approving a reinstatement;

(3) The date the person enters on duty in probationary status must be within **2** years after the completion of the Executive Fellows internship;

(4) The person's salary must be set in accordance with 530:10-7-3;

(5) The probationary period must be in accordance with 530:10-11-30; and

(6) The agency must meet internal posting requirements.

PART 17. STATE WORK INCENTIVE PROGRAM

530:10-17-170. Purpose

(a) The rules in this Part establish policies and procedures to implement the State Work Incentive Program in accordance with Section 840-5.16 of Title 74 of the Oklahoma Statutes.

(b) The State Work Incentive Program is aimed at employing participants in the Temporary Assistance to Needy Families Program in Oklahoma <u>and vocational rehabilitation clients of the Department of Rehabilitation Services</u> in entry-level positions within state service. [74:840-5.16]

(c) The rules in this Part, except for Section 530:10-17-177, apply to both merit system and non-merit system agencies employing participants in the State Work Incentive Program. Section 530:10-17-177 shall apply to merit system agencies only.

530:10-17-173. Eligibility and length of appointment

To be eligible for hire under the State Work Incentive Program, a person must be certified as a participant in the Temporary Assistance to Needy Families Program by a State Work Incentive Referral Form issued by the State of Oklahoma Department of Human Services, or be certified as an eligible individual by a State Work Incentive Program Certificate issued by the Department of Rehabilitation Services. Agencies may employ eligible persons in the State Work Incentive Program for up to **2** years in full-time or part-time unclassified status.

SUBCHAPTER 21. EMPLOYEE ASSISTANCE PROGRAMS

PART 1. GENERAL PROVISIONS

530:10-21-1. Purpose and scope

(a) The purpose of the EAP is to *provide assistance to state agencies in their management of employees whose personal problems may have a negative impact on job performance and to provide for assessment ~~and~~, referral, consultation, and problem resolution assistance to state employees and their family members seeking corrective help with medical or mental health problems, including alcohol or drug abuse and emotional, marital, familial, financial or other personal problems* [74:840-2.10(A)].

(b) *The Legislature and the judicial branch of state government may utilize the services of the State Employee Assistance Program at their discretion* [74:840-2.10(G)].

(c) *To ensure equitable treatment of employees,* the rules in this Subchapter shall apply to all agency employee assistance programs in existence or which may be established in the future [74:840-2.10(C)].

530:10-21-2. Definitions

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

"Care-giving resources" means qualified professionals in the public- and private-sectors which offer corrective help with medical, mental health, emotional marital, familial, financial, or other personal problems.

"EAP" means the State Employee Assistance Program within the Office of Personnel Management, and employee assistance programs established by individual state agencies.

"EAP professional" means an individual who provides assessment, referral, consultation, and ~~referral~~ problem resolution assistance through the EAP to employees and family members seeking corrective help with medical or mental health problems, including alcohol or drug abuse and emotional, marital, familial, financial or other personal problems.

"EAP services" means assessment and referral assistance with medical and mental health problems, including alcohol or drug abuse and emotional, marital, familial, financial or other personal problems.

"EAP staff" means an individual who provides administrative support to an EAP professional.

"Employee" means any employee of the executive, legislative, and judicial branches of state government.

"Family members" means members of an employee's immediate family, including spouse, children, parents, grandparents, siblings, and others whose involvement is necessary to resolve the personal problem(s) adversely affecting the employee's job performance.

"Participant" means an employee or family member who is referred to or who consults with the EAP.

"Referral" means an Appointing Authority, supervisor, or other authorized personnel informing an employee of the services and policies of the EAP.

"Threat of violence" means a written, verbal, electronic, or behavioral message that, either explicitly or implicitly, communicates the intent to inflict, or cause to be inflicted, physical harm to persons or property.

"Violence" means physical harm or attempted physical harm to persons or property.

530:10-21-5. EAP records

(a) Records and information that relate to participation by an employee or family member in the EAP *shall be confidential* except as provided in Subsection (b) of this Section [74:840-2.10(D)]. Such records shall not be subject to subpoena [74:840-2.10(D)], and no subpoena or subpoena duces tecum (subpoena for the production of documents) purporting to compel disclosure of such information or record shall be valid.

(b) EAP staff and EAP professionals may have access to EAP records within their agency as necessary to perform the duties and responsibilities of their job. EAP staff and EAP professionals may disclose confidential information relating to a participant under the following circumstances:

(1) The participant consents in writing to the release of information;

(2) The participant's employing agency requests verification of an employee's appointment with an EAP professional for the purpose of granting authorized absence according to 530:10-21-7. The disclosure shall be limited to the date and time of the employee's appointment with the EAP professional;

(3) The EAP professional determines that the participant poses a threat to deliberately harm ~~himself or herself~~ <u>the participant</u> or others [74:840-2.10(D)];

(4) There is *reason to believe that a child under the age of eighteen (18) years has had physical injury or injuries inflicted upon the child by other than accidental means where the injury appears to have been caused as a result of physical abuse, sexual abuse, or neglect* [21:846(A)];

(5) There is *reason to believe that an elderly person or incapacitated adult is suffering from abuse, neglect, or financial exploitation* [43A:10-104(A)];

(6) A court of competent jurisdiction orders the inspection, release, or disclosure of confidential information. ~~Such order shall be entered by the court only after a review of the records by the court and a determination by the court, with due regard for the confidentiality of the records and the privacy of persons identified in the records, that a compelling reason exists and such inspection, release, or disclosure is necessary for the protection of a legitimate public or private interest. The court may condition any~~

~~order for the inspection, release, or disclosure of confidential records on such terms and restrictions as the court deems appropriate.~~

(c) Records and information relating to participation by an employee in the EAP *shall be maintained separate and apart from regular personnel records and shall not become part of the employee's personnel file* [74:840-2.10(D)].

(d) Participants in the EAP shall have a right of access to their own EAP records [74:840-2.10(D)].

(e) The provisions of this Section shall remain effective regardless of whether the participant has ceased participation in the EAP or has terminated employment with the state.

SEE ALSO APPENDIX A. (SALARY SCHEDULE) ON FOLLOWING PAGES

APPENDIX A. SALARY SCHEDULE [REVOKED AND RE-ENACTED]
10% PROPOSED RANGE INCREASE

Pay Band	MINIMUM	MIDPOINT	MAXIMUM
A	$13,731	$14,804	$18,505
B	$13,731	$15,514	$19,393
C	$13,731	$16,413	$20,516
D	$13,731	$17,696	$22,120
E	$14,599	$19,466	$24,332
F	$16,059	$21,412	$26,764
G	$17,665	$23,553	$29,442
H	$19,432	$25,908	$32,385
I	$21,518	$28,691	$35,864
J	$23,657	$31,543	$39,428
K	$25,859	$34,478	$43,098
L	$28,445	$37,926	$47,408
M	$31,573	$42,098	$52,623
N	$35,047	$46,729	$58,411
O	$39,252	$52,336	$65,420
P	$44,354	$59,139	$73,924
Q	$50,122	$66,828	$83,535
R	$56,637	$75,515	$94,394

APPENDIX A. SALARY SCHEDULE (REVOKED AND RE-ENACTED)
13% PROPOSED RANGE INCREASE

Pay Band	MINIMUM	MIDPOINT	MAXIMUM
A	$14,106	$15,208	$19,010
B	$14,106	$15,938	$19,922
C	$14,106	$16,861	$21,076
D	$14,106	$18,178	$22,723
E	$14,997	$19,996	$24,996
F	$16,497	$21,995	$27,494
G	$18,147	$24,196	$30,244
H	$19,961	$26,615	$33,268
I	$22,105	$29,474	$36,843
J	$24,302	$32,403	$40,504
K	$26,564	$35,419	$44,273
L	$29,221	$38,960	$48,701
M	$32,434	$43,246	$54,058
N	$36,003	$48,004	$60,004
O	$40,323	$53,763	$67,204
P	$45,564	$60,752	$75,941
Q	$51,488	$68,651	$85,813
R	$58,181	$77,575	$96,969

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