

TITLE 530. OFFICE OF PERSONNEL MANAGEMENT
CHAPTER 10. MERIT SYSTEM OF PERSONNEL ADMINISTRATION RULES
SUBCHAPTER 3. AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT OPPORTUNITY

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PART 1. DISCRIMINATION

530:10-3-1. Purpose

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

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

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

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

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

(d) *No employee, examiner or other person shall deny, deceive or obstruct any person in his or her right to examination, eligibility, certification or ap-*

pointment or furnish to any person any special or secret information for the purpose of effecting the rights or prospects of any person with respect to employment in the classified service [74:840-2.9(D)].

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

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

530:10-3-3. Sexual harassment

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

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

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (2) submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

PART 2. DISCRIMINATION COMPLAINTS INVESTIGATIONS

530:10-3-20. Purpose

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

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

530:10-3-21. [RESERVED]

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

(a) Unless otherwise provided by state or federal law, all persons who are designated to investigate complaints of employment discrimination in executive branch agencies shall 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.

530-10-3-23. [RESERVED]

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

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

530:10-3-25. [RESERVED]

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

(a) The Administrator may approve training that is not conducted by the Office of Personnel Management as meeting the four days of initial discrimination complaints investigator training required in 530:10-3-22.

(b) To request approval of discrimination complaints investigation training, an Appointing Authority shall submit the following course information to the Administrator for review:

(1) Course title and a brief description;

(2) Classroom hours or Continuing Education Units (CEUs); and

(3) Course outline.

(c) The Office of Personnel Management shall maintain lists of approved discrimination complaint investigation training courses, and may withdraw its approval of courses by notifying employing agencies.

(d) Persons who complete approved training courses shall submit proof of completion that is acceptable to the Administrator.

(e) The Administrator shall send notice of the acceptability of training to a person submitting proof of completion. If the person is a state employee, the Administrator shall also send the notice to the Appointing Authority.

PART 3. AFFIRMATIVE ACTION

530:10-3-30. Purpose

The purposes of the rules in this Part are to [i]mplement state affirmative action policies, and assure equal employment opportunity [74:840-1.6A(7)] and to implement Sections 840-2.1 through 840-2.4 of the Oklahoma Personnel Act. The Administrator intends for these rules to provide a set of specific and results-oriented programs to which an Appointing Authority commits himself or herself to apply every good faith effort to achieve prompt and full utilization of women and minorities at all levels and in all segments of the work force where deficiencies exist [74:840-2.1(J)].

530:10-3-31. Adoption of affirmative action plans

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)].

530:10-3-32. Affirmative action plan filing requirements [REVOKED]

530:10-3-33. Standards for affirmative action plans

(a) The provisions of this Section and 530:10-3-33.1 through 530:10-3-33.11 comprise the standards for agency affirmative action plans.

(b) *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.**

(c) An Appointing Authority shall submit a corrected plan within **30** days after the date of notice from the Administrator that a previously submitted plan does not meet one or more specified standards.

(d) Affirmative action plans for executive branch agencies authorized **15** or more full-time-equivalent employees shall meet all of the required standards described in 530:10-3-33 through 530:10-3-33.11.

(e) Affirmative action plans for executive branch agencies authorized fewer than **15** full-time-equivalent employees shall contain the required standards described in 530:10-3-33 through 530:10-3-33.4 and 530:10-3-33.8 through 530:10-3-33.10.

530:10-3-33.1. Equal employment opportunity policy statement

All affirmative action plans shall contain an equal employment opportunity policy statement signed annually by the Appointing Authority. This policy shall include but not be limited to:

- (1) A statement and affirmation or reaffirmation of the Appointing Authority's equal employment opportunity policy;
- (2) The Appointing Authority's directions for employment decisions; and
- (3) A statement of the Appointing Authority's personal acceptance of overall responsibility for equal employment opportunity and affirmative action.

530:10-3-33.2. Responsibility for affirmative action and equal employment opportunity

All affirmative action plans shall include identification of persons responsible for equal employment opportunity within the agency and a description of their equal employment opportunity responsibilities. The list shall include but not be limited to:

- (1) **The Appointing Authority.** The affirmative action plan shall describe the Appointing Authority's personal overall responsibility for equal employment opportunity and affirmative action within the agency;
- (2) **The primary equal employment opportunity officer and assistants.** The affirmative action plan shall include names and job titles of persons who have primary responsibility for affirmative action plan implementation and equal employment opportunity within the agency according to 530:10-3-72;
- (3) **Managers and Supervisors.** The Appointing Authority shall describe the responsibility managers and supervisors have for assuring equal employment opportunity in all personnel decisions. The Appointing Authority may identify specific managers and supervisors or various levels of managers and supervisors with specific responsibilities for assuring equal employment opportunity is considered in making personnel decisions within the agency; and
- (4) **Employees.** The Appointing Authority shall describe the responsibility of all agency employees to contribute to equal employment opportunity within the agency.

530:10-3-33.3. Dissemination of affirmative action plans

All affirmative action plans shall include a description of the methods to be used for internal and external dissemination of the affirmative action policy and plan. The Appointing Authority shall sepa-

rately address how the affirmative action policy and the affirmative action plan shall be disseminated both internally and externally.

530:10-3-33.4. Present staffing report

All affirmative action plans shall include a report of the distribution of employees among the EEO job categories as of June 30 immediately before the beginning of the new affirmative action plan period. On a form prescribed or approved by the Administrator, the Appointing Authority shall list the total number of full-time employees listed by male, female, individual minority, and total minority within each EEO job category.

530:10-3-33.5. Job group analysis

Affirmative action plans for agencies authorized 15 or more full-time-equivalent employees shall include an analysis of the racial or ethnic and sexual composition of the present workforce by job groups. Job groups shall be based on similar work content, advancement opportunities, and rate of pay. Appointing Authorities shall:

- (1) Use the EEO job categories as a basis for job group analysis; however an Appointing Authority may subdivide an EEO job category into several job groups;
- (2) Assign all jobs to job categories using the EEO job category listing published by the Administrator unless the level of assigned responsibility for the job family within the agency matches the description for another category better than the category listed in the Administrator's publication;
- (3) List the number of employees and the total number of male, female, total minority and individual employees in each job group; and

(4) Complete a form prescribed or approved by the Administrator to record job group analysis data. The form shall provide spaces for job group information, including but not limited to: EEO job category and job group, salary or pay band, job titles, numbers of employees by job title, group, and category.

530:10-3-33.6. Availability analysis

Affirmative action plans for agencies authorized 15 or more full-time-equivalent employees shall include an analysis of the number of minorities and females available to the workforce of the agency. An Appointing Authority shall:

- (1) Prepare an availability analysis for each job group;
- (2) Use the "Labor Force Information for Affirmative Action Programs" published by the Oklahoma Employment Security Commission to obtain the raw availability percentage of minorities and females in the workforce, unless more

appropriate data is available;

(3) Consider all of the following availability factors and use at least one of the most appropriate considering how individuals are usually selected for employment within each job group:

(A) Percentage of minority population of the labor area surrounding the facility and the percentage of women seeking employment in the labor area surrounding the facility;

(B) Rate of minority or female unemployment in the surrounding labor area;

(C) Percentage of minorities or females in total work force in the immediate labor area;

(D) Availability of minorities or females with the requisite skills in the immediate labor area;

(E) Availability of minorities or females having requisite skills in the area which the agency can reasonably recruit;

(F) Percentage of minorities or females promotable and transferable within the agency's organization in the labor area. Unless a greater weight is approved by the Administrator, the weight for this factor shall not exceed 15%;

(G) The existence of training institutions capable of training persons in the necessary skills;

(H) Estimate of training efforts the agency is reasonably able to undertake to make the job group available to minorities and females; and

(I) Other relevant factors if approved by the Administrator;

(4) Determine the appropriate geographic area for each factor used. This shall include the recruitment area from which most employees are drawn and may vary between factors according to which table in the OESC State of Oklahoma Labor Force Information for Affirmative Action Programs is used;

(5) Weight each factor used. The weight shall represent the percentage of all employees in the job group who come from the source referenced in a particular factor, and the total of all factors used shall always equal 100%; and

(6) Complete a form prescribed or approved by the Administrator to record availability analysis. The form shall provide spaces for availability information, including but not limited to: EEO job category and job group data, raw availability statistics, availability factors, weight factors, labor and recruitment areas, sources of data, and final availability percentage.

530:10-3-33.7. Utilization analysis

(a) Affirmative action plans for agencies authorized 15 or more full-time-equivalent employees shall in-

clude an analysis of the utilization of minorities and females in the agency's workforce for June 30th of each year. A second utilization analysis for December 31st of each year shall be submitted separately to the Office of Personnel Management by March 1st of each year.

(b) Appointing Authorities shall use a commonly-recognized statistical method to determine if underutilization exists, i.e., there are fewer minorities or women in a particular job group than would reasonably be expected by their availability.

(1) Agencies authorized less than **200** full-time-equivalent employees shall use the "80% method" to determine underutilization, unless another method is approved by the Administrator. The "80% method" declares underutilization to exist if the females or minorities in a job group are less than 80% of their availability or if the number of females or minorities in a job group is zero.

(2) Agencies authorized **200** or more full-time-equivalent employees shall use the "80% method" as described in paragraph (1) of this subsection, or may use one of the following methods:

(A) The "whole person" method. When this method is used, underutilization is declared if the number of females or minorities is as much or more than one person below the number that would cause the job group representation percentage to match exactly the availability percentage.

(B) The "two standard deviation" method. When this method is used, underutilization is declared if the number of females or minorities in a job group is more than two standard deviations below availability.

(C) Another method approved by the Administrator.

(c) Appointing Authorities shall complete a form prescribed or approved by the Administrator to show a comparison of the actual employment of minorities and women with their relative availability in the applicable job groups. The form shall provide spaces for summary information, including but not limited to: total staffing, numbers of minorities and females, final availability percentages, job group percentages, and determination of underutilization.

(d) A declaration of underutilization in an affirmative action plan shall not constitute an admission of wrongdoing or a determination that discriminatory practices are occurring in the agency.

530:10-3-33.8. Personnel transaction report [AS AMENDED EFFECTIVE 7/1/01]

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 or to a lower level in the same job family;

(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.

530:10-3-33.9. Evaluation of preceding years' AA and EEO efforts

(a) All affirmative action plans shall include a narrative evaluation of affirmative action and equal employment opportunity. The narrative shall include but not be limited to descriptions of:

- (1) good faith efforts to achieve any goals and timetables established in the preceding plan;
- (2) actions taken to correct any problem areas identified in the preceding year; and
- (3) the status of recruitment, hiring, and promotion of females, males, and minorities within job categories.

(b) All affirmative action plans shall include a list of the number of new hires for the past 3 years on a form prescribed or approved by the Administrator. The form shall provide spaces for staffing information, including but not limited to: total hires during each period and totals for the 3-year period with sub-totals for individual minorities, total minorities, males and females.

530:10-3-33.10. Identification and analysis of problem areas; corrective action

All affirmative action plans shall include identification and analysis of any problem areas. This shall include but not be limited to, a summary of a review of all personnel policies, procedures, and practices that may influence the effectiveness of equal employment opportunity and affirmative action efforts. For each problem area identified, the Appointing Authority shall include:

- (1) a clear description of the problem;
- (2) a general statement of commitment to lessen the problem;
- (3) a description of results-oriented action plans to correct the problem;
- (4) a timetable for correcting the problem; and
- (5) assignment of responsibility for corrective action.

530:10-3-33.11. Goals and timetables

(a) Affirmative action plans for agencies authorized 15 or more full-time-equivalent employees shall include flexible goals and timetables for job groups in the agency's workforce that show underutilization. Agencies using the "80% method" are not required to establish hiring goals for females and each minority group that is underutilized within a job group. For each job group in which underutilization is found for minorities or females, an Appointing Authority shall consider affirmative action to increase the representation of the group that is underutilized. An Appointing Authority shall:

- (1) List job groups that show underutilization and the number of new hires projected during the affirmative action plan period;

(2) Set goals for job groups showing underutilization; and

(3) Complete a form prescribed or approved by the Administrator which shall include but not be limited to spaces for job groups, minorities and females, projected appointments, annual placement goals for new hires and promotions (optional) and for ultimate goals (optional).

530:10-3-34. Workforce data requirements

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.

530:10-3-35. Affirmative action plan periods; continuation of

Affirmative action plan reporting periods shall be from July 1 of one year through June 30 of the following year. However, approved affirmative action plans shall be effective from the date of approval through the following August 31. The Administrator may extend the effective date of approved affirmative action plans through December 31.

530:10-3-36. Review of affirmative action plans by Affirmative Action Review Council and the Administrator

(a) Affirmative action plans submitted by executive branch agencies, except institutions within The Oklahoma State System of Higher Education, shall be subject to the approval of the Administrator [74:840-2.1(B)]. **The Administrator shall submit all plans received by September 1 to the Affirmative Action Review Council for the Council's review before December 1.**

(b) The Council shall review plans for compliance with the standards adopted by the Administrator in 530:10-3-33 through 530:10-3-33.11 [74:840-2.1(H)(4)(b)].

(1) The Administrator shall notify an Appointing Authority in writing a minimum of 7 calendar days before the meeting at which the Council is scheduled to review the Appointing Authority's affirmative action plan.

(2) If an agency is authorized 15 or more full-time-equivalent employees, the Appointing Authority, or a designee of the Appointing Authority, shall appear at the meeting of the Council at which the Council is scheduled to review the affirmative action plan. Failure by the Appointing Authority or designee to attend such meeting may result in a recommendation by the Council that the Administrator reject the agency's affirmative action plan.

(3) The Council shall, by affirmative vote of a

majority of a quorum of the members present, recommend that the Administrator reject any affirmative action plan that is not in compliance with one or more of the standards for agency affirmative action plans in 530:10-3-33 through 530:10-3-33.11.

(c) The Administrator shall reject the affirmative action plan of any executive branch agency which is not in compliance with the standards in 530:10-3-33 through 530:10-3-33.11 and the rules in this Subchapter upon recommendation of the Council and shall so notify the Appointing Authority of the agency. By December 31, the Administrator shall approve any plan which has been reviewed by the Council and which is in compliance with the standards in 530:10-3-33 through 530:10-3-33.11 and the rules in this Subchapter. The Administrator shall notify the Appointing Authority of the approval or rejection of the agency's affirmative action plan.

530:10-3-37. [RESERVED]

530:10-3-38. [RESERVED]

530:10-3-39. Preparation of the annual status report on equal employment opportunity and affirmative action in state government

(a) On or before January 1 of each year, the Administrator shall submit a report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor. The report shall state the efforts and progress made by state agencies, except institutions within The Oklahoma State System of Higher Education, in the area of affirmative action, including the status of recruitment, hiring, and promotion of women, men, and minorities within job categories [74:840-2.1(C)].

(b) The Council shall assist the Administrator in preparing the annual status report on equal employment opportunity and affirmative action in state government [74:840-2.1(H)(1)].

**PART 5. NONCOMPLIANCE,
INVESTIGATIONS,
HEARINGS, AND REMEDIES**

530:10-3-50. [RESERVED]

530:10-3-51. [RESERVED]

530:10-3-52. Failure to submit an affirmative action plan on time

(a) If the Appointing Authority fails to submit or resubmit an affirmative action plan as required in 530:10-3-33, the Administrator shall take the following actions unless the Administrator finds compelling reasons why they should not be taken.

(1) Within 7 calendar days following September 1 or any deadline for resubmission, the Administrator shall submit a written notice to the

Appointing Authority that the affirmative action plan is late; and

(2) If an affirmative action plan is not received within 30 days after any deadline for its submission or resubmission, the Administrator shall submit written notice to any governing body of the agency, to the appropriate Cabinet Secretary, and to the Affirmative Action Review Council.

(3) If an affirmative action plan is not received within 60 days after any deadline for its submission or resubmission, the Administrator shall submit written notice to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

(b) Failure to submit or resubmit an affirmative action plan by any deadline may result in the Appointing Authority being recorded in the report described in 530:10-3-39 as being in noncompliance with the Oklahoma Personnel Act and standards for affirmative action plans.

530:10-3-53. [RESERVED]

530:10-3-54. Failure to make significant progress; pattern of noncompliance

(a) If, after notice and a hearing pursuant to Article II of the Administrative Procedures Act [74:308a et seq.], the Administrator finds that an agency has failed to make significant progress toward affirmative action goals or has a pattern of noncompliance with affirmative action goals, the Administrator may:

(1) Require the *noncomplying appointing authority to participate in programs for special recruiting efforts* [74:840-2.1(G)(1)(a)];

(2) Develop *training programs to enhance promotability of minorities within agencies and supervisory training in equal employment opportunity employment, affirmative action, managing workplace diversity* [74:840-2.1(G)(1)(b)];

(3) Require *mandatory review and approval of all hiring decisions by an appointing authority by the Administrator if the Administrator can document a pattern of noncompliance in previous remedial actions pursuant to this subsection or appointment of a full-time affirmative action officer to any agency in noncompliance with affirmative action remedies* [74:840-2.1(G)(1)(c)].

(b) If the Administrator determines that none of the remedies in subsection (a) of this Section are appropriate, the Administrator may remove personnel function(s) relating to recruitment, hiring, or promotion from the appointing authority and place that function with the Administrator of the Office of Personnel Management. Removal of personnel functions under this subsection shall require:

(1) A determination by the Administrator that a pattern of noncompliance with affirmative action

goals exists at an agency;

(2) A determination by the Administrator that the Office of Personnel Management has sufficient resources;

(3) Documentation by the Administrator of a pattern of noncompliance with the affirmative action plan;

(4) A vote by two-thirds of the Affirmative Action Council recommending that the Administrator remove personnel functions.

(c) Removal of personnel functions under subsection (b) shall terminate one calendar year from the removal of the function unless the Administrator is able to demonstrate that the restoration of personnel functions to the appointing authority will result in further noncompliance with the affirmative action plan. A vote of two-thirds of the Affirmative Action Council shall be necessary to continue the removal of personnel functions for each additional year.

PART 7. AFFIRMATIVE ACTION AND CIVIL RIGHTS PERSONNEL

530:10-3-70. [RESERVED]

530:10-3-71. [RESERVED]

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

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

530:10-3-73. [RESERVED]

530:10-3-74. [RESERVED]

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

(a) Personnel selected by Appointing Authorities to fill full-time Civil Rights Administrator positions in the classified service shall meet the minimum re-

quirements contained in the job family descriptor for these jobs.

(b) Personnel selected by Appointing Authorities to fill full-time civil rights or affirmative action administrator, coordinator or officer positions in the unclassified service shall meet the requirements as provided in a job description approved by the Administrator.

(c) Other classified and unclassified personnel designated by Appointing Authorities to perform civil rights/affirmative action duties on a part-time basis shall have knowledge of: federal and state civil rights laws; affirmative action and equal employment laws; and Oklahoma state government personnel practices and procedures.

530:10-3-76. [RESERVED]

530:10-3-77. [RESERVED]

530:10-3-78. Training requirements for affirmative action and civil rights personnel

(a) Individuals who are designated by Appointing Authorities as civil rights administrators, coordinators, or affirmative action officers in the executive branch agencies shall complete a minimum of **6** hours of classroom instruction or **0.6** Continuing Education Units (CEU's) in training per calendar year in one of the following areas:

(1) EEO/Affirmative action laws, including the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., and Section 504 of the Federal Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq., and court cases;

(2) Investigating discrimination complaints;

(3) Personnel practices and procedures;

(4) Alternative dispute resolution; and

(5) Diversity and multi-culturalism.

(b) Individuals may request approval from the Administrator for training in other areas not listed above.

(c) Completion of training requirements must be reported to the Administrator by December 31st of each year.

(d) Appointing authorities will be notified of individuals failing to complete the training requirements.

(e) Employees of the Human Rights Commission and Merit Protection Commission are exempt from this section.

(f) Persons investigating complaints of discrimination must complete the training requirements for discrimination complaints investigators and be certified by the Administrator under 530:10-3-22.