

OPM 99-42

June 25, 1999

TO: All Appointing Authorities

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

RE: **Supplement to the Merit Rules for Employment**

Permanent amendments to the *Merit Rules for Employment* become effective July 1, 1999. Enclosed please find a copy of the new July 1999 *Supplement to the Merit Rules for Employment* which includes all rule changes since the publication of the August 1, 1997 rulebook. To have a complete set of Merit Rules, you need the August 1, 1997 rulebook and the July 1999 supplement. **Please copy and distribute the supplement to your employees. Discard previous supplements.**

The rules are also available in electronic format on the Office of Personnel Management's website at <http://www.state.ok.us/~opm/policy/rules/rule.html>. We also have rules adopted by the OPM Administrator available in Rich Text Format (RTF) on a floppy disk. We have found that most modern text editors such as Microsoft Word and WordPerfect can open RTF files. Please contact Kimberlee Williams, Chief Policy Attorney, at (405) 521-2160 if you want a copy of the rules on floppy disk or if you have any questions.

Enclosure: July 1999 *Supplement to the Merit Rules for Employment*

**TITLE 530. OFFICE OF PERSONNEL MANAGEMENT
CHAPTER 10. MERIT SYSTEM OF PERSONNEL ADMINISTRATION RULES**

Introduction:

This document contains permanent amendments to the Merit Rules adopted by the Administrator of the Oklahoma Office of Personnel Management that became effective on July 1, 1999. This document also contains other amendments that have been made since the publication of the Merit Rules for Employment dated August 1, 1997. This document is a supplement to the Merit Rules for Employment dated August 1, 1997. For a complete set of all currently effective Merit Rules, you need the Merit Rules for Employment dated August 1, 1997, and this supplement.

SUBCHAPTER 1. GENERAL PROVISIONS**PART 1. GENERAL PROVISIONS****530:10-1-2. Definitions [AS AMENDED EFF. 7/1/98]**

In addition to terms defined in OAC 455:10-1-2, the following words and terms, when used in the Merit Rules, shall have the following meaning, unless the context clearly indicates otherwise.

"Absence without leave" and **"unauthorized absence"** means any absence of an employee from duty without specific approval.

"Absolute preference veteran" means a veteran eligible for placement at the top of registers for appointment to the classified service because of a service-connected disability of **30%** or more.

"Act" means the Oklahoma Personnel Act.

"Administrator" means the appointing authority of the Oklahoma Office of Personnel Management [74:840-1.3]. As the term is used in the Merit Rules, the term includes employees of the Office of Personnel Management to whom the Administrator has lawfully delegated authority to act on his or her behalf. The term, as used in the Merit Rules, may also include Appointing Authorities to whom the Administrator has delegated authority under a duly executed delegation agreement.

"Adverse impact" or **"disparate impact"** means a substantially different rate of selection in hiring, promotion, or other employment decision which works to the disadvantage of members of a race, sex, or ethnic group. A common yardstick for determining adverse impact is the **"4/5ths rule"** which indicates adverse impact if the selection rate for any protected group is less than 4/5ths (80%) of the selection rate of the group with the highest selection rate.

"Agency" means any office, department, board, commission or institution of the executive branch of state government [74:840-1.3].

"Allocation" or **"Position allocation"** means the process of designating to which established class a position is assigned. A position is assigned on the basis of duties, authority, responsibilities, classification guides, and other appropriate factors.

"Appointing authority" means the chief administrative officer of an agency [74:840-1.3]. As the term is used in the Merit Rules, the term includes employees of an agency to whom the Appointing Authority has lawfully delegated authority to act on his or her behalf.

"Balanced and representative work force" means a work force whose composition at all levels approximates the composition of the relevant civilian labor force in terms of race, sex, and ethnicity.

"Base pay", **"base rate"**, or **"base salary"** means the hourly rate or salary established for a job performed. It does not

include shift differentials, benefits, overtime, incentives, longevity, or any other pay elements.

"Certification", in the context of initial classified appointments, means the submission of available names of eligibles from the appropriate register to an Appointing Authority. Such a list is called a **"certificate"**. Individuals whose names appear on the certificate are said to be **"certified"**. In the context of all other types of appointments, certification means the determination by the Office, or by an Appointing Authority to whom the Administrator has delegated authority, that a candidate possesses permanent classified status or is eligible for reinstatement to permanent classified status, and meets requirements for appointment to a specified class in the classified service.

"Class" or "class of positions" [except as provided in 530:10-13-31], means positions that are sufficiently similar in duties, levels of responsibility, and requirements of the work to warrant similar treatment as to title, pay grade, and minimum qualifications [74:840-1.3].

"Class specification" means a written document that describes a class [74:840-1.3].

"Classification" means the process of placing an employee into a class.

"Classification plan" means the orderly arrangement of positions within an agency into separate and distinct classes so that each class will contain those positions which involve similar or comparable skills, duties and responsibilities [74:840-1.3].

"Classified employee" means an employee in the classified service, or an employee currently on leave from the classified service in accordance with established Merit Rules governing leave.

"Classified service" means state employees and positions under the jurisdiction of the Oklahoma Merit System of Personnel Administration [74: 840-1.3].

"Commission" means the Oklahoma Merit Protection Commission [74:840-1.3].

"Compensation plan" means a schedule of salaries or hourly wages established for the classes recognized in the agency classification plan so that all positions of a given class within an agency may be paid the same salary range established for the class.

"Consider" means a reasonable judgment based on job related criteria and on an individual's fitness for duties for initial or internal appointment.

"Demotion" means the reclassification of a classified employee from a position in a given class to a position in a lower class. The lower class shall have a lower grade assigned. Demotion may be voluntary or involuntary.

"Direct reclassification" means a change made in a classified employee's classification by an Appointing Authority as a result of the adoption of a new and more appropriate class specification.

"Discharge" is defined in 455:10-11-3.

"Displacement" or **"displace"** means the process of an employee accepting an offer of employment to an occupied or funded vacant position [74:840-2.27B].

"EEO Job Categories", as used in the context of affirmative action/equal employment opportunity, means the following occupational categories:

(A) **Officials and Administrators:** Occupations in which employees set broad policies, exercise overall responsibility for execution of these policies, or direct individual departments or special phases of the agency's operations, or provide specialized consultation on a regional, district, or area basis.

(B) **Professionals:** Occupations which require specialized and theoretical knowledge which is usually acquired through college training or through work experience and other training which provides comparable knowledge.

(C) **Technicians:** Occupations which require a combination of basic scientific or technical knowledge and manual skill which can be obtained through specialized post-secondary school education or through equivalent on-the-job training.

(D) **Protective Service Workers:** Occupations in which workers are entrusted with public safety, security and protection from destructive forces.

(E) **Paraprofessionals:** Occupations in which workers perform some of the duties of a professional or technician in a supportive role, which usually require less formal training and/or experience normally required for professional or technical status.

(F) **Administrative Support (Including Clerical and Sales):** Occupations in which workers are responsible for internal and external communication, recording and retrieval of data and/or information and other paperwork required in an office.

(G) **Skilled Craft Workers:** Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs.

(H) **Service-Maintenance:** Occupations in which workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or which contribute to the upkeep and care of buildings, facilities or grounds of public property.

"Eligible" means a person who has met all requirements for appointment to a given class.

"Employee" or **"state employee"** means an elected or appointed officer or employee of an agency unless otherwise indicated [74:840-1.3].

"Entrance examination" means any employment test used by the Office of Personnel Management to rank the names of applicants who possess the minimum requirements of education, experience, or licensure for a class on a register of eligibles established by the Office of Personnel Management [74:840-1.3].

"Executive Director" means the appointing authority of the Oklahoma Merit Protection Commission [74:840-1.3].

"FEPA" means the Oklahoma Fair Employment Practices Act, Section 840-4.12 (I) of the Oklahoma Personnel Act.

"FLSA" means the federal Fair Labor Standards Act.

"FLSA exempt" means employees performing work which is considered to be exempt from the overtime payment provisions of the FLSA.

"FLSA non-exempt" means employees performing work which is considered to be under the overtime payment provisions of the FLSA.

"Grade" means the pay range assigned to a class.

"Hiring rule" refers to the names of the top 10 available eligibles certified to an Appointing Authority by the Administrator.

"In-class transfer" means a reassignment of a classified employee from one position to another position in the same class in the classified service.

"Initial appointment" or **"original appointment"** means the act of an Appointing Authority hiring a person, usually from a certificate, for a probationary period. Contrast the meaning of these terms with "internal action" and "internal appointment" which are also defined in this Section.

"Interagency transfer" means an action in which an employee leaves employment with one agency and enters employment with another agency while continuously employed with the state [74:840-1.3].

"Internal action" or **"Internal appointment"** means the reclassification or in-class transfer of a current employee or the reinstatement, recall or reemployment from a Priority Reemployment Consideration Roster of a former employee.

"Intra-agency transfer" means moving an employee from one position to another position with the same agency either with or without reclassification [74:840-1.3].

"Job-related organization" means a membership association which collects annual dues, conducts annual meetings and provides job-related education for its members and which includes state employees, including any association for which payroll deductions for membership dues are authorized pursuant to paragraph 5 of subsection B of Section 7.10 of Title 62 of the Oklahoma Statutes [74:840-1.3].

"Lateral transfer" means reclassification of an employee to another class with the same salary grade [74:840-1.3].

"Leave of absence without pay" means leave or time off from duty granted by the Appointing Authority, for which period the employee receives no pay.

"Manifest imbalance" means representation of females, Blacks, Hispanics, Asian/Pacific Islanders and American Indians/Alaskan natives in specific job groups or EEO job categories within the agency's work force that is substantially below its representation in the appropriate civilian labor force.

"Merit Rules" or **"Merit Rules for Employment"** or **"Merit System of Personnel Administration Rules"** means rules adopted by the Administrator of the Office of Personnel Management or the Oklahoma Merit Protection Commission pursuant to the Oklahoma Personnel Act [74:840-1.3]. Merit Rules adopted by the Administrator are in OAC 530:10, and Merit Rules adopted by the Commission are in OAC 455:10.

"Merit System" means the Oklahoma Merit System of Personnel Administration [74:840-1.3].

"Minimum qualifications" means the requirements of education, training, experience and other basic qualifications for a class.

"Minority" means a person who appears to belong, identify with, or is regarded in the community as belonging to one of the following racial or ethnic groups:

(A) **"Black"**, meaning all persons having origins in any of the Black racial groups of Africa;

(B) **"Hispanic"**, meaning all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;

(C) **"Asian or Pacific Islander"**, meaning all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.

(D) **"American Indian or Alaskan Native"**, meaning all persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition. For affirmative action purposes, persons who are reported as American Indian shall verify 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 tribal affiliation [74:840-2.1(E)].

"New position" means a position not previously existing.

"Noncompetitive appointment" means the appointment of a person to a noncompetitive class [74:840-1.3].

"Noncompetitive class" means a class of positions of unskilled or semiskilled labor or a similar class designated by the Office of Personnel Management as noncompetitive [74:840-1.3].

"Office" means the Office of Personnel Management [74:840-1.3].

"Oklahoma Personnel Act" means Sections 840-1.1 et seq. of Title 74 of the **Oklahoma Statutes**, creating the Merit System of Personnel Administration and any amendments or supplements.

"Part-time employee" means an employee who works less than full time.

"Payline" means the relationship between the rate of pay of a particular classification and the assigned job evaluation points for the same classification.

"Permanent employee" means a classified employee who has acquired permanent status in the classified service according to the Act and the Merit Rules.

"Position" means a group of specific duties, tasks and responsibilities assigned by the Appointing Authority to be performed by one person; a position may be part time or full time, temporary or permanent, occupied or vacant.

"Priority reemployment consideration" means the requirement that Appointing Authorities consider eligible former state employees who were separated as a result of a reduction-in-force whose names appear on Priority Reemployment Consideration Rosters before any vacant position is filled by any eligible initially appointed from an employment register.

"Probationary employee" means a classified employee who has not acquired permanent status in the classified service in accordance with the Act and the Merit Rules.

"Probationary period" means a working test period during which a classified employee is required to demonstrate fitness for the class to which appointed by the satisfactory performance of the duties and responsibilities of the class.

"Promotion" means the reclassification of a classified employee from a position in a lower class to a position in a higher class in the classified service. The higher class shall have a higher grade assigned.

"Promotional examination" means any employment test designated by the Office of Personnel Management to determine further the qualifications of a permanent classified employee of a state agency for employment in a different class for which the employee possesses the minimum qualifications of education, experience, or licensure within that agency [74:840-1.3].

"Reallocation" or **"Position reallocation"** means the process of reassigning an established position, occupied or vacant, from one class to another.

"Recall right" means the entitlement of an eligible person to be offered reappointment to the class from which removed by a reduction-in-force before any other person may be appointed, except by recall.

"Reclassification" means the process of changing a classified employee from one class to another class in the classified service.

"Register" means a list of eligibles for original probationary appointment to a class.

"Register life" means the length of time during which a person's name may be continuously or intermittently on a register as a result of an entrance examination.

"Regular and consistent" means, in connection with an employee's work assignments, the employee's usual and normal work assignments, excluding incidental, casual, occasional tasks, and activities the employee assumes without direction to do so. Temporary work assignments of less than **60** days in any **12** month period are not considered regular and consistent.

"Regular unclassified employee" means an unclassified service employee who is not on a temporary or other time-limited appointment [74:840-1.3].

"Reinstatement" means the reappointment of a former permanent classified employee as provided in the Merit Rules or the replacing of an eligible's name on a register.

"Resignation" means an employee's voluntary termination of his or her employment with the state. In the case of a classified employee, it includes the forfeiture of status in the classified service.

"Senior EEO Investigator" means a person who has been designated by the Administrator to provide advice and support to persons completing the training requirements for discrimination complaints investigators as described in 530:10-3-22.

"Series" means a group of classes identified by the Administrator that are in the same job family and involve the same type of work, as represented on the job description, but which are different in level of difficulty, supervision received, responsibility, and grade. Classes in a series often have the same title distinguished by roman numerals or other modifiers, such as, senior, supervisor, trainee, etc.

"Specification", also called **"Class specification"**, means the written document that describes a class.

"Successor class" means a class that takes the place of another class either in whole or in part.

“Supervisor” means a classified or unclassified employee [within the executive branch, excluding employees within The Oklahoma State System of Higher Education 74:840-3.1(A)] who has been assigned authority and responsibility for all of the following functions on a continuous and uninterrupted basis with respect to subordinates:

- (A) Assigning work to subordinates and making sure work is performed correctly and in a timely manner;
- (B) Training subordinates in the performance of their assigned duties or planning and directing such training through subordinates;
- (C) Reviewing work performance of subordinates; and
- (D) Participating in [sharing responsibility for] determining appropriate personnel actions regarding subordinates such as performance appraisal, discipline, and corrective action [74:840-3.1(C)].

“Trial period” means a working test period after promotion or voluntary demotion during which a classified employee is required to demonstrate satisfactory performance in the class to which promoted or voluntarily demoted before acquiring permanent status in the class.

“Unclassified service” or **“exempt service”** means employees and positions excluded from coverage of the Oklahoma Merit System of Personnel Administration [74:840-1.3]. Such employees and positions are subject to various provisions of the Oklahoma Personnel Act and the Merit Rules.

“Veteran” means a person who has been honorably discharged from the Armed Forces of the United States and who has been a resident of Oklahoma for at least 1 year before the date of examination [74:840-1.3].

PART 5. MODEL PROJECTS

530:10-1-60. Purpose [NEW PERMANENT RULE EFF. 7/1/98]

The purpose of model projects is to allow agencies to design model human resource projects to test and evaluate the effect of innovative policies, standards, and procedures. [74:840-1.15]

530:10-1-61. Authorization of model projects [NEW PERMANENT RULE EFF. 7/1/98]

The Administrator may approve applications for model projects after review and approval of the project by the Human Resources Management Advisory Committee. Approval of an application for a model project by the Administrator shall constitute authority for the agency to implement the approved model project for a length of time to be specified by the Administrator. [74:840-1.15]

530:10-1-62. [Reserved]

530:10-1-63. [Reserved]

530:10-1-64. [Reserved]

530:10-1-65. Effect of Merit Rules on model projects [NEW PERMANENT RULE EFF. 7/1/98]

The Administrator may waive applicability of Merit Rules adopted by the Administrator if necessary to implement a model project approved by the Human Resources Management Advisory Committee and the Administrator. The waiver shall apply only to the model project specified by the Administrator and shall be effective only for the duration of the model project.

The waiver shall end immediately upon termination or completion of the model project.

SUBCHAPTER 3. AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT OPPORTUNITY

PART 3. AFFIRMATIVE ACTION

530:10-3-31. Adoption of affirmative action plans [AS AMENDED EFF. 7/1/98]

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)].

530:10-3-33. Standards for affirmative action plans [AS AMENDED EFF. 7/1/98]

(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.

530:10-3-36. Review of affirmative action plans by Affirmative Action Review Council and the Administrator [AS AMENDED EFF. 7/1/98]

(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.

530:10-3-39. Preparation of the annual status report on equal employment opportunity and affirmative action in state government [AS AMENDED EFF. 7/1/98]

(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)].

SUBCHAPTER 5. POSITION ALLOCATION AND EMPLOYEE CLASSIFICATION SYSTEM

PART 1. GENERAL PROVISIONS

530:10-5-1. Purpose [AS AMENDED EFF. 7/1/98]

The purposes of the rules in this Subchapter are to establish:

- (1) an employee classification system for all classified employees; and
- (2) standards and procedures for conducting audits of positions.

530:10-5-2. Authority and responsibility of the Office of Personnel Management [AS AMENDED EFF. 7/1/98]

(a) The Office of Personnel Management shall develop and maintain a classification system [74:840-2.12(4)] in which all positions allocated to a class are sufficiently similar in duties and responsibilities that:

- (1) the same descriptive title may be used to designate each position; and
- (2) essentially the same selection requirements and procedures may be used to select employees; and
- (3) under like working conditions, the same salary grade may be applied.

(b) The Office of Personnel Management shall be responsible for the adoption, revision and abolishment of class

specifications; for the audit of positions to ensure that positions are properly allocated [74:840-4.3(A)]; for the assignment of position identification codes; and for the allocation of positions to classes.

530:10-5-4. Rights and responsibilities of employees [AS AMENDED EFF. 7/1/98]

(a) Employees shall be familiar with the class specification, Position Description Questionnaire if one exists, and task list for the position they occupy.

(b) Employees shall participate in the processes and procedures pertaining to the allocation of positions and classification of employees. This is a duty of all employees. Employees shall supply timely and accurate information about duties and responsibilities of other employees and positions when requested to do so.

(c) *An employee has the right and responsibility to file a classification grievance, as provided by law and rule, when duties performed on a regular and consistent basis do not conform to the [employee's] class specification [74:840-4.3(B)].*

(d) *Employees are entitled to the classification they are currently assigned [74:840-4.3(C)(1)] and to perform work consistent with their classification. An employee is entitled to the compensation assigned to the class specification for which duties were performed on a regular and consistent basis as determined by the Office of Personnel Management. This provision does not entitle the employee to a higher classification [74:840-4.3(B)] and does not prohibit reclassification in accordance with other Merit Rules. Employees have no right to reclassification, to occupy a specific position, or to the continued assignment of specific duties and responsibilities.*

(e) *An employee is not required to perform all of the work operations described in a class specification in order to be eligible for classification thereunder. An employee is not eligible or entitled to classification by reason of performing isolated or singular duties incidental to the job but which are described in another class specification. Employees are entitled to the classification they are currently assigned. [74:840-4.3(C)(1)]*

(f) *An employee normally performs some of the work of higher-rated jobs and some of the work of lower-rated jobs when required. The normal duties of an employee may include some of the work of related jobs in the same salary grade when required. The normal duties of an employee may include assistance to [other employees]. [74:840-4.3(C)(2)] An employee is required to perform the work operations and duties described or appraised as being covered by a class specification pursuant to that degree or amount of guidance or instruction which is considered usual and normal in order to qualify for the classification [74:840-4.3(C)(3)].*

(g) The fact that the task list used in the appraisal of the employee's work performance in accordance with 530:10-17-31 does not include all of the tasks assigned to the employee, does not exempt the employee from performance of such tasks.

PART 3. ALLOCATION OF POSITIONS

530:10-5-31. Authority for allocation of positions [AS AMENDED EFF. 7/1/98]

The Office of Personnel Management has the authority to allocate a position to the appropriate class. The Office of Personnel Management shall audit both vacant and occupied

positions in accordance with Part 5 of this Subchapter, to determine if positions are properly allocated and shall reallocate positions if it is necessary.

PART 5. AUDITS OF POSITIONS

530:10-5-54. Collection and exchange of information about positions [AS AMENDED EFF. 7/1/98]

(a) The basic document for the collection of information about positions is the Position Description Questionnaire (OPM 39), a form prescribed by the Office of Personnel Management. This form shall be completed by the Appointing Authority or a person designated by the Appointing Authority who is familiar with the duties and responsibilities the Appointing Authority has assigned or wishes to assign to the position to be audited. The completed form shall be submitted to the Office of Personnel Management according to this Section. The purpose of the Position Description Questionnaire is to help the person completing the form supply the information about a position that is needed to properly allocate the position.

(1) The form contains instructions for its completion and for it to be accompanied by an organization chart showing the relationship of the position to other positions.

(2) The form contains spaces for the Appointing Authority or the Appointing Authority's designee to:

(A) identify himself or herself, the position described, any employee who occupies the position, and the agency where the position is located;

(B) indicate the reasons for completion of the form;

(C) describe the position, including but not limited to duties, supervision exercised and received, decision-making, work guidelines, equipment operated, personal contacts, fiscal impact of work, travel and other special requirements; and

(D) sign and date the form.

(3) The form contains spaces for any employee occupying the position to indicate having read the completed form.

(4) The form contains spaces for the Office of Personnel Management to record the:

(A) allocation of the position;

(B) staff member making the allocation; and

(C) date of the allocation.

(b) A completed Classification or Allocation Dispute Review Request form (OPM 70) shall be used as the basis for the allocation of a position instead of a Position Description Questionnaire if the audit is initiated as a result of a classification or position allocation dispute according to 530:10-5-51. This form shall be completed by the employee who occupies the position. The completed form shall be submitted to the Office of Personnel Management according to this Section. The purposes of the Classification or Allocation Dispute Review Request form are to help the employee completing the form supply the information about his or her duties and responsibilities, to help the Appointing Authority in comparing what the employee does or has done with what the Appointing Authority wants done, and to help persons who are allocating the position or reviewing the classification of the employee to make the correct decision.

(1) The form contains instructions for completing the form which require it to be accompanied by an organization chart showing the relationship of the position to other positions.

(2) The form contains spaces for the incumbent employee to:

(A) identify himself or herself, the position occupied, and the agency where the position is located;

(B) indicate the reasons for completion of the form;

(C) describe his or her duties, including but not limited to duties, supervision exercised and received, decision-making, work guidelines, equipment operated, personal contacts, fiscal impact of work, travel and other special requirements; and

(D) sign and date the form.

(3) The form contains spaces for the Appointing Authority or a person designated by the Appointing Authority to respond to the employee's statements.

(4) The form contains spaces for the Office of Personnel Management to record the:

(A) allocation of the position or the classification of the duties and responsibilities;

(B) staff member making the decision; and

(C) date of the decision.

(c) The Office of Personnel Management may request other information from the Appointing Authority and the employee if the position is occupied. Additionally, the Office of Personnel Management may collect information through on-site job audits, meetings or other methods. Only the Office of Personnel Management shall have authority to determine when an on-site audit is appropriate.

(d) A task list to be used in the appraisal of an employee's work performance in the position in accordance with 530:10-17-31, does not by itself contain sufficient information to make a determination of appropriate allocation for the position.

(e) Upon completion of an audit and the final allocation of a position in accordance with 530:10-5-56, the Office of Personnel Management shall send one copy of the allocated Position Description Questionnaire (or the Classification Grievance Audit Request Form) to the Appointing Authority and one copy to the employee if the position is occupied. Other materials submitted to, or collected by, the Office of Personnel Management which were considered in the allocation of the position shall become the property of the Office of Personnel Management and shall not be returned. All such documents are open to the public.

(f) The Office of Personnel Management shall determine those records which are relevant to the proper allocation of a specific position and may refuse or return other records, such as, training manuals, operations manuals, evaluations of individual employee performance, work samples, magnetic tapes and disks, photographs, clippings, etc.

(g) Throughout the process that leads to the final allocation of a position, the Appointing Authority shall give the employee who occupies the position being audited copies of any completed Position Description Questionnaire (if the audit was initiated by the Appointing Authority, the Office of Personnel Management, or the Executive Director of the Commission) and any additional written material about the position or the audit before the agency submits the material to the Office of Personnel Management.

(h) Any employee who occupies the position being audited shall provide written comments through appropriate supervisory channels in the agency. The employee shall send a copy of any Classification or Allocation Dispute Review Request form (if the audit was initiated by a classification grievance) and any additional written material about the position or the audit through appropriate supervisory channels in the agency to the Office of Personnel Management. The Appointing Authority

shall not alter the statements made by the employee and shall forward materials submitted by the employee to the Office of Personnel Management.

(i) Appointing Authorities shall ensure that employees occupying positions being audited are informed about appropriate supervisory channels in the agency, including when and where to submit information concerning the audit.

PART 7. IMPARTIAL REVIEW OF THE FINAL ALLOCATION OF A POSITION [REVOKED EFF. 7/1/98]

SUBCHAPTER 7. SALARY AND PAYROLL

PART 1. SALARY AND RATES OF PAY

530:10-7-3. Entrance salary [AS AMENDED EFF. 7/1/99]

(a) The entrance salary for any classified position shall be at the minimum salary for the class to which the employee is appointed, except as provided in the Merit Rules.

(b) Appointing Authorities may offer class or individual special entrance rates of pay above the minimum salaries of a grade according to paragraphs (1) and (2) of this subsection.

(1) **Class special entrance rate of pay.** When the Appointing Authority submits a written statement that economic or employment conditions make recruitment or retention of employees at the minimum rate for the class difficult, the Office of Personnel Management may authorize appointment of eligibles at a higher rate of pay within the salary grade for the class in a limited geographical area or in positions in a class where employment conditions are unusual. Such higher rate of pay shall remain in effect until the Office of Personnel Management orders the rate of pay rescinded or the salary grade is adjusted. Such special entrance rates of pay shall not exceed 20% above the minimum rate of pay for the grade for that class. All employees in the same class under the same conditions who are earning less than the higher rate of pay shall be increased to the approved entrance rate of pay, and thereafter all new employees shall be appointed at the higher entrance rate of pay which shall be considered to be the minimum rate of pay.

(2) **Individual special entrance rate of pay.**

(A) An Appointing Authority may offer to appoint from a certificate or reinstate an applicant who exceeds the minimum qualifications for a class at a rate of pay which does not exceed 20% above the minimum rate of pay for the grade for that class or the minimum rate of pay for the next higher pay grade in the same series. Such offer shall be based upon the applicant's qualifications and the needs of the agency. Before any Appointing Authority authorizes or grants an individual special entrance rate of pay, the Appointing Authority shall articulate in writing an individual special entrance rate of pay policy statement for the agency. The policy statement shall be consistent with the Oklahoma Personnel Act and the federal Equal Pay Act. The policy statement shall be made available to requesting parties.

(B) The Appointing Authority's determination that an individual special entrance rate of pay is justified shall be in writing and shall describe how the applicant exceeds the minimum qualifications. The Appointing Authority shall take into consideration rates of pay paid to employees or previously offered to other applicants where the relationship between qualifications and needs

of the Appointing Authority were essentially the same as in the current case. The written determination shall be preserved by the Appointing Authority. Individual special entrance rates of pay shall not be offered to applicants for classes which require neither education nor experience.

(C) Such individual special entrance rate of pay would affect that applicant only and would not affect salary for other incumbents.

530:10-7-6. Data processing pay incentive [NEW PERM. RULE EFF. 7/1/99]

(a) Appointing Authorities may implement a pay incentive for individuals not currently employed in state government and who are hired to fill positions in professional-level data processing classes as determined by the Administrator of the Office of Personnel Management.

(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 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.

(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 pay incentive during his or her state employment.

530:10-7-7. Pay differential [AS AMENDED EFF. 7/1/99]

(a) The Office of Personnel Management may authorize a pay differential for a position within a class because of special duty requirements related to the position. This differential shall be over and above the base pay within the salary grade and shall be paid only as long as the employee occupies the particular position under the circumstances which have necessitated the differential. The request for the differential shall be submitted in writing by the requesting agency and shall adequately identify the need.

(b) An Appointing Authority shall determine whether pay differentials will be paid while employees are in paid leave status or provided only for hours actually worked. Appointing Authorities shall apply such practices uniformly. Pay differentials shall not be provided for hours that an employee is not in pay status.

530:10-7-12. Payment of overtime [AS AMENDED EFF. 7/1/98]

(a) 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.

(b) FLSA Non-Exempt (as defined by the Fair Labor Standards Act) employees shall be paid 1-1/2 times their regular hourly rate for each overtime hour worked.

(c) Compensatory time in lieu of overtime payment at the rate of time and one-half may be given to FLSA Non-Exempt employees (as defined by the Fair Labor Standards Act) subject to the following conditions:

(1) 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).

(2) An employee shall be permitted to use accrued compensatory time within **180** days following the pay period in which it was accrued. The balance of any unused compensatory time earned but not taken during this time period shall be paid to the employee. An Appointing Authority may request an extension of this time period for taking compensatory time off up to an additional **180** days providing the Appointing Authority submits proper documentation to the Office of Personnel Management justifying the extension. Agencies shall not be allowed to extend the initial 180-day time period for employees working in an institutional setting as defined by 74:840-2.15(D) [74:840-2.15(C)]. All extensions are subject to the approval of the Office of Personnel Management.

(3) The maximum compensatory time which may be accrued by a FLSA Non-Exempt employee shall be **480** hours for those employees engaged in a public safety or firefighting activity and **240** hours for all other FLSA Non-Exempt employees.

(4) An employee who has accrued the maximum number of compensatory hours shall be paid overtime compensation for any additional overtime hours worked at the rate of 1-1/2 times their regular hourly rate of pay for each overtime hour worked.

(5) Payment for accrued compensatory time upon termination of employment with the agency shall be calculated at the average regular rate of pay for the final **3** years of employment, or the final regular rate received by the employee, whichever is the higher.

(6) Overtime and compensatory time is accrued by work period, as defined by the FLSA.

(7) Compensatory time shall not be transferred from one agency to another agency.

(8) An Appointing Authority shall approve an employee's request to take compensatory time off on a particular day, unless the employee's taking compensatory time off on that day disrupts agency operations or endangers public health, safety, or property.

(9) Accrued compensatory time shall be exhausted before the granting of any annual leave for a non-exempt employee except when the employee may lose accrued leave under 530:10-15-10 and 530:10-15-11(b)(5).

(10) Adjustments in scheduled work time may be made on an hour-for-hour basis within the work period.

(d) Appointing Authorities may provide compensatory time off to FLSA Exempt (as defined by the Fair Labor Standards Act) employees with the following stipulations:

(1) The compensatory time off shall be taken within time periods and policy outlined in 530:10-7-12(c)(2). Unused compensatory time shall be taken off the books if not taken by the end of the time periods and policy outlined in 530:10-7-12(c)(2).

(2) Compensatory time shall only be given on an hour-for-hour basis, **1** hour off for each hour worked overtime.

(3) Payments shall not be made for compensatory time accrued by an employee on FLSA Exempt status for any reason, except as provided for in (e) of this Section.

(e) After submitting written notice to the Office of Personnel Management, an Appointing Authority may provide overtime payments to persons in FLSA Exempt classes based on a prevailing market condition.

530:10-7-14. Rate of pay upon reclassification, promotion, and demotion [AS AMENDED EFF. 7/1/99]

(a) **Rate of pay when incumbent is reclassified directly.** When an employee is reclassified directly under 530:10-5-90, the rate of pay shall be fixed in accordance with 530:10-7-13.

(b) **Rate of pay upon promotion.**

(1) An Appointing Authority shall adopt objective written criteria for the amount of salary advancements on promotion. These criteria shall be a part of the agency promotional plan established under 530:10-9-35 and 530:10-11-51 and shall be consistent with state and federal statutes prohibiting discrimination.

(2) The Appointing Authority shall set an employee's salary on promotion within the new salary grade, except as provided in paragraph (3) of this subsection.

(A) The Appointing Authority shall set an employee's salary on promotion at least 2 1/2% above the employee's salary before promotion, unless the increase would make the employee's salary after promotion greater than the maximum rate of pay for the new salary grade (in which case the employee's salary shall be set at the maximum rate of pay for the new salary grade).

(B) The Appointing Authority has the option to raise an employee's salary on promotion up to any one of the following limits:

(i) 20% above the employee's salary before promotion; or

(ii) 20% above the minimum salary for the new salary grade; or

(iii) If an employee is promoted to a class previously held, the greatest percent above the

minimum salary the employee was previously paid while in the class.

(3) The Appointing Authority shall not lower the salary of an employee on promotion. If the employee's salary before promotion exceeds the maximum for the new salary grade, the employee's salary on promotion shall remain the same.

(c) **Rate of pay when demoted.** The rate of pay of an employee who is demoted shall be set by the Appointing Authority at any rate of pay within the range for the class to which demoted, which does not exceed that employee's last rate of pay, except as provided in 530:10-7-3(b)(1). An Appointing Authority may delay setting the rate of pay upon demotion for up to **1** year when the demotion is due to an agency reorganization. For the purposes of this subsection, "agency reorganization" means the reclassification of employees in lieu of reduction-in-force.

(d) **Rate of pay when transferred interagency.** An Appointing Authority shall set the salary of an employee who receives an interagency transfer to the same class or another at the same grade, at any rate of pay which is at or below that received before transfer, except as provided in 530:10-7-3(b)(1). An Appointing Authority shall not set an employee's rate of pay below the minimum grade for the class.

(e) **Rate of pay when transferred intra-agency.** An Appointing Authority shall not change the base pay of an employee on intra-agency transfer to a position in the same class or another class at the same grade, except as provided in 530:10-7-3(b)(1).

SUBCHAPTER 11. EMPLOYEE ACTIONS

PART 3. PROBATIONARY EMPLOYEES

530:10-11-30. Probationary employees; general provisions [AS AMENDED EFF. 7/1/99]

(a) All original appointments to classified positions shall be made from certificates, except as provided elsewhere in the Merit Rules or by statute, for a probationary period of **1** year, unless the length of the probationary period is reduced according to the provisions of this Section [74:840-4.13]. At the end of the probationary period, the employee shall automatically become permanent [74:840-4.13]. At any time after the probationary employee has served **6** months, the Appointing Authority may waive the remainder of the probationary period by notifying the employee and the Office of Personnel Management in writing as to the waiver and the reasons for it [74:840-4.13]. The Appointing Authority may not extend the probationary period. The end of the final working day of the probationary period shall be made known to the employee in accordance with 530:10-15-3 at the time of entry on duty and at the time of any adjustment or waiver of the probationary period. Some positions may have statutory probationary periods that differ from the conditions of this Section.

(b) Except as provided in 530:10-9-102, the provisions of this Part apply to probationary periods made in accordance with those Merit Rules.

(c) An employee on an original probationary appointment with the agency or any adjustment of the original probationary appointment, or on a probationary period with the agency after reinstatement, or an adjustment of such a probationary period may be released or dismissed in accordance with 530:10-11-32.

(d) The Appointing Authority may establish a written policy describing any agency standard for waiving the probationary period after **6** months and the reasons for the standard.

PART 5. PROMOTIONS

530:10-11-55. Trial period and probationary period for promoted employees [AS AMENDED EFF. 7/1/99]

(a) Trial period after intra-agency promotions.

(1) When a classified employee is promoted intra-agency, the employee shall serve a **6** month trial period in the class to which the employee has been promoted unless the Appointing Authority waives the trial period according to the provisions of this Section. The Appointing Authority may waive the trial period at any time by giving the employee written notice of the cancellation. Waiver of the trial period makes the promotion final.

(2) If an employee does not prove to be satisfactory in the new class during the trial period, the employee shall be reinstated to the former position or another in the same class, at the salary the employee would have received if the promotion had not taken place. However, the reasons for denying the employee permanent status in the promotional position shall be submitted in writing to the individual before the end of the trial period and a copy filed with the Office of Personnel Management. *[T]he employee shall not have the right to appeal* [74:840-4.12].

(3) The promotion shall automatically become permanent at the end of the final working day of the trial period.

(4) The Appointing Authority may establish a written policy describing any agency standard for waiving the trial period and the reasons for the standard.

(b) Trial period after interagency promotion.

(1) An employee who is promoted interagency may, at the discretion of the receiving Appointing Authority, be required to serve a **6** month trial period in the new class only if the receiving agency has

- (A) the class from which the employee was promoted or
- (B) another class at the same salary grade as the employee's former class for which the employee is qualified in its classification plan.

(2) The trial period may be canceled at any time, making the promotion final. Before the effective date of the promotion, the employee shall be informed in writing by the Appointing Authority whether the employee will be required to serve a trial period before such promotion becomes final. The Office of Personnel Management shall be sent written notice when a trial period is required for a promoted employee. The promotion shall be permanent if the Appointing Authority fails to notify the employee in writing before the effective date of the promotion that a trial period is required under this paragraph. If an employee does not prove to be satisfactory in the new class during the trial period, the employee shall be reinstated to a position in the former class or another class at the same salary grade for which the employee is qualified with the receiving agency, at the salary the employee would have received if the promotion had not taken place. However, the reasons for denying the employee permanent status in the promotional position shall be submitted in writing to the individual before the end of the trial period and a copy filed with the Office of Personnel Management. The promotion shall automatically become permanent at the end of the final working day of the trial period.

(c) Statutory probationary period after intra-agency promotion.

An employee who is promoted to a class for which

a probationary period is either permitted or required by Oklahoma Statutes shall be notified by the Appointing Authority of the probationary period before the effective date of the promotion. An employee shall not be required to serve a trial period after the promotion if a statutory probationary period is required.

SUBCHAPTER 11. EMPLOYEE ACTIONS

PART 11. OTHER TRANSACTIONS

530:10-11-120. Suspension with pay [AS AMENDED EFF. 7/1/99]

(a) An Appointing Authority may suspend a permanent employee from duty with pay for internal investigatory purposes or to give a permanent employee the required notice and opportunity to respond before involuntary demotion, suspension without pay, or discharge. The Appointing Authority may require the employee to remain available during specified working hours to meet with investigators or other agency officials as required. A notice of suspension with pay, stating the beginning and ending dates and times and specifying any reporting requirements shall be issued to the employee in writing. An employee shall not be placed on suspension with pay more than a total of **20** working days within any **12** month period, except as provided in Subsection (b).

(b) If an Appointing Authority certifies that an internal investigation cannot be completed within **20** days, the Appointing Authority may continue the suspension in accordance with this subsection. The suspension with pay may not exceed the time necessary to complete the investigation and if the investigation warrants, to give the employee the required notice and opportunity to respond before termination. For the purposes of this section, "Appointing Authority" means only the chief administrative officer of an agency and does not include employees to whom the Appointing Authority has delegated authority.

(c) If the employee is cleared, the Appointing Authority shall fully clear the employee's records in the custody of the agency and shall make every reasonable effort to fully clear any such records which are not in the custody of the agency. If the charges against the employee are confirmed, in whole or in part, a suspension with pay in accordance with this Section shall not preclude an Appointing Authority from taking disciplinary action in accordance with Oklahoma law and the Merit Rules.

SUBCHAPTER 13. REDUCTION-IN-FORCE

PART 1. GENERAL PROVISIONS FOR REDUCTION-IN-FORCE

530:10-13-1. Purpose [AS AMENDED EFF. 7/1/98]

The purpose of the rules in this Subchapter is to implement the provisions of Sections 840-2.27A through 840-2.27C of the Oklahoma Personnel Act which pertain to reductions-in-force. The rules in this Subchapter establish general provisions for reductions-in-force and policies and procedures for recall and priority consideration for reemployment. The rules in Parts 1, 5, and 7 of this Subchapter governing reductions-in-force apply to agencies in all branches of state government, except institutions within The Oklahoma State System of Higher Education. The rules in Part 3 of this Subchapter apply to executive branch agencies only. This Subchapter is not a comprehensive listing of state and federal statutory provisions related to reductions-in-force and regulations promulgated thereunder, and is not

intended to conflict with either state or federal law and regulations.

530:10-13-2. Definitions [AS AMENDED EFF. 7/1/98]

In addition to terms defined in 530:10-1-2 and 455:10-1-2, the following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise.

"Affected classes" means classes containing affected positions.

"Affected employees" means classified and unclassified employees in affected positions.

"Affected positions" means positions being abolished or positions which are subject to displacement action.

"Agency" means any office, department, board, commission, or institution of all branches of state government, except institutions within The Oklahoma State System of Higher Education.

"Displacement limit" means any area within an agency in which displacement may not occur. These areas may include, but are not limited to, job classes, units, and geographic areas within an agency.

"Displacement opportunity" means the circumstances under which an occupied or funded vacant position is subject to displacement by an affected employee.

"Displacement privilege" means the privilege an affected employee has to utilize a displacement opportunity.

"Educational institution" means an institution within The Oklahoma State System of Higher Education, a facility under the management or control of the Oklahoma State Department of Vocational and Technical Education, or a licensed private educational institution in the State of Oklahoma.

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

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

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

"Personnel transaction" means the record of the separation as a result of a reduction-in-force of a classified affected employee from an agency, or the record of the transfer or demotion of a classified affected employee.

"Reduction-in-force" means abolition of positions in an agency or part of an agency and the corresponding nondisciplinary removal of affected employees from such positions through separation from employment or through displacement to other positions.

"Severance benefits" means employee benefits provided by the State Government Reduction-in-Force and Severance Benefits Act to affected employees separated through a reduction-in-force.

"Years of service" means current and prior service which is creditable for the Longevity Pay Plan. An affected employee shall not be required to have been continuously employed for

two (2) years to be given credit for either current or prior service pursuant to the State Government Reduction-in-Force and Severance Benefits Act.

530:10-13-3. Reduction-in-force plans and time requirements [AS AMENDED EFF. 7/1/98]

(a) Whenever a reduction-in-force occurs, the Appointing Authority shall provide a plan for such reduction-in-force to the Administrator of the Office of Personnel Management and the Director of the Office of State Finance at least **60** days before the scheduled beginning of reduction-in-force separations or as otherwise provided by law. [74:840-2.27C(A)] The reduction-in-force plan of an agency in the executive branch of state government, except for the fiscal components of the plan, is subject to the approval of the Administrator of the Office of Personnel Management. [74:840-2.27C(A)] The Administrator shall reject any plan that is not in substantial compliance with Section 840-2.27C of Title 74 of the **Oklahoma Statutes** and the rules in this Subchapter. [74:840-2.27C(A)]

(b) The Appointing Authority of executive branch agencies shall either:

- (1) adopt the rules in Parts 3, 5, and 7 of this Subchapter as the reduction-in-force plan for the agency and shall post notice of that intent with a copy of the rules (Sections 530:10-13-30 through 530:10-13-73), or
- (2) provide a plan that is in substantial compliance with the Act and the rules in this Subchapter.

(c) Section 840-2.27C(A) of Title 74 of the **Oklahoma Statutes** requires the Director of the Office of State Finance to review the fiscal components of reduction-in-force plans of executive branch agencies and reject any plan that does not contain specified information.

(d) *If the reduction-in-force is conducted pursuant to a reorganization, the fiscal components of the reduction-in-force plan shall contain reasons for the reorganization, which may include, but not be limited to, increased efficiency, improved service delivery, or enhanced quality of service.* [74:840-2.27C(A)]

(e) The Appointing Authority shall post a copy of the plan in each office of executive branch agencies affected by the proposed reduction-in-force plan **5** days prior to the submission of the proposed plan to the Administrator and the Director of State Finance. [74:840-2.27C(B)]

(f) Within **2** business days after approval of a reduction-in-force plan by the Administrator for executive branch agencies or appointing authorities in the legislative and judicial departments, Appointing Authorities shall post the following documents in each office affected by the reduction-in-force plan [74:840-2.27C(B)]:

- (1) an approved reduction-in-force plan,
- (2) a description of and reasons for any displacement limits established by the Appointing Authority in accordance with Section 840-2.27C(C) of Title 74 of the **Oklahoma Statutes**,
- (3) a description of and reasons for any protections from displacement action established by the Appointing Authority in accordance with Section 840-2.27C(C) of Title 74 of the **Oklahoma Statutes**,
- (4) a description of severance benefits that will be offered to affected employees pursuant to Section 840-2.27D of Title 74 of the **Oklahoma Statutes**, and
- (5) the implementation schedule. [74:840-2.27C(B)]

530:10-13-5. Displacement limits [AS AMENDED EFF. 7/1/98]

(a) Section 840-2.27C of Title 74 of the **Oklahoma Statutes** establishes standards and procedures for the limitation of displacement and eligibility criteria for the exercise of displacement opportunities.

(b) An eligible classified employee who exercises a displacement privilege shall be required to sign an agreement, in a form prescribed by the Administrator, acknowledging that the employee had an opportunity to receive severance benefits and affirmatively elected to exercise a displacement privilege and to forego such benefits. The form provides information to the affected employee concerning his or her rights and responsibilities under Section 840-2.27C of Title 74 of the **Oklahoma Statutes**. [74:840-2.27C(C)]

530:10-13-6. Equal employment opportunity (EEO) [AS AMENDED EFF. 7/1/98]

In planning and conducting a reduction-in-force, the Appointing Authority shall consider the effect of decisions, such as establishment of displacement limits and selection of classes containing positions to be abolished, on the composition of the work force of the agency. If displacement limits are established in accordance with 530:10-13-5 and Section 840-2.27C of the Oklahoma Personnel Act, adverse impact will be assessed as recognized in state and federal laws, rules and guidelines. The Appointing Authority shall take appropriate action consistent with state and federal laws, rules and guidelines governing adverse impact.

530:10-13-8. Required freeze on personnel actions [AS AMENDED EFF. 7/1/98]

(a) At least **14** calendar days before the reduction-in-force implementation schedule is posted in accordance with Section 840-2.27C(B) of Title 74 of the **Oklahoma Statutes** and 530:10-13-35, all personnel actions within affected classes shall be frozen, except:

- (1) separations unrelated to the reduction-in-force,
- (2) leave,
- (3) disciplinary actions,
- (4) other transactions specifically required by law,
- (5) transactions specifically due to the reduction-in-force, and
- (6) transactions the Appointing Authority certifies will not limit displacement opportunities for affected employees.

(b) This freeze shall remain in effect until the reduction-in-force implementation schedule is posted.

530:10-13-9. Continuation of insurance upon separation by reduction-in-force [AS AMENDED EFF. 7/1/98]

The Appointing Authority shall notify employees who are separated because of a reduction-in-force and who are ineligible for or who decline severance benefits pursuant to Section 840-2.27D of Title 74 of the **Oklahoma Statutes** of their rights to continue their insurance coverage under the Public Health Service Act, 42 U.S.C. § 300bb-1, et seq.

530:10-13-11. Options in lieu of reduction-in-force [AS AMENDED EFF. 7/1/98]

Agencies may provide voluntary out benefits to eligible classified employees and eligible regular unclassified employees in accordance with the provisions of Section 840-2.27H of Title 74 of the **Oklahoma Statutes**.

530:10-13-12. Severance benefits [AS AMENDED EFF. 7/1/98]

(a) Agencies shall provide mandatory severance benefits and may provide optional severance benefits in accordance with the provisions of Section 840-2.27D of Title 74 of the **Oklahoma Statutes** to eligible classified employees, eligible classified employees on probationary status after reinstatement from permanent classified status without a break in service, eligible regular unclassified employees, and eligible employees of the University Hospitals Authority who have been continuously employed in the state service since on or before January 1, 1995. Employees who are eligible for Priority Reemployment Consideration in accordance with Section 840-2.27C of Title 74 of the **Oklahoma Statutes** and Part 7 of this Subchapter who are employed by any agency

(1) before the scheduled date of reduction-in-force separations, are not eligible for severance benefits;

(2) less than 1 year after receiving severance benefits are required to repay such benefits in accordance with Section 840-2.27E of Title 74 of the **Oklahoma Statutes**.

(b) An eligible employee who accepts severance benefits shall be required to sign an agreement, in a form prescribed by the Administrator, acknowledging that the employee accepts the severance benefits provided by the Appointing Authority pursuant to the provisions of Section 840-2.27D of Title 74 of the **Oklahoma Statutes**. The form provides information to the affected employee concerning his or her rights and responsibilities under Section 840-2.27E of Title 74 of the **Oklahoma Statutes**. [74:840-2.27E]

530:10-13-13. Reduction-in-Force Educational Voucher Fund [AS AMENDED EFF. 7/1/98]

There is hereby created in the State Treasury a revolving fund for the Office of Personnel Management to be designated the "Reduction-in-Force Education Voucher Action Fund." The fund is to be used to provide education vouchers to eligible classified and unclassified employees exercising rights to severance benefits in accordance with Sections 840-2.27D and 840-2.28 of Title 74 of the **Oklahoma Statutes**. The vouchers are to be used to make payment to eligible educational institutions. [74:840-2.27F]

PART 3. REDUCTION-IN-FORCE PLAN REQUIREMENTS**530:10-13-30. Basic reduction-in-force plan [REVOKED]****530:10-13-31. Abolishing positions and retaining positions [AS AMENDED EFF. 7/1/98]**

(a) The Appointing Authority shall *determine the specific position or positions to be abolished within specified units, divisions, facilities, agency-wide or any parts thereof* [74:840-2.27C(B)], including positions occupied by unclassified employees which are part of an affected class. The Appointing Authority shall determine which vacant positions will be retained.

(b) If an agency has both classified and unclassified positions in affected classes, the Appointing Authority shall not abolish a higher percentage of occupied classified positions than occupied unclassified positions [74:840-2.27C(B)].

(c) For purposes of subsection (b) of this Section, "**class**" means positions in the unclassified service and the classified service sufficiently similar in duties and responsibilities to be assigned to the same Merit System class as determined by the Administrator.

530:10-13-32. Order of employee removal [AS AMENDED EFF. 7/1/98]

(a) Agency-wide, or within displacement limits, if established, retention of affected employees shall be based on class and type of appointment [74:840-2.27C(B)]. Subject to eligible classified employees accepting displacement offers, unclassified employees in a class on limited term appointments shall be separated first, followed by employees on project indefinite appointments, followed by employees on probationary appointments with the agency, prior to the separation or voluntary demotion of any permanent classified employee from the same class [74:840-2.27C(B)].

(b) Retention of permanent classified employees in affected classes and within displacement limits, if any are established, shall be based on years of service [74:840-2.27C(B)].

(c) The Appointing Authority shall calculate retention points for all eligible classified employees, including those on an approved leave of absence, and shall rank affected classified and affected unclassified employees separately. Eligible classified employees with more retention points shall be ranked higher; with the order of removal from a class in inverse order of that ranking. If tie scores occur, the ranking of employees who have the same total retention points shall be determined by giving preference for retention according to years of service in the agency. If a tie continues to exist, retention status shall be determined by a method established by the Appointing Authority and described in the reduction-in-force implementation schedule.

(d) For purposes of a reduction-in-force, any permanent classified employee on a detail to special duty shall be ranked on the basis of base class, not on the basis of the class to which detailed.

530:10-13-33. Calculation of retention points for years of service [AS AMENDED EFF. 7/1/98]

(a) Affected employees shall be given credit for all current and prior service which is creditable for the Longevity Pay Plan, Section 840-2.18 of Title 74 of the **Oklahoma Statutes**. An employee shall not be required to have been continuously employed for 2 years to be given credit for either current or prior service.

(b) An employee shall be granted 1 point for each full month of full-time service. Points shall not be granted for any work in excess of full-time. Points will be prorated for each month during which the employee worked less than full-time or less than the full month. In no case shall more than 1 point per month be granted. Appointing Authorities shall make sure that pro rata computations are consistent in application and calculation within the agency.

(c) A break-in-service or leave-without-pay period of more than 30 calendar days shall not be included in the calculation of retention points unless the employee was on military leave or on leave-without-pay in accordance with Section 840-2.21 of Title 74 of the **Oklahoma Statutes**.

(d) The end date for the calculation of years of service shall be uniform within an agency and shall approximate the date the reduction-in-force implementation schedule is posted.

530:10-13-34. Displacement opportunities [AS AMENDED EFF. 7/1/98]

(a) **Limitations on displacement opportunities.** Displacement opportunities shall be offered to eligible classified employees and may be offered to eligible regular unclassified employees. Displacement opportunities shall not be offered if the result

would be to cause the displacement of a permanent classified employee with higher retention points. A classified employee may not be displaced by an unclassified employee. Likewise, an unclassified employee may not be displaced by a classified employee. Employees who have no displacement opportunities or who choose not to exercise a displacement opportunity, employees who do not respond to an offer in accordance with 530:10-13-37, and employees who refuse an offer shall be separated in accordance with 530:10-13-38.

(b) **Offers of displacement opportunities.** Starting with the employee having the highest retention points, displacement opportunities shall be offered to eligible classified employees and to displaced employees. Such offers shall be confined within any displacement limits established by the Appointing Authority. Options available will normally be offered in the order listed below, but an Appointing Authority may provide an alternative order in a reduction-in-force plan that has been approved by the Administrator. If an opportunity at one level, e.g. (1)(A), does not exist, an opportunity at the next lower level, e.g. (1)(B), shall be offered, if available.

(1) Transfer within the same class into a retained position which is currently:

- (A) vacant and available for displacement in accordance with 530:10-13-31(a),
- (B) held by a non-permanent employee (in order of appointment type), or
- (C) held by the employee with the lowest retention points, subject to the restriction regarding regular unclassified employees in (a) of this Section.

(2) Voluntary demotion to a retained position in the next available lower class in the same series which is currently:

- (A) vacant and available for displacement in accordance with 530:10-13-31(a),
- (B) held by a non-permanent employee (in order of appointment type), or
- (C) held by the employee with the lowest retention points, subject to the restriction regarding regular unclassified employees in (a) of this Section.

(3) Voluntary demotion to a retained position in other previously held lower classes in the reverse order in which they were held by the employee on a permanent basis while either in the employment of the agency or, if transferred to the agency by statute or executive order, the former agency, which is currently:

- (A) vacant and available for displacement in accordance with 530:10-13-31(a),
- (B) held by a non-permanent employee (in order of appointment type), or
- (C) held by the employee with the lowest retention points, subject to the restriction regarding regular unclassified employees in (a) of this Section.

530:10-13-35. Reduction-in-force implementation schedule [AS AMENDED EFF. 7/1/98]

Appointing Authorities of executive branch agencies shall post the reduction-in-force implementation schedule in all offices of the agency within 2 business days after approval of the reduction-in-force plan by the Administrator. Appointing Authorities of executive branch agencies shall submit the reduction-in-force implementation schedule, including the lists described in (4) of this Section, to the Office of Personnel Management and the Oklahoma Merit Protection Commission

within 2 business days after approval of the reduction-in-force plan by the Administrator. The reduction-in-force implementation schedule is not subject to the approval of the Administrator or the Commission. The reduction-in-force implementation schedule shall include:

- (1) a statement of the conditions necessitating the reduction-in-force;
- (2) the estimated time schedule for the reduction-in-force;
- (3) a description of the displacement process, and limits;
- (4) the location in the office where the following lists are available for review, if such lists are not posted:

(A) all occupied and vacant positions in affected classes within any displacement limits, indicating those to be abolished and those available for displacement, showing in each case: geographical and administrative location, class and grade, incumbent name, class, appointment type, and, for permanent employees, retention points and lower classes in which the employee previously held permanent status while in the continuous classified service of the agency (and if transferred to the agency by statute or executive order, the former agency), listed in the reverse order in which they were held;

(B) all other employees in affected classes, showing the same information;

(C) all retained vacant positions anywhere in the agency;

(D) all affected classes grouped by series;

(5) the schedule and procedure to be followed if an eligible employee chooses to accept any offer for transfer or voluntary demotion in lieu of separation;

(6) the agency policy on issues related to partial payment of moving expenses for transferred employees in accordance with Section 500.51 of Title 74 of the **Oklahoma Statutes**;

(7) such other information as the Appointing Authority deems appropriate.

(8) the method established by the Appointing Authority to break ties in retention points.

530:10-13-36. Written notice to employees [AS AMENDED EFF. 7/1/98]

Appointing Authorities of executive branch agencies shall provide individual written notice to an affected employee at least 14 calendar days after approval of the reduction-in-force plan by the Administrator. The notice shall:

(1) provide a description of the employee's retention status, including retention points calculation,

(2) offer an opportunity to notify a specified agency official in writing of any possible errors in the retention points calculation, and to request in writing a meeting with supervisors or agency officials,

(3) include the effective date of separation and, if applicable, instructions for electing transfer or voluntary demotion in lieu of separation in response to a specific offer,

(4) provide notice of appeal rights for classified employees in accordance with 530:10-13-10.

530:10-13-37. Exercise of displacement privileges [AS AMENDED EFF. 7/1/98]

To exercise a displacement privilege in lieu of separation, eligible employees shall follow the schedule and procedure included in the reduction-in-force implementation schedule. Such procedure shall provide employees no less than 24 hours to respond following their receipt of a specific offer. An

Appointing Authority may require employees to submit specific requests for transfer or voluntary demotion in writing, either by mail or in individual or group meetings.

530:10-13-38. Employee separations [AS AMENDED EFF. 7/1/98]

An affected employee who does not agree pursuant to Section 840-2.27E of Title 74 of the **Oklahoma Statutes** to accept severance benefits and who does not have a displacement opportunity shall be separated by the reduction-in-force and shall not receive any severance benefits that would otherwise have been provided. [74:840-2.27C(D)]

PART 5. RECALL RIGHTS

530:10-13-50. Eligibility for recall [AS AMENDED EFF. 7/1/98]

(a) Eligible classified employees who are removed from a class as a result of a reduction-in-force in an agency shall be eligible for recall by that agency to the class from which removed for **18** months after the effective date of separation or demotion [74:840-2.27C(E)]. Regular unclassified employees who are removed from a class as a result of a reduction-in-force in an agency shall normally be eligible for recall by that agency to the class from which removed for **18** months after the effective date of separation or demotion; however, an Appointing Authority may alternatively exclude unclassified employees from recall provisions in a reduction-in-force plan approved by the Administrator.

(b) If there are persons eligible for recall to a class, an Appointing Authority may not appoint or reclassify persons to the class from the employment register, by internal action, such as promotion or reinstatement, or from Priority Reemployment Consideration Rosters [840-2.27C(E)]. However, an Appointing Authority may reclassify an employee by involuntary demotion for cause to a class for which there is a recall list. The salary of a recalled permanent classified employee shall be set in accordance with 530:10-7-8.

(c) Affected employees who accept severance benefits:

(1) are eligible for recall in accordance with the provisions of Section 840-2.27C(E) of Title 74 of the **Oklahoma Statutes**,

(2) who are employed by any agency less than **1** year after receiving severance benefits are required to repay such benefits in accordance with Section 840-2.27E of Title 74 of the **Oklahoma Statutes**.

(d) Employees who accept voluntary out benefits in accordance with Section 840-2.27H of Title 74 of the **Oklahoma Statutes** shall not be eligible for recall.

530:10-13-51. Order of recall [AS AMENDED EFF. 7/1/98]

Individuals who are eligible for recall shall be ranked in order of their retention points at the time the reduction-in-force implementation schedule is posted, from high to low. [74:840-2.27C(E)] Offers of recall as described in 530:10-13-50 for classified positions shall be made first to the eligible individual, who was formerly a permanent classified employee, having the highest retention points, regardless of whether the individual was separated or voluntarily demoted. If an Appointing Authority grants recall rights to unclassified employees in accordance with Section 840-2.27C(E) of Title 74 of the **Oklahoma Statutes** and 530:10-13-50, an eligible individual, who was removed as an unclassified employee, shall have recall rights only to unclassified positions. Likewise, an

eligible individual, who was removed as a classified employee, shall have recall rights only to classified positions.

530:10-13-52. Forfeiture and expiration of recall rights [AS AMENDED EFF. 7/1/98]

The right of an individual to recall to the class from which removed is subject to the following provisions and conditions.

(1) **Limitations on recall rights.** Recall pertains only to the class from which an employee is removed in the agency that conducted the reduction-in-force [74:840-2.27C(E)]. An individual has no right to recall to a specific position or to recall by any other agency.

(2) **Forfeiture of recall rights.** The right of an individual to be recalled is forfeited if the person:

(A) submits a written notice to the agency that waives the right to be recalled.

(B) declines an offer of recall [74:840-2.27C(E)].

(C) fails to respond to a written inquiry from the Appointing Authority relative to an offer of recall within **7** calendar days after the date of its mailing or **4** calendar days after the date of its delivery by personal service. The inquiry must include the date and time by which the person must contact the Appointing Authority.

(D) fails to report for duty within the time specified by the Appointing Authority; provided the person is given at least **14** calendar days.

(E) accepts an offer of recall.

(3) **Expiration of recall rights.** The right of an individual to be recalled expires if the agency:

(A) makes no appointments to the class within the **18** months after the effective date of the removal of the person from the class [74:840-2.27C(E)];

(B) in making offers of recall to a class, does not reach the name of the individual on the recall list within **18** months after the effective date of the removal of the person from the class [74:840-2.27C(E)].

PART 7. PRIORITY CONSIDERATION FOR REEMPLOYMENT

530:10-13-70. Eligibility for priority reemployment consideration [AS AMENDED EFF. 7/1/98]

(a) Probationary and permanent employees and regular unclassified full-time employees with over **6** months continuous service, who have been separated as a result of an officially conducted reduction-in-force or the abolition of all or part of a state agency are eligible for priority reemployment consideration [74:840-2.27C(F)] for jobs in the classified service. In addition, affected employees shall be eligible for Priority Reemployment Consideration beginning with the date the implementation schedule is posted, for a period not to exceed **12** months before the scheduled date of separation, if the agency:

(1) has posted a reduction-in-force plan and implementation schedule and the employees are in positions covered by the plan and within the displacement limits established by the Appointing Authority; or

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

(b) To be placed on the Priority Reemployment Consideration Roster for a class, a person shall apply to the Office of Personnel Management and meet all requirements for the class, including passing any required examination [74:840-2.27C(F)]. The class need not be announced for recruitment. The names of the

persons on Rosters shall be ranked in order of their individual final earned ratings on the examination [74:840-2.27C(F)].

(c) Employees who accept severance benefits:

(1) are eligible for Priority Reemployment Consideration in accordance with the provisions of Section 840-2.27C(E) of Title 74 of the **Oklahoma Statutes**,

(2) who are employed by any agency less than 1 year after receiving severance benefits are required to repay such benefits in accordance with Section 840-2.27E of Title 74 of the **Oklahoma Statutes**.

(d) Employees who accept voluntary out benefits in accordance with Section 840-2.27H of Title 74 of the **Oklahoma Statutes** shall not be eligible for Priority Reemployment Consideration.

530:10-13-71. Agency priority reemployment consideration requirements [AS AMENDED EFF. 7/1/98]

(a) Before any vacant position in the classified service is filled by the initial appointment of any person from an employment register, an Appointing Authority shall request a list of the names of persons appearing on the Priority Reemployment Consideration Roster for the appropriate class [74:840-2.27C(F)]. The Appointing Authority shall give such persons priority consideration for reemployment and may appoint any person whose name appears on such list regardless of rank [74:840-2.27C(F)]. Additionally, an Appointing Authority shall consider its Affirmative Action Plan in accordance with Section 840-2.1 of the Oklahoma Personnel Act and 530:10-3-31.

(b) An Appointing Authority may make an initial appointment from a certificate of eligibles as provided in 530:10-9-92, only after certifying in writing to the Administrator that any and all persons whose names appear on the Priority Reemployment Consideration Roster for the class were first given priority consideration for reemployment. This requirement does not mandate the appointment of a person from a Priority Reemployment Consideration Roster and does not apply to internal appointments and actions, such as, promotions and reinstatements.

530:10-13-73. Expiration and forfeiture of eligibility [AS AMENDED EFF. 7/1/99]

(a) The eligibility of an individual to remain on any Priority Reemployment Consideration Roster and to be given priority consideration for reemployment shall expire 18 months after separation as a result of a reduction-in-force or abolition of an agency [74:840-2.27C(F)]. A person's eligibility shall also be forfeited upon:

(1) declination of an offer of reemployment to position in a class having the same or higher grade than that class from which removed [74:840-2.27C(F)], that is located in a county in which the person has indicated a willingness to work;

(2) acceptance of an offer of reemployment to a class having the same or higher grade than the class from which removed;

(3) failure to report for duty within the time specified by the Appointing Authority; provided the person is given at least 14 calendar days;

(4) recall to the class from which removed; or

(5) failure to meet any of the requirements for the class.

(b) It is the responsibility of the person to maintain a current address with the Office of Personnel Management.

SUBCHAPTER 15. TIME AND LEAVE

PART 1. GENERAL PROVISIONS

530:10-15-3. Attendance [AMENDED EFF. 7/1/99]

The Appointing Authority in each agency shall establish the working days, hours of attendance and place of work for employees within the agency, and may make other policies in regard to attendance as necessary. The Appointing Authority must make such policies known to employees.

(1) Attendance of employees may be considered by the Appointing Authority in decisions regarding promotions, pay increases, and discipline [74:840-2.20].

(2) Abuse of leave benefits or failure to maintain regular attendance may be grounds for dismissal. [74:840-2.20].

(3) Attendance policies shall be in compliance with the Family and Medical Leave Act of 1993 (29 U.S.C, 2654 et seq.) and the use of approved FMLA leave shall not be considered a negative factor in employment actions.

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.

(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.

(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

530:10-15-40. Enforced leave [AS AMENDED EFF. 7/1/98]

The Appointing Authority may grant a probationary or permanent employee time off from regular duties, with compensation for absence necessary when some member of his or her immediate family or household requires the employee's care because of illness or injury, or in the case of death in the immediate family or household or in the case of personal disaster. Enforced leave shall also be granted in accordance with 530:10-15-72. Enforced leave shall be charged against the employee's sick leave and may not be granted in excess of accumulated sick leave. The number of days granted will be governed by the circumstance of the case, but in no event shall they exceed **10** working days in any calendar year.

530:10-15-44. Military leave of absence and restoration to position [AS AMENDED EFF. 7/1/99]

Military leave of absence and right to restoration to former position shall be granted in accordance with Section 209 of Title 44, Sections 25.4, 25.5 and 25.7 of Title 51, and Section 48 of Title 72 of the **Oklahoma Statutes**; the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C., 4301 et seq.); and such rights and privileges as these laws provide.

530:10-15-45. Family and medical leave [AS AMENDED EFF. 7/1/99]

(a) The federal Family and Medical Leave Act of 1993 entitles eligible employees to family and medical leave. This section is not a comprehensive listing of the provisions of the federal Family and Medical Leave Act of 1993 (29 U.S.C., 2654 et seq.) and regulations promulgated thereunder, and is not intended to conflict with either the Act or the regulations. To be eligible, an employee shall have been employed by the state at least **12** months and have worked at least **1,250** hours during the preceding **12**-month period.

(b) An eligible employee is entitled to family and medical leave for up to a total of **12** weeks during any **12**-month period, for the following reasons:

- (1) the birth of the employee's son or daughter, and to care for the newborn child;
- (2) the placement with the employee of a son or daughter for adoption or foster care;
- (3) to care for the employee's spouse, son, daughter, or parent with a serious health condition. As used in this subsection, "son" or "daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability; and
- (4) a serious health condition that makes the employee unable to perform the functions of the employee's job.

(c) An Appointing Authority may require that an employee's request for family and medical leave to care for the employee's seriously-ill spouse, son, daughter, or parent, or due to the employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of the employee's position, be supported by a certification issued by the health care provider of the employee or the employee's ill family member.

(d) The entitlement to family and medical leave resulting from (b)(1) and (b)(2) of this Section expires at the end of the **12**-month period beginning on the date of the birth or placement.

(e) When family and medical leave is taken to care for a sick family member as defined in (b)(3) of this Section or for an employee's own serious health condition, leave may be taken intermittently or on a reduced leave schedule when it is medically necessary.

(f) Whenever it is possible, an employee shall schedule family and medical leave to accommodate the operations of the employee's agency. An employee shall give the Appointing Authority notice and a leave request at least **30** days before leave is to begin if the need for family and medical leave is expected. When the need for family and medical leave is unexpected, an employee shall give the Appointing Authority notice and a leave request as soon as possible. The notice and request shall:

- (1) be in writing;
- (2) refer to this Section;
- (3) describe the reason for the family and medical leave;
- (4) specify the type of leave the employee is requesting to account for the time off; and
- (5) include any information or documentation required for the type of leave requested.

(g) The Appointing Authority has the responsibility to review requests for sick leave and leave without pay for designation as family and medical leave. The Appointing Authority's designation decision shall be based only on information provided by the employee or the employee's spokesperson. In accordance with the federal Family and Medical Leave Act, the Appointing Authority shall not designate leave as family and medical leave retroactively, unless the Appointing Authority does not have sufficient information concerning the employee's reason for taking the leave until after the leave period has begun.

(h) Family and medical leave is not a separate type of leave, and it is not accrued or accumulated. An Appointing Authority shall give employees the following options to account for time

lost because of leave under the federal Family and Medical Leave Act of 1993.

- (1) Charge to accumulated annual leave [74:840-2.22];
- (2) Charge to accumulated sick leave [74:840-2.22];
- (3) Charge to leave donated by other state employees under Section 840-2.23 of Title 74 of the **Oklahoma Statutes**, which is also known as "shared leave"; and
- (4) Record as leave without pay in accordance with 530:10-15-47.

(i) The agency shall continue paying the employee's insurance coverage while the employee is on family and medical leave.

(j) Upon return from family and medical leave, an employee shall have the right to be restored to the same or equivalent position and benefits, except for extension of his or her anniversary date for longevity pay, leave accrual, and calculation of retention points, he or she would have had if the employee had been continuously employed in pay status during the leave period.

(k) An employee shall not be required to take more leave than necessary to resolve the circumstance that precipitated the need for leave.

530:10-15-55. Paid administrative leave for state employees as the result of the bombing at the Alfred P. Murrah Federal Building on April 19, 1995 [REVOKED EFF. 7/1/99]

530:10-15-56. Paid administrative leave to attend trial of defendants charged with bombing of the Alfred P. Murrah Federal building [EXPIRED 6/14/98]

SUBCHAPTER 17. PERFORMANCE EVALUATION AND CAREER ENHANCEMENT PROGRAMS

PART 3. PERFORMANCE EVALUATION SYSTEM

530:10-17-31. Performance evaluations

(a) *Each agency shall adopt and maintain a system of employee service ratings. The Office of Personnel Management shall make available one or more standard systems for this purpose, but an appointing authority may develop a separate system, subject to the approval of the Administrator of the Office of Personnel Management. The purpose of the system of employee service rating is to evaluate the performance of each classified, unclassified and exempt employee in the executive branch of state government except those in the unclassified service as specified in paragraphs 1 and 2 of subsection A of Section 840-5.5 and those employees employed by the institutions under the administrative authority of The Oklahoma State System of Higher Education. The Administrator of the Office of Personnel Management, on or before January 1 of each year, shall submit a report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor identifying those state agencies that have complied with the provisions of this section [74:840-4.17(A)].*

(b) *Employee service evaluation systems shall provide for the following:*

- (1) *An objective evaluation . . . by the immediate supervisor, of the performance of the employee within the assigned duties of the job;*
- (2) *The identification of the strengths and deficiencies of the employee;*
- (3) *Corrective actions, if necessary, to correct deficiencies;*

(4) *An interview with the employee by the immediate supervisor who shall provide the employee with a copy of the service ratings; and*

(5) *The opportunity for the employee to submit written comments regarding the service rating [74:840-4.17].*

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

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

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

PART 7. CARL ALBERT PUBLIC INTERNSHIP PROGRAM

530:10-17-74. Undergraduate internship program [AS AMENDED EFF. 7/1/99]

(a) **Eligibility.** The undergraduate internship program consists of temporary positions for students enrolled in institutions of higher education within the state and working toward an undergraduate degree [74:840-3.4(1)]. To be considered for eligibility determination, applicants shall have completed at least **24** semester hours of coursework with at least a **2.5** cumulative grade point average on a **4.0** scale. Applicants shall follow the procedures in 530:10-17-77 for eligibility determination.

(b) **Conditions of employment.** Participants in the Undergraduate Internship Program who receive internship appointments shall:

- (1) be employed in accordance with paragraph 8 of Section 840-5.5 of Title 74 of the Oklahoma Statutes, for not more than 2 semesters or 999 hours,
- (2) continue making progress toward an undergraduate degree,
- (3) maintain the grade point average set out in (a) of this Section, and
- (4) complete the training requirements described in (d)(3) of this Section.

(c) **Benefits.** Undergraduate interns shall not be eligible for paid leave, or health and retirement benefits.

(d) **Responsibilities of appointing authorities.**

(1) The Appointing Authority or designee shall ensure that the intern provides written verification to the Office of Personnel Management that the intern is:

- (A) continuing to make progress toward an undergraduate degree, and
- (B) maintaining the grade point average set out in (a) of this Section.

(2) If this information is not transmitted to the Office of Personnel Management within **30** days after the end of the previous semester, the Administrator shall notify the Office of State Finance and the Appointing Authority of the termination of the internship agreement in accordance with Section 530:10-17-82(a).

(3) Each Appointing Authority shall provide a minimum of 4 clock hours of training for undergraduate interns during the internship, in addition to the training coordinated by the Administrator, and shall provide verification to the Office of Personnel Management of the completion of the training requirements.

530:10-17-77. Application form and procedure [AS AMENDED EFF. 7/1/99]

(a) **Application form and applicant survey form.**

(1) The Carl Albert Public Internship Program application is available from the Office of Personnel Management. The application form provides information about the application process and eligibility requirements. It solicits information about applicants and their qualifications for participation in the program.

(2) Applicants may apply at any time.

(3) An applicant may complete a voluntary survey form which solicits information related to demographics, including race or ethnic group, and disabilities. The information shall be used for statistical purposes only.

(b) **Communication with the Office of Personnel Management.** Interested persons may direct communications to the attention of the Carl Albert Public Internship Program in accordance with 530:1-1-12.

(c) **Application procedure.** Applicants for the internship program shall provide the following information to the Office of Personnel Management for review and determination of eligibility:

- (1) A completed and signed application form;
- (2) Transcript(s) of coursework from accredited higher education institutions;
- (3) A letter of nomination from a faculty member of the higher education institution where they are enrolled;
- (4) A letter of recommendation from the current Appointing Authority, if the applicant is a state employee [74:840-3.4(4)];
- (5) A resume;
- (6) Three letters of recommendation from persons other than relatives or the nominating faculty member;
- (7) Verification of current enrollment.

(d) **Notification.** The Administrator shall notify applicants if the documents they submit are sufficient for eligibility. A notice of eligibility does not mean the applicant will be employed as an intern.

(e) **Length of eligibility.** Applicant information on file at the Office of Personnel Management shall remain active if eligible applicants submit verification of current enrollment and an updated transcript each semester. If applicants fail to provide updated information within 90 days after the end of the previous semester, they will no longer be eligible for employment as an intern and their names will be removed from the list of eligible applicants made available to state agencies.

(f) **Appointment.**

(1) The Administrator shall provide a list of all eligible applicants for the Carl Albert Public Internship Program to state agencies periodically and at an agency's request. An agency may request an eligible applicant list and copies of individual eligible intern files at any time.

(2) An agency may appoint any eligible applicant after the Administrator has approved a completed Carl Albert Public Internship Agreement Form described in (3) of this

subsection. A new form shall be completed if there are any substantive changes to the original agreement.

(3) The Administrator shall provide the internship agreement form to state agencies. The form solicits information about the employing agency, the Executive Fellow or Undergraduate Intern, and the internship faculty member. The form provides information regarding employment, benefits, training, work schedules, duties, compensation, and projected length of internship. Before an eligible applicant enters on duty, the agreement form shall be completed and signed by:

(A) The eligible applicant;

(B) The Appointing Authority or designee of the employing agency, who shall certify that the internship appointment does not contravene any provision of the Oklahoma Personnel Act or the Merit Rules;

(C) The college or university faculty member who shall monitor the internship; and

(D) A representative of the Administrator.

(4) All intern appointments are made at the discretion of the Appointing Authority. Executive Fellows will count against an agency's full-time-equivalent employee limit if an agency retains them after the internship time period is completed.

(g) **State employees.** State employees may apply to participate in the Carl Albert Public Internship Program. Permanent classified and regular unclassified employees who receive internship appointments may request leave without pay from their permanent or regular employment in accordance with 530:10-15-47, **Leave of absence without pay.** Probationary employees and regular unclassified employees with less than 6 months continuous service shall resign before entry-on-duty as an intern.

530:10-17-80. General conditions of employment [AS AMENDED EFF. 7/1/99]

(a) **No expectation of continued employment.**

(1) Persons participating in the Carl Albert Public Internship Program shall be employed in the unclassified service of the state in accordance with Section 840-5.5 of Title 74 of the **Oklahoma Statutes** and Sections 530:10-17-74 and 530:10-17-75.

(2) An intern has no right or expectation of continued employment in any classified or unclassified position with the state because of participation in the Carl Albert Public Internship Program.

(b) **Compensation plan for interns.**

(1) The employing agency shall establish compensation plans that include rates of pay for Carl Albert Public Internship Program positions which are consistent with positions having like duties and responsibilities within the agency.

(2) The Administrator may establish job descriptions for interns in accordance with Section 530:10-5-8.

(3) Carl Albert interns who are not exempt from the provisions of the Fair Labor Standards Act (29 U.S.C. 201 et seq.) are subject to its overtime provisions and 530:10-7-12.

(c) **Report of work performance to educational institution.**

The Appointing Authority or designee of the employing agency shall provide the internship faculty member with information necessary to evaluate the intern's work experience for academic purposes at the faculty member's request.

(d) Intercession by the Office of Personnel Management.

The Office of Personnel Management may intercede in an internship if the Office determines, at the request of the intern, the agency, or the institution of higher education at which the intern is enrolled, that an internship is not functioning [74:840-3.5(7)] in accordance with the rules in this Part, and the individual internship agreement. The intercession process may include, but is not limited to the following actions: modification of certain agreement terms, reassignment, and separation or early release from the internship.

(e) State employees; continuation of benefits. State employees leaving classified or exempt positions in state government in order to take an internship shall continue to receive all fringe benefits they would have received in their previous classified or exempt positions [74:840-3.5(2)].

(f) Training requirements. Each intern shall complete the training requirements prescribed by the employing agency and the Administrator.

PART 9. MANDATORY SUPERVISORY TRAINING**530:10-17-91. Definitions [AS AMENDED EFF. 7/1/99]**

The following words and terms, when used in this Part shall have the following meaning, unless the context clearly indicates otherwise:

"Supervisory training" means courses or training conducted or approved by the Administrator. Supervisory training programs shall include such subjects as: *supervisory skills, affirmative action and equal employment opportunity, selection, performance management, performance appraisal, employee assistance, corrective discipline, and other legal and ethical issues relevant to supervisors* [74:840-3.1].

"Twenty-four hours of training" means the equivalent of 4 training days that include at least 6 classroom hours of instruction a day. Twenty-four hours of training are also equivalent to 2.4 continuing education units (CEUs).

530:10-17-93. Supervisory training requirements [AS AMENDED EFF. 7/1/99]

(a) Beginning January 1, 1998, all supervisors shall complete 24 hours of supervisory training according to this Part each calendar year [74:840-3.1].

(b) Persons appointed to supervisory positions after January 1, 1998, shall complete 24 hours of supervisory training according to this Part within 6 months before or after assuming a supervisory position [74:840-3.1].

(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) All supervisors who have not already done so shall attend training in performance management or performance appraisal within 12 months after becoming a supervisor.

530:10-17-97. Training program or course approval [AS AMENDED EFF. 7/1/98]

(a) Training courses conducted by employing agencies, public and private schools, and colleges and universities may count toward supervisory training requirements if the coursework includes subjects such as those listed in the definition for supervisory training in 530:10-19-91.

(b) To request approval of supervisory training, an agency shall submit the following course information to the Office of Personnel Management for review:

- (1) Course title and a brief description;
- (2) Classroom hours or continuing education units (CEUs); and
- (3) Course outline.

(c) State institutions of higher education and other state organizations may submit course information described in (b) of this Section for review.

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

PART 15. STATE MENTOR PROGRAM**530:10-17-150. Purpose [NEW PERM. RULE EFF. 7/1/98]**

(a) The rules in this Part establish policies and procedures to implement the State Mentor Program in accordance with Section 840-3.8 of Title 74 of the **Oklahoma Statutes**. The Program is administered by the Administrator of the Office of Personnel Management.

(b) It is the purpose of the State Mentor Program to develop the executive potential of employees in all branches of state government, with a special emphasis on women, racial minorities, and persons with disabilities.

530:10-17-151. [RESERVED]**530:10-17-152. Mentor Selection Advisory Committee [NEW PERM. RULE EFF. 7/1/98]**

(a) **Organization.** Section 840-3.8 of Title 74 of the **Oklahoma Statutes** creates a 7-member Mentor Selection Advisory Committee and provides for the appointment of five permanent members, who serve at the pleasure of their Appointing Authority, and the selection of two Appointing Authority members by the permanent members every two years. The Committee shall elect a chairperson from among its members. A member may be elected for succeeding terms of office.

(b) **Purpose.** The purpose of the Mentor Selection Advisory Committee is to select candidates for participation in the State Mentor Program and recommend those candidates to the Administrator for his approval in accordance with the provisions of Section 840-3.8 of Title 74 of the **Oklahoma Statutes**.

(c) **Meetings.** The Advisory Committee shall meet at the call of the chair as necessary to fulfill its purpose under Section 840-3.8 of Title 74 of the **Oklahoma Statutes**. A majority of the members shall constitute a quorum.

530:10-17-153. Definitions [AS AMENDED EFF. 7/1/99]

In addition to words and terms defined in OAC 530:10-1-2 and 455:10-1-2, the following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise.

"Agency" means any office, department, board, commission, or institution in all branches of state government.

"Agency Mentor" means a policy-level manager in an agency participating in the State Mentor Program who serves as a mentor during the period the Mentor Executive is completing his or her management rotation in that agency.

"Mentor Executive" means a state employee selected for participation in the State Mentor Program.

"Sending agency" means the employing agency of each state employee selected as a Mentor Executive.

"Receiving agency" means each agency where a Mentor Executive is completing a phase of his or her management rotation.

530:10-17-154. [RESERVED]**530:10-17-155. Program description [NEW PERM. RULE EFF. 7/1/98]**

(a) **Eligibility.** A state employee in any branch of state government may be nominated by another state employee for participation in the State Mentor Program.

(b) Nomination procedure.

(1) The State Mentor Program nomination form is available from the Office of Personnel Management. The nomination form solicits information about the nominee and the state employee making the nomination, and shall be signed by the state employee making the nomination.

(2) Any state employee may nominate another state employee for participation in the Program during the nomination period announced by the Administrator by forwarding a completed nomination form to the State Mentor Program at the Office of Personnel Management.

(c) Application form.

(1) The Office of Personnel Management shall provide a State Mentor Program application form to each state employee nominated for participation in the Program. The application form provides general and specific information about the State Mentor Program, including the application process, application requirements, and Program eligibility requirements. It solicits information about applicants and their qualifications for participation in the Program.

(2) Any state employee nominated for participation in the Program may complete and return an application during the application period announced by the Administrator by forwarding a completed application to the State Mentor Program at the Office of Personnel Management.

(d) Communication with the Office of Personnel Management. Interested persons may direct communications to the attention of the State Mentor Program at the Office of Personnel Management in accordance with 530:1-1-12.

(e) Application procedure. To apply for participation in the State Mentor Program, an applicant shall complete the application form described in subsection (c) of this section and submit it to the State Mentor Program at the Office of Personnel Management by the prescribed deadline.

(f) Selection process. The process for selecting Mentor Executives will normally consist of the application, minimum qualifications, ratings of training and experience, interviews, a writing exercise, and other assessment methods, as prescribed by the Mentor Selection Advisory Committee, in which applicants must participate in order to advance to the final selection pool.

(g) Minimum qualifications. To be eligible for selection as a Mentor Executive, an applicant shall possess the minimum qualifications established for the Mentor Executive class.

(h) Appointing Authority endorsement letter. The Committee shall contact the agency Appointing Authority of each applicant who demonstrates the minimum qualifications for Mentor Executive to request endorsement of the employee's participation in the State Mentor Program. An applicant who does not receive the endorsement of the agency Appointing Authority will not be considered further.

(i) Background investigation. Each applicant shall complete a post-offer, pre-hire, work-related criminal background investigation.

530:10-17-156. Agency rotations [AS AMENDED EFF. 7/1/99]

(a) State Personnel Interchange Program. Rotation assignments shall be accomplished through the State Personnel Interchange Program, Section 840-3.9, et seq. of Title 74 of the Oklahoma Statutes.

(b) Length of rotations. Each Mentor Executive shall complete a two-year management rotation assignment which consists of six months in any or all of the following entities:

- (1) the sending agency;
- (2) one or both houses of the Legislature;
- (3) the Office of State Finance;
- (4) the Governor's Office;
- (5) the Office of Personnel Management; and
- (6) any other agency accepting the Mentor Executive.

(c) Work assigned during rotations. Each agency participating in the State Mentor Program shall assign the Mentor Executive to a policy-level manager during the period he or she is completing a management rotation in that agency.

(d) Compensation during rotations.

(1) The Administrator shall establish minimum compensation for Mentor Executives. The sending agency and each agency in which the Mentor Executive is completing his or her management rotation may share the compensation of the Mentor Executive or either agency may pay the total amount.

(2) If a state employee's salary is below the minimum salary for the Mentor Executive class, the employee's salary shall be increased to that minimum. A state employee's salary shall not be reduced because of his or participation in the State Mentor Program.

(e) FTE limitations. Employees participating in the State Mentor Program shall be exempt from any full-time-equivalent limitations established by law.

(f) Completion of rotation assignment. At the end of a two-year management rotation assignment or sooner, if a Mentor Executive is unable to complete the entire two-year management rotation assignment, a Mentor Executive shall be entitled to return to the previous class or its successor class, if one exists in the sending agency. Otherwise, the reduction-in-force provisions of Section 840-2.27C of Title 74 of the Oklahoma Statutes shall apply.

PART 17. STATE WORK INCENTIVE PROGRAM**530:10-17-170. Purpose [NEW PERM. RULE EFF. 7/1/99]**

(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 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.

530:10-17-171. [RESERVED]**530:10-17-172. [RESERVED]****530:10-17-173. Eligibility and length of appointment [NEW PERM. RULE EFF. 7/1/99]**

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. Agencies may employ eligible persons in the State Work Incentive Program for up to 2 years in full-time or part-time unclassified status.

530:10-17-174. [RESERVED]

530:10-17-175. Conditions of employment [NEW PERM. RULE EFF. 7/1/99]

(a) **No right of continued employment.** Employees hired under the State Work Incentive Program shall be employed in the unclassified service of the state. Employees hired under the State Work Incentive Program shall have no right or expectation of continued employment in any classified or unclassified position because of participation in the State Work Incentive Program.

(b) **Eligibility for leave and benefits.** Employees hired under the State Work Incentive Program are eligible for leave and other benefits of state employment available to regular unclassified employees. Employees hired under the State Work Incentive Program must meet any other eligibility requirements established for such benefits. [74:840-5.16]

(c) **Leave without pay.** Employees hired under the State Work Incentive Program may be granted leave of absence without pay from the agency in accordance with 530:10-15-47. Leave without pay in excess of a total of 5 working days shall extend the employee's 2 years of eligibility under the State Work Incentive Program by the number of working days the employee is on leave without pay.

(d) **Eligibility for promotion.** Employees hired under the State Work Incentive Program may be reassigned or promoted while they are participating in the program. [74:840-5.16]

(e) **Performance evaluation.** Appointing Authorities shall evaluate the performance of employees hired through the State Work Incentive Program according to the provisions of Section 840-4.17 of Title 74 of the Oklahoma Statutes.

530:10-17-176. [RESERVED]

530:10-17-177. Conversion [NEW PERM. RULE EFF. 7/1/99]

(a) Persons employed by merit system agencies under the State Work Incentive Program shall be eligible for conversion to permanent classified status at the discretion of the Appointing Authority if the employee has:

- (1) completed 2 years of continuous participation in the State Work Incentive Program, not including periods of leave without pay in accordance with 530:10-17-175;
- (2) performed satisfactorily as evidenced by performance evaluations conducted according to Section 840-4.17 of Title 74 of the Oklahoma Statutes;
- (3) met the minimum requirements for the position; and
- (4) passed any entrance examination required for the applicable job specification by the Office of Personnel Management.

(b) Conversion shall be to a class consistent with the duties assigned to the employee under the State Work Incentive Program.

(c) The conversion of employees hired under the State Work Incentive Program who meet the requirements of subsection (a) to permanent classified status shall be exempt from:

- (1) the application, certification, and appointment requirements of Subchapter 9 of these rules;
- (2) the probationary period requirements of Part 3 of Subchapter 11 of these rules; and
- (3) the promotional posting requirements of Part 5 of Subchapter 11 of these rules.

