



STATE OF OKLAHOMA  
OFFICE OF PERSONNEL MANAGEMENT

*"Serving Equal Opportunity Employers"*

**OPM 03-43**

**DATE:** November 17, 2003

**TO:** All Appointing Authorities

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

A handwritten signature in black ink, appearing to read "Oscar B. Jackson, Jr.", is placed over the "FROM:" line.

**RE: Proposed Emergency Amendments to the Merit Rules**

I am considering adopting emergency amendments to the Merit Rules. The purpose of the proposed amendments is to make the rules consistent with statutory changes made during the 2003 Legislative Session, and to revoke some rule language that is no longer supported by law.

I have scheduled a public hearing for comments on these proposed amendments, and hope that you or your representative(s) can attend:

Monday, November 24, 2003, at 1:30 p.m.  
Concourse Theater  
Sequoyah/Will Rogers Concourse  
Oklahoma City

If you would like to make comments on the proposed amendments but are unable to attend the public hearing, I will consider written comments received at the Office of Personnel Management no later than 5:00 p.m., Monday, November 24, 2003. Written comments should be sent to Oscar B. Jackson, Jr., Office of Personnel Management, 2101 North Lincoln Boulevard, Room G-80, Oklahoma City, OK 73105, ATTENTION: Kimberlee Williams. Written comments may also be faxed to (405) 524-6942 or emailed to [kimberlee.williams@opm.state.ok.us](mailto:kimberlee.williams@opm.state.ok.us).

Copies of the proposed amendments are attached.

*"We serve the people of Oklahoma by delivering reliable and innovative human resource services to our partner agencies to achieve their missions."*

1 TITLE 530. OFFICE OF PERSONNEL MANAGEMENT

2  
3 CHAPTER 10. MERIT SYSTEM OF PERSONNEL ADMINISTRATION RULES

4  
5 SUBCHAPTER 1. GENERAL PROVISIONS

6  
7 PART 3. DELEGATION OF HUMAN RESOURCE FUNCTIONS

8  
9 **530:10-1-31. ~~Delegation functions~~ Functions which may be delegated**

10 ~~The delegated~~ Upon the request of a state agency, and at the discretion of the  
11 Administrator, the Administrator may delegate any human resources functions shall not  
12 include discipline or compensation normally conducted by the Office of Personnel  
13 Management. [74:840-1.15(E)] Human resources functions that are under the jurisdiction  
14 of the Oklahoma Merit Protection Commission as described in 74:840-1.9 and Title 455  
15 of the Oklahoma Administrative Code may not be delegated pursuant to the rules in this  
16 Part.

17  
18 PART 5. MODEL PROJECTS

19  
20 **530:10-1-61. Authorization of model projects**

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

26  
27 SUBCHAPTER 3. AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT  
28 OPPORTUNITY

29  
30 PART 3. AFFIRMATIVE ACTION

31  
32 **530:10-3-39. Preparation of the annual status report on equal employment**  
33 **opportunity and affirmative action in state government**

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

40 (b) The Council shall assist the Administrator in preparing the annual status report on  
41 equal employment opportunity and affirmative action in state government  
42 [74:840-2.1(H)(1)].

43  
44 SUBCHAPTER 7. SALARY AND PAYROLL

45  
46 PART 1. SALARY AND RATES OF PAY

1  
2 **530:10-7-6. Sign-on pay incentive [REVOKED]**

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

6 ~~(1) individuals not currently employed in state government;~~

7 ~~(2) Carl Albert Executive Fellows and other professional trainees and students~~  
8 ~~employed pursuant to paragraphs 10 and 11(a) and (b) of Section 840-5.5(A) of Title~~  
9 ~~74 of the Oklahoma Statutes; and~~

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

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

21 ~~(c) The pay incentive shall not exceed \$5,000.00 and is payable to eligible individuals as~~  
22 ~~a lump sum payment or in two equal payments during the first six months of state~~  
23 ~~employment. Former state employees may be eligible for the pay incentive following a~~  
24 ~~break in service of at least 180 days.~~

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

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

34  
35 **530:10-7-7. Pay differential**

36 (a) The Administrator may authorize a pay differential for a position within a job family  
37 because of special duty requirements related to the position. This may include shift pay,  
38 on-call pay, ~~data processing mission critical pay~~, skill-based pay adjustments, and other  
39 types of differentials based on special work requirements, as approved by the  
40 Administrator. These payments shall be over and above the employee's base pay and  
41 shall be paid only as long as the employee occupies the particular position under the  
42 circumstances which have necessitated the differential. The request for the differential  
43 shall be submitted in writing by the requesting agency and shall adequately identify the  
44 need.

45 (b) An Appointing Authority shall determine whether pay differentials will be paid while  
46 employees are in paid leave status or provided only for hours actually worked.

1 Appointing Authorities shall apply such practices uniformly. Pay differentials shall not  
2 be provided for hours that an employee is not in pay status.

3  
4 **530:10-7-16. On-call pay**

5 A An Appointing Authority shall compensate a classified employee shall receive  
6 for a minimum of two (2) hours work if the employee is required to report to work while  
7 on-call. Employees are guaranteed compensation for each occasion in which a call-back  
8 is made after having left the regular work station. The compensation may be in the form  
9 of compensatory time in lieu of cash payment. [74:840-2.29]

10  
11 **530:10-7-24. Skill-based pay adjustments**

12 (a) An Appointing Authority may develop skill-based pay programs upon the approval  
13 of the Administrator. Such programs shall be related to the acquisition or possession of  
14 additional skills and abilities which can be applied to the work to be performed and  
15 which will increase the value of the employee to the agency. The skills or abilities must  
16 be verifiable through certification, licensure, diploma, or some other method and must be  
17 beyond the qualifications required ~~in the job family descriptor for all employees in that~~  
18 ~~job family level to perform the primary or essential functions and responsibilities of the~~  
19 employee's position. Requests to establish skill-based pay programs shall include a  
20 complete description of the training or education required, how it will benefit the agency,  
21 the proposed salary adjustment, and any other information that will assist in evaluating  
22 the request.

23 (b) Skill-based pay adjustments may be provided as a differential over and above an  
24 employee's base pay or as ~~a one-time~~ lump-sum payment. Lump sum skill-based pay  
25 adjustments may be awarded upon initial certification and any subsequent recertification  
26 as may be required by the certifying organization and identified in the agency's skill-  
27 based pay plan. Lump sum payments shall be limited to 10% of an employee's annual  
28 salary, and differentials shall be limited to 10% of an employee's monthly salary for  
29 employees paid on a monthly basis, and 10% of an employee's biweekly salary for  
30 employees paid on a biweekly basis. Employees whose base pay is at or exceeds the  
31 maximum of the pay band shall not be eligible for a differential, but may receive a lump-  
32 sum payment. Skill-based Except as provided in Subsection (c), skill-based  
33 adjustments shall be paid only as long as the employee occupies a position to which the  
34 skill is applicable in accordance with the agency's salary administration plan. An  
35 employee may receive multiple skill-based pay differentials so long as the combined total  
36 of all skill-based pay differentials does not exceed 15%.

37 (c) Skill-based pay differentials paid to an employee shall become permanent after 24  
38 continuous months and shall be included as a part of the employee's base pay, except as  
39 provided in 530:10-7-10. [74:840-2.17]

40  
41 **PART 3. PAYROLL**

42  
43 **530:10-7-31. Certification of payrolls**

44 (a) ~~Certification by the Office of Personnel Management.~~ No state disbursing or  
45 auditing officer shall make, approve or take part in making or approving any payment for  
46 personal service to any person holding a position in the classified service, unless the

1 payroll voucher or account of such pay bears the certification of the ~~Office of Personnel~~  
2 ~~Management~~ Appointing Authority that the persons named therein have been appointed  
3 and employed in accordance with the provisions of the Oklahoma Personnel Act ~~or~~ and  
4 the Merit Rules [74:840-1.18(D)].

5 (b) **Withholding of certification by the Office of Personnel**  
6 **Management.** The ~~Office of Personnel Management~~ Appointing Authority may for  
7 proper cause withhold certification from an entire payroll or from any specific item or  
8 items [74:840-1.18(D)]. Whenever the Office of Personnel Management finds that any  
9 person is employed or is proposed to be paid as an employee in the classified service in  
10 any amount not provided for under the provisions of the Oklahoma Personnel Act and the  
11 Merit Rules, the Office of Personnel Management shall notify the concerned state  
12 disbursing or auditing officer. After such notice, the concerned state disbursing or  
13 auditing officer shall not approve any payment to such person except in accordance with  
14 the provisions of the Act or the Merit Rules.

15 (c) **Suit to restrain disbursement.** Any citizen may maintain a suit to restrain a  
16 disbursing officer from making any payment in contravention of any provision of the  
17 Oklahoma Personnel Act or the Merit Rules [74:840-1.18(D)].

18 (d) **Recovery of erroneous payments.** Any sum paid contrary to any provision of the  
19 Oklahoma Personnel Act or the Merit Rules may be recovered in an action maintained  
20 by any citizen, from any officer who made, approved or authorized such payment or  
21 who signed or countersigned a voucher, payroll, check or warrant for such  
22 payment, or from the sureties on the official bond of any such officer [74:840-  
23 1.18(D)]. *All monies recovered in any such action shall be paid into the State Treasury*  
24 *[74:840-1.18(D)].*

25 (e) **Right of action by employees employed in contravention to the Merit**  
26 **Rules.** Any person appointed or employed in contravention of any provision of the  
27 Oklahoma Personnel Act or the Merit Rules and who performs service for which unpaid,  
28 may maintain an action against the officer or officers who purported to appoint or employ  
29 the person in order to recover the agreed pay for such services, or the reasonable value  
30 thereof if no pay was agreed upon. [74:840-1.18(D)] *No officer shall be reimbursed by*  
31 *the state at any time for any sum paid to such person on account of such services*  
32 *[74:840-1.18(D)].*

33 (f) **Action to compel payroll certification.** If the ~~Office of Personnel~~  
34 ~~Management~~ Appointing Authority wrongfully withholds certification of the payroll  
35 voucher or account of any employee, such employee may maintain an action or  
36 proceeding in the courts to compel the ~~Office of Personnel Management~~ Appointing  
37 Authority to certify such payroll voucher or account [74:840-1.18(D)].

## 38 39 SUBCHAPTER 11. EMPLOYEE ACTIONS

### 40 41 PART 5. PROMOTIONS

#### 42 43 **530:10-11-51. Promotional posting**

44 (a) *The appointing authority shall post announcements of a vacancy or vacancies in*  
45 *accordance with a promotional plan filed by the agency with the Office of Personnel*  
46 *Management. [A copy of this plan shall be posted throughout the agency.] ~~In order to~~*

1 ~~give qualified employees an opportunity to apply for and be considered for possible~~  
2 ~~promotions, the vacancy notices shall be posted conspicuously in transparent, secured~~  
3 ~~enclosures situated in prominent locations throughout the agency, at least five (5)~~  
4 ~~working days prior to the closing date for the receipt of applications by the appointing~~  
5 ~~authority. Promotional posting shall be required for initial entry into a job family at any~~  
6 ~~level. Promotional posting shall also be required for entry into any supervisory position~~  
7 ~~or level. Each agency's promotional posting plan shall describe where promotional~~  
8 ~~notices will be posted and require that all vacancy or promotional notices be posted~~  
9 ~~conspicuously in transparent, secured enclosures. Notices must be posted throughout the~~  
10 ~~agency. However, an agency's plan may limit the posting of notices for a vacancy in a~~  
11 ~~work unit, local office or administrative area to within that location, if the vacancy is to~~  
12 ~~be filled by an employee from the same location the method by which all agency~~  
13 ~~employees will be notified of vacancy announcements.~~ [74:840-4.15] The Appointing  
14 Authority shall post all promotional opportunities to vacant positions and to all  
15 supervisory levels. Promotional posting is not required for career progression or for  
16 reallocation of occupied, non-supervisory positions.

17 (b) *The posting shall include:*

18 (1) ~~A copy of the job family descriptor;~~

19 ~~(2) Identification of the job family level of the vacancy or vacancies;~~

20 (2) A listing of job title, major work duties and minimum qualifications;

21 (3) *The pay band and range;*

22 (4) *The anticipated number of vacancies;*

23 (5) *The specific location of work;*

24 (6) *The time limits and procedure for filing an application with the appointing*  
25 *authority; and*

26 (7) *Any additional factors which the appointing authority will consider in filling the*  
27 *vacancy.* [74:840-4.15]  
28  
29

## 30 SUBCHAPTER 15. TIME AND LEAVE

### 31 PART 3. ANNUAL AND SICK LEAVE POLICIES

#### 32 530:10-15-11. Annual leave

33  
34 (a) Annual leave is intended to be used for vacations, personal business, and other time  
35 off work not covered by other paid leave or holiday provisions. An employee may  
36 charge family and medical leave, taken in accordance with 530:10-15-45, against annual  
37 leave accumulations.  
38

39 (b) Eligible employees shall accrue annual leave ~~on a calendar month basis~~ based upon  
40 hours worked (excluding overtime), paid leave, and holidays [74:840-2.20] in accordance  
41 with 530:10-15-10 and the provisions in this subsection, not to exceed the total possible  
42 work hours for the month. The hourly rate is equal to the annual accrual divided by the  
43 number of work hours in the current year. Annual leave earned during one pay period  
44 shall be available for use at the beginning of the next pay period.

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

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

3 (3) Annual leave earned during a pay period shall be prorated ~~in accordance with the~~  
4 days based upon the number of hours (excluding overtime hours) an employee is on  
5 the payroll [74:840-2.20].

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

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

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

23 (7) An employee who transfers to another agency may have accrued annual leave  
24 transferred at the option of the Appointing Authority to which transferred, or such  
25 Appointing Authority may require that all or a portion of the annual leave be paid by  
26 the agency from which the employee is transferred before the transfer. The amount of  
27 annual leave paid by the agency from which the employee is transferred and the  
28 amount of annual leave transferred with the employee shall not exceed the  
29 accumulation limits established in Section 840-2.20 of Title 74 of the **Oklahoma**  
30 **Statutes**.

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

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

42 (10) Any probationary or permanent employee who leaves the employ of an agency  
43 shall receive payment for the accrued number of hours of annual leave in accordance  
44 with the hourly rate. Payment may only be withheld pending settlement of a legal  
45 debt to the agency. If a person is reemployed within a period of **30** calendar days

1 from the date of separation, any portion of the accumulated annual leave which has  
2 not yet been paid may be reinstated.

3  
4 **530:10-15-12. Sick leave**

5 Eligible employees shall accrue sick leave ~~on a calendar month basis~~ based upon  
6 hours worked (excluding overtime), paid leave, and holidays [74:840-2.20(1)] according  
7 to 530:10-15-10 and this Section, not to exceed the total possible work hours for the  
8 month. The hourly rate is equal to the annual accrual divided by the number or work  
9 hours in the current year. Sick leave earned during one pay period shall be available for  
10 use at the beginning of the next pay period.

11 (1) Sick leave means a period when the employee cannot work because of sickness,  
12 injury, pregnancy, or medical, surgical, dental or optical examination, or treatment, or  
13 where the employee's presence at work would jeopardize the health of the employee  
14 or others. An employee may charge family and medical leave, taken in accordance  
15 with 530:10-15-45, against sick leave accumulations.

16 (2) An employee shall not use sick leave for annual leave.

17 (3) An employee shall not use sick leave before it is accrued.

18 (4) Immediately on return to work, an employee who has been absent on sick leave  
19 shall give the Appointing Authority a signed statement that the absence was due to  
20 reasons listed in (1) of this Section. If an absence exceeds 3 working days, the  
21 employee shall give the Appointing Authority a physician's statement unless the  
22 Appointing Authority waives it. For shorter absences, the Appointing Authority may  
23 require the employee to supply proof the absence was consistent with (1) of this  
24 Section. Sick leave shall not be granted until approved by the Appointing Authority.  
25 An Appointing Authority shall approve sick leave unless there are facts to show that  
26 an employee abused sick leave privileges or the employee failed to supply requested  
27 evidence of illness.

28 (5) Sick leave shall be charged against an employee's sick leave balance based on the  
29 amount of time an employee is absent from work during the employee's assigned  
30 work schedule. Holidays, or the scheduled days off for holidays, occurring within a  
31 period of sick leave shall not be charged to sick leave.

32 (6) Sick leave earned during a pay period shall be prorated according to the ~~days~~  
33 number of hours (excluding overtime) an employee is on the payroll  
34 [74:840-2.20(1)].

35 (7) Part-time employees shall accrue sick leave in an amount proportionate to that  
36 which would have accrued under full-time employment [74:840-2.20(1)].

37 (8) When an employee transfers from one agency to another, the Appointing  
38 Authority of the receiving agency shall give the employee credit for all unused sick  
39 leave accumulations.

40 (9) Employees shall not be compensated for accumulated sick leave when they  
41 separate from state service.

42 (10) If an absence because of illness or injury extends beyond the sick leave an  
43 employee has accumulated, the Appointing Authority may charge additional absence  
44 to the employee's annual leave accumulations.

1 (11) Unless it is against the law, an Appointing Authority shall approve sick leave when  
2 an employee is absent due to illness or injury and receiving Oklahoma State Workers  
3 Compensation benefits.

4 (12) If an employee leaves the state service on or after October 1, 1992, and is  
5 reemployed within a period of 2 years from the date of separation, the Appointing  
6 Authority may reinstate all or a part of the unused sick leave accumulated during the  
7 previous period of continuous employment with the state [74:840-2.20(6)].

8 (13) There is no limit on sick leave accumulations.  
9

10  
11 **SUBCHAPTER 17. EMPLOYEE PERFORMANCE MANAGEMENT SYSTEM**  
12 **AND CAREER ENHANCEMENT PROGRAMS**

13  
14 **PART 3. PERFORMANCE EVALUATION SYSTEM**

15 **530:10-17-31. Employee performance management system**

16 (a) *The Office of Personnel Management shall make available one standard*  
17 *performance management system to be used by all agencies for completing employee*  
18 *service ratings. Agencies shall implement this new system on or before January 1, 2000.*  
19 *Until January 1, 2000, agencies may continue to use employee service rating systems*  
20 *which were approved or provided by the Administrator prior to November 1, 1999. The*  
21 *purpose of this employee performance management system is to evaluate the*  
22 *performance of each classified, unclassified and exempt employee in the executive branch*  
23 *of state government except those in the exempt unclassified service as specified in*  
24 *paragraphs 1 and 2 of subsection A of Section 840-5.5 and those employees employed by*  
25 *the institutions under the administrative authority of The Oklahoma State System of*  
26 *Higher Education [74:840-4.17].*

27 (b) *The employee performance management system shall provide for the following:*

28 (1) *An objective evaluation of the employee, by the immediate supervisor, of the*  
29 *performance of the employee within the assigned duties of the job;*

30 (2) *The identification of the strengths and deficiencies of the employee;*

31 (3) *Corrective actions, if necessary, to correct deficiencies;*

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

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

36 (c) *Each employee shall be rated thirty (30) days prior to the end of the probationary*  
37 *period. Thereafter, each employee shall be rated no less than once each year [74:840-*  
38 *4.17].*

39 (d) *The immediate supervisor shall hold a meeting in person with the employee at least*  
40 *three times during a 12-month evaluation period.*

41 (1) *One meeting shall take place at the beginning of the evaluation period in order to*  
42 *communicate the accountabilities and behaviors upon which the employee will be*  
43 *evaluated. A copy shall be provided to the employee.*

44 (2) *One meeting shall take place during the rating period for the purpose of*  
45 *discussing the progress of the employee in meeting the accountabilities upon which*  
46 *the employee will be evaluated.*

1 (3) One meeting shall take place at the end of the review period to provide the final  
2 evaluation. A copy of the evaluation shall be provided to the employee, and the  
3 employee shall have the opportunity to provide written comments.

4 (e) *The agency shall use the available service ratings of current or former state*  
5 *employees in decisions regarding promotions, appointments, demotions, performance*  
6 *pay increases, and discharges. Reductions-in-force shall not be considered discharges*  
7 *[74:840-4.17].*

8 (f) *The agency shall retain a copy of the service rating for each employee of the agency.*  
9 *A copy of the service rating shall be-retained in the employee's personnel file [74:840-*  
10 *4.17].*

11 (g) The basic document to be used in conducting performance evaluations is the  
12 Performance Management Process form (OPM-111), a form prescribed by the  
13 Administrator. The form contains spaces for the supervisor to describe a list of  
14 accountabilities on which the employee will be evaluated. The form also lists behaviors  
15 on which state employees will be evaluated. The form provides spaces for the supervisor  
16 to enter an overall accountability rating, an overall performance rating, and a  
17 summary/development plan. The form requires signature by the employee, the  
18 supervisor, and the reviewer.

19 (h) On or before each January 1st, Appointing Authorities shall confirm to the  
20 Administrator that their agency is in compliance with the requirements of 74:840-4.17.  
21 The confirmation shall be conveyed on a form prescribed by the Administrator.

## 22 23 **PART 15. STATE MENTOR PROGRAM**

### 24 25 **530:10-17-156. Agency rotations**

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

29 (b) **Length of rotations.** Each Mentor Executive shall ~~complete a two-year~~ be assigned  
30 to a management rotation assignment which consists of six months in any or all of the  
31 following entities: in any state agency accepting the Mentor Executive, and the Mentor  
32 Executive's sending agency, provided that each agency rotation shall not exceed six  
33 months. Rotational assignments may be consecutive or intermittent and shall not exceed  
34 a total of 24 months for all rotations combined.

35 ~~(1) the sending agency;~~

36 ~~—(2) one or both houses of the Legislature;~~

37 ~~—(3) the Office of State Finance;~~

38 ~~—(4) the Governor's Office;~~

39 ~~—(5) the Office of Personnel Management; and~~

40 ~~—(6) any other agency accepting the Mentor Executive.~~

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

44 (d) **Compensation during rotations.**

45 (1) The Administrator shall establish minimum compensation for Mentor Executives.

46 The sending agency and each agency in which the Mentor Executive is completing

1 his or her management rotation may share the compensation of the Mentor Executive  
2 or either agency may pay the total amount.

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

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

9 (f) **Intercession by the Office of Personnel Management.** *The Administrator of the*  
10 *Office of Personnel Management may intercede in mentor executive rotational*  
11 *assignments if the Administrator determines that the assignments are not functioning in*  
12 *accordance with guidelines established for the state mentor program. The result of the*  
13 *intercession may include, but is not limited to, reassignment or removal from the*  
14 *program.* [74:840-3.8]

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

## 21 22 **SUBCHAPTER 21. EMPLOYEE ASSISTANCE PROGRAMS**

### 23 24 **PART 1. GENERAL PROVISIONS**

#### 25 26 **530:10-21-5. EAP records**

27 (a) Records and information that relate to participation by an employee or family  
28 member in the EAP *shall be confidential* except as provided in Subsection (b) of this  
29 Section ~~[74:840-2.10(D)]~~. ~~Such records shall not be subject to subpoena~~  
30 ~~[74:840-2.10(D)], and no subpoena or subpoena duces tecum (subpoena for the~~  
31 ~~production of documents) purporting to compel disclosure of such information or record~~  
32 ~~shall be valid.~~ [N]either the records nor the testimony of an Employee Assistance  
33 Program professional shall be subject to subpoena unless a participant poses a threat to  
34 deliberately harm the participant or others. [74:840-2.10(D)]

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

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

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

44 (3) The EAP professional determines that the participant poses a threat to  
45 deliberately harm the participant or others [74:840-2.10(D)];

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

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

7 (6) A court of competent jurisdiction orders the inspection, release, or disclosure of  
8 confidential information.

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

12 (d) Participants in the EAP shall have a right of access to their own EAP records  
13 [74:840-2.10(D)].

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

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**APPENDIX B. SCHEDULE OF ANNUAL AND SICK LEAVE ACCRUAL RATES AND ACCUMULATION LIMITS [REVOKED]**

**APPENDIX B. SCHEDULE OF ANNUAL AND SICK LEAVE ACCUMULATION LIMITS AND YEARLY ACCRUALS [NEW]**

ANNUAL AND SICK LEAVE ACCUMULATION LIMITS AND YEARLY ACCRUALS [74:840-2.20(2)]				
Note: "Days" refers to 8-hour working days.				
Years of Cumulative Service	Annual Leave		Sick Leave	
	Yearly Accrual	Accumulation Limit	Yearly Accrual	Accumulation Limit
Less than 5 years	15 days/year	30 days*	15 days/year	No limit.
5 but less than 10 years	18 days/year	60 days*	15 days/year	No limit.
10 to 20 years	20 days/year	60 days*	15 days/year	No limit.
Over 20 years	25 days/year	60 days*	15 days/year	No limit.
*Except as provided in 530:10-15-11(b)(5)				
Note: Accrual rate is an hourly rate equal to the annual accrual divided by the number of work hours in the current year.				