



STATE OF OKLAHOMA  
OFFICE OF PERSONNEL MANAGEMENT

*"Serving Equal Opportunity Employers"*

**OPM 04-33**

**TO:** All Appointing Authorities

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

**DATE:** July 6, 2004

**RE:** Permanent Amendments to the Merit Rules for Employment

Enclosed please find the text of permanent amendments to the Merit Rules for Employment. These amendments become effective July 11, 2004. Due to budgetary constraints, the Office of Personnel Management has no current plans to produce a rulebook or supplement for distribution to all state employees. However, all currently effective Merit Rules adopted by the Administrator are available on the Office of Personnel Management's website at:

[http://www.opm.state.ok.us/html/hr\\_policy\\_rules\\_rule.htm](http://www.opm.state.ok.us/html/hr_policy_rules_rule.htm)

The permanent amendments to the Merit Rules enclosed with this memorandum will be available at the above website address beginning July 11, 2004.

Following is a summary of the permanent amendments to the Merit Rules that become effective July 11, 2004:

**Subchapter 1**—Merit Rule **530:10-1-2** is amended to include intra-agency lateral transfers in the definition of "trial period" and to make the rule consistent with **530:10-11-71**. Merit Rule **530:10-1-31** is amended to allow delegation of human resource functions normally conducted by the Office of Personnel Management. Merit Rule **530:10-1-61** is amended to remove the requirement that model project applications be reviewed and approved by the Human Resource Management Advisory Committee.

**Subchapter 3**—Amendments to **530:10-3-22** require that Discrimination Complaint Investigators who have not completed or reported annual training may not conduct investigations of discrimination complaints. The amendments to

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

**530:10-3-72, 530:10-3-75 and 530:10-3-78** make terminology consistent and clarify specifically which individuals must satisfy the training requirements in **530:10-3-78**. Amendment to Merit Rule **530:10-3-33.7** deletes the requirement of a second utilization analysis. Merit Rule **530:10-3-39** is amended to extend the deadline for submission of the annual state report on equal employment opportunity and affirmative action in state government from January 1 to March 1.

**Subchapter 7**—Merit Rule **530:10-7-7** was amended to delete data processing mission critical pay from pay differentials for special duty requirements. Also amends subsection (d) to add “lateral” to make consistent with statute and rule. Merit Rule **530:10-7-14** was amended to include “or promotion” at subsection (b)(2) which provides for a 5 – 20% salary increase upon promotion or career progression. Merit Rule **530:10-7-16** is amended to require that on-call classified employees be compensated for a minimum of two (2) hours if required to report to work while on call. Merit Rule **530:10-7-17** is amended to reference **530:10-5-110** instead of **530:10-5-11**. Merit Rules **530:10-7-20, 530:10-7-24 and 530:10-7-26** were amended to allow market adjustments based on job duties rather than job family level, require “meets standards” evaluation for eligibility, clarify that lump sum payments may be made pursuant to a skill based pay adjustment upon initial certification and any subsequent recertification, provide that skill-based pay differentials become permanent after 24 months, require that equity-based adjustments above the midpoint of a pay band be approved by the Administrator and clarify that an employee may only receive one equity-based adjustment in the same job family and level in a twelve-month period. Merit Rule **530:10-7-31** was amended to allow appointing authorities to certify payroll.

**Subchapter 9**—Amendments to Merit Rules **530:10-9-121 and 530:10-9-122** establish new rules for expedited recruitment pursuant to a statutory change and limit an appointing authority’s expedited recruitment authority to 12 months.

**Subchapter 11**—Amendment to **530:10-11-34** revokes entire rule. Amendments to **530:10-11-51** modify posting requirements for vacancy notices. Amendment to **530:10-11-71** requires that an employee who receives and intra-agency lateral transfer serve a six-month trial period unless waived by the appointing authority. Amendments to **530:10-11-134** clarify the rule as it applies to “acting incumbents” who are hired to perform the duties of an employee who is absent due to military duty.

**Subchapter 13**—Amendments to **530:10-13-1** clarify that the reduction-in-force rules apply to classified employees in executive branch only. Amendments to **530:10-13-2** delete definitions given for “eligible classified employee,” “eligible regular unclassified employee,” and “limited term unclassified employee. Amendments to **530:10-13-3** provide notice requirements for agencies conducting reductions-in-force as well as requirement of review of fiscal components. Amendments to **530:10-13-8** modify the term implementation schedule to implementation plan. Amendment to **530:10-13-10** corrects the statutory citation. Amendments to **530:10-13-11** delete the distinction between classified and unclassified employees. Amendments to **530:10-13-12** provide

clarification of who is entitled to severance benefits and clarify that employees reemployed by an agency from which separated within 1 year of receiving severance benefits are required to repay them. Amendments to **530:10-13-13** delete distinction between classified and unclassified employees and includes voluntary out benefits as well as severance benefits. Amendment to **530:10-13-31** deletes requirement that appointing authorities not reduce a higher percentage of occupied classified positions than occupied unclassified positions. Amendment to **530:10-13-32** deletes requirement to rank affected classified and unclassified employees separately. Amendment to **530:10-13-33** provides that periods of leave without pay of less than 30 days will be counted as full-time service. Amendments to **530:10-13-34** delete references to unclassified employees and provides parameters for displacement opportunities. Amendments to **530:10-13-35** provide requirements for reduction-in-force implementation plans. Amendments to **530:10-13-36** describe employee notice requirements. Amendments to **530:10-13-37** change the phrase implementation schedule to implementation plan. Amendment to **530:10-13-50** clarifies which separated employees have recall rights. Amendments to **530:10-13-51** delete references to unclassified employees. Amendment to **530:10-13-70** deletes reference to unclassified employees. Amendments to **530:10-13-72** delete references to unclassified and exempt employees.

**Subchapter 15**—Amendments to **530:10-15-11** clarify how annual leave is accrued. Amendments to **530:10-15-12** clarify how sick leave is accrued. Amendment to **530:10-15-43** clarifies that employees on furlough for an entire regularly scheduled workday are eligible to receive holiday pay. Amendment to **530:10-15-45** clarifies that Appointing Authorities may designate qualifying leave as FMLA leave in the absence of a request from the employee. Amendment to **530:10-15-49** deletes subsection (k)(3) which relates to failure of an employee to return to work from workers compensation leave.

**Subchapter 17**—Amendment to **530:10-17-74** deletes requirement that students be located within the state. Amendments to **530:10-17-75** provide guidelines for application and admission to the Executive fellows program as well as rating requirements for the appointing authority. Amendments to **530:10-17-156** describe the length of rotations under the state mentor program, deletes specified entity participants, and provides for intercession by the Office of Personnel Management. Amendments to **530:10-17-177** provide a definition for direct conversion, describe procedures for conversion following a break in service or to a different job, and salary requirements upon conversion.

**Subchapter 21**—Amendments to **530:10-21-5** provide exemption from subpoena of records and testimony of EAP professionals, describe when EAP staff may have access to EAP records and what information is available to an employee's employing agency, allow employee access to own records, and provide that confidentiality of records shall remain effective whether or not the employee is still an EAP participant or an employee of the state.

## TITLE 530. OFFICE OF PERSONNEL MANAGEMENT

### CHAPTER 10. MERIT SYSTEM OF PERSONNEL ADMINISTRATION RULES

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### PART 1. GENERAL PROVISIONS

###### **530:10-1-2. Definitions**

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 by which the Office of Personnel Management designates a position to an established job family. A position is allocated 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.

**"Assignment"** or **"Position assignment"** in the context of position allocation means the process by which an Appointing Authority designates a position to an established job family level.

**"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.

**"Break in service"** means a period of time in excess of thirty (30) days during which an employee is not present at work and is not in paid leave status or on approved leave without pay.

**"Career progression"** means a type of intra-agency promotion in which an employee is advanced from one level of a job family to a higher non-supervisory level in the same job family.

**"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 job in the classified service.

**"Classification"** means:

(A) *the process of placing an employee into an appropriate job family and level within the job family, consistent with the allocation of the position to which the employee is assigned, or*

(B) *an employee's job family and the level at which work is assigned* [74:840-1.3].

**"Classification plan"** means the orderly arrangement of positions within an agency into separate and distinct job families so that each job family 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 jobs recognized in the agency classification plan so that all positions of a given job within an agency may be paid the same salary range established for the job.

**"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 to a different job with a lower pay band assignment or to a lower level within the same job family. 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 or revised job family descriptor.

**"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 job.

*"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 job or group of similar jobs 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 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.

**"Hiring range"** means a range within a pay band within which an Appointing Authority may establish the initial rate of pay for a given job.

**"Hiring rate"** means the initial rate of pay for a given job within the pay band assigned to the job family level.

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

**"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 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"** means a position or job family level in a job family [74:840-1.3].

**"Job family"** means:

- (A) jobs which require similar core skills and involve similar work, and
- (B) a logical progression of roles in a specific type of occupation in which the differences between roles are related to the depth and breadth of experience at various levels within the job family and which are sufficiently similar in duties and requirements of the work to warrant similar treatment as to title, typical functions, knowledge, skills and abilities required, and education and experience requirements [74:840-1.3].

**"Job family descriptor"** means a written document that:

- (A) describes a job family, including, but not limited to, the basic purpose, typical functions performed, various levels within the job family, and the knowledge, skills, abilities, education, and experience required for each level, and
- (B) identifies the pay band assigned for each level [74:840-1.3].

**"Job family level" or "level"** means a role in a job family having distinguishable characteristics such as knowledge, skills, abilities, education, and experience [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 the reassignment of an employee to another state job with the same pay band assignment as the job family level in which the employee was classified prior to the lateral transfer [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 job.

**"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].

**"New position"** means a position not previously existing.

**"Noncompetitive appointment"** means the appointment of a person to a noncompetitive job level within a job family [74:840-1.3].

**"Noncompetitive job"** means an unskilled or semiskilled job designated by the Office of Personnel Management as noncompetitive. Noncompetitive jobs do not require written examinations for placement on registers of eligibles [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.

**"Pay band"** means the pay range assigned to a job family level.

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

**"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 job to which appointed by the satisfactory performance of the duties and responsibilities of the job.

**"Promotion"** means the reclassification of a classified employee to a different job with a higher pay band assignment or to a higher level within the same job family.

*"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 job 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 job family to another.

**"Recall right"** means the entitlement of an eligible person to be offered reappointment to the job family level 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 job family to another job family or from one job family level to another job family level in the same job family, resulting in a change in the employee's assigned job code [74:840-1.3].*

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

**"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 service 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.

**"Salary administration plan"** means the plan adopted by an Appointing Authority and submitted to the Administrator for approval which establishes hiring ranges for positions. Components of a salary administration plan may include but are not limited to conditions for hiring above the midpoint of a pay range, skill-based pay programs, and other pay movement mechanisms authorized by Section 840-2.17 of the Oklahoma Personnel Act.

**"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.

**"Successor job family level"** means a job family level that takes the place of another job family level.

**"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] who has been assigned authority and responsibility for evaluating the performance of [other state employees] [74:840-3.1].

**"Trial period"** means a working test period after promotion, ~~or~~ voluntary demotion, or intra-agency lateral transfer during which a classified employee is required to demonstrate satisfactory performance in the job to which promoted, ~~or~~ voluntarily demoted, or transferred before acquiring permanent status in the job.

**"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 3. DELEGATION OF HUMAN RESOURCE FUNCTIONS**

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

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

### **PART 5. MODEL PROJECTS**

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

~~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]

**SUBCHAPTER 3. AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT  
OPPORTUNITY**

**PART 2. DISCRIMINATION COMPLAINTS  
INVESTIGATIONS**

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

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

(1) four days of initial discrimination complaints investigator training either conducted by the Office of Personnel Management or approved by the Administrator; and

(2) a minimum of one investigation under the guidance of a senior EEO investigator, designated by the Administrator. The senior EEO investigator shall advise and support the investigator in developing competency in investigating complaints of discrimination; and

(3) a minimum of six hours of classroom instruction or 0.6 Continuing Education Units (CEUs) in training related to the subjects listed in subsection (b) each calendar year and other annual training that may be announced by the Administrator. Persons who complete annual training shall submit proof of completion that is acceptable to the Administrator no later than December 31st of each year.

(b) Discrimination complaints investigator training shall provide participants with a current knowledge of:

(1) Oklahoma and federal equal employment opportunity laws and rules;

(2) theories of discrimination and burdens of proof;

(3) planning and conducting complete and impartial investigations;

(4) techniques for interviewing witnesses;

(5) collecting relevant evidence;

(6) documenting the record of investigation; and

(7) preparing the written report of investigation.

(c) A person who has completed the initial training requirements established in (a)(1) of this Section and who is conducting an investigation under the guidance of a senior EEO investigator required in (a)(2) of this Section shall be considered as conditionally meeting the training requirements of the Administrator and shall be considered to be in compliance of this Part for that investigation.

(d) The Administrator will certify that a person has completed the training requirements for investigating complaints of discrimination after the Administrator:

(1) determines the person has completed the initial training requirements established in (a)(1) of this Section, and

(2) receives recommendation from the senior EEO investigator under whose guidance one or more investigations have been conducted as required in (a)(2) of this Section that the person seeking certification has demonstrated competency in conducting investigations; or the Administrator waives the recommendation requirement.

(e) The Administrator shall send notice of certification to the person certified and to the certified person's Appointing Authority if the person is a state employee.

(f) Discrimination complaints investigators who do not complete the annual training described in (a)(3), or who fail to report such training by January 15th of the following year, will be placed on an "inactive" list and shall not conduct discrimination complaints investigations until the training requirement for the previous year has been met and reported.

### **PART 3. AFFIRMATIVE ACTION**

#### **530:10-3-33.7. Utilization analysis**

(a) Affirmative action plans for agencies authorized **15** or more full-time-equivalent employees shall include an analysis of the utilization of minorities and females in the agency's workforce for June 30th of each year. ~~A second utilization analysis for December 31st of each year shall be submitted separately to the Office of Personnel Management by March 1st of each year.~~

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

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

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

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

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

(C) Another method approved by the Administrator.

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

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

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

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

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

**PART 7. AFFIRMATIVE ACTION AND CIVIL RIGHTS PERSONNEL**

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

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

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

(a) Personnel selected by Appointing Authorities to fill full-time Civil Rights Administrator positions in the classified service shall meet the minimum requirements contained in the job family descriptor for these jobs.

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

~~(c)~~(b) Other classified and unclassified personnel designated by Appointing Authorities to ~~perform civil rights/affirmative action duties~~ serve as the agency's affirmative action officer on a full-time or part-time basis shall have knowledge of: federal and state civil rights laws; affirmative action and equal employment laws; and Oklahoma state government personnel practices and procedures.

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

(a) Individuals who are designated by Appointing Authorities ~~as civil rights administrators, coordinators, or~~ to serve as full-time or part-time affirmative action officers in the executive branch agencies shall complete a minimum of **6** hours of

classroom instruction or **0.6** Continuing Education Units (CEU's) in training per calendar year in one of the following areas:

- (1) EEO/Affirmative action laws, including the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., and Section 504 of the Federal Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq., and court cases;
  - (2) Investigating discrimination complaints;
  - (3) Personnel practices and procedures;
  - (4) Alternative dispute resolution; and
  - (5) Diversity and multi-culturalism.
- (b) Individuals may request approval from the Administrator for training in other areas not listed above.
- (c) Completion of training requirements must be reported to the Administrator by December 31st of each year.
- (d) Appointing authorities will be notified of individuals failing to complete the training requirements.
- (e) Employees of the Human Rights Commission and Merit Protection Commission are exempt from this section.
- (f) Persons investigating complaints of discrimination must complete the training requirements for discrimination complaints investigators and be certified by the Administrator under 530:10-3-22.

## **SUBCHAPTER 7. SALARY AND PAYROLL**

### **PART 1. SALARY AND RATES OF PAY**

#### **530:10-7-7. Pay differential**

- (a) The Administrator may authorize a pay differential for a position within a job family because of special duty requirements related to the position. This may include shift pay, on-call pay, ~~data processing mission critical pay~~, skill-based pay adjustments, and other types of differentials based on special work requirements, as approved by the Administrator. These payments shall be over and above the employee's base pay 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.

#### **530:10-7-14. Rate of pay upon reclassification, promotion, career progression, demotion, and transfer**

- (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 or career progression.**

(1) An Appointing Authority shall adopt objective written criteria for the amount of salary advancements on promotion or career progression. These criteria shall be a part of the agency salary administration plan established under 530:10-7-1.1 and shall be consistent with state and federal statutes prohibiting discrimination.

(2) The Appointing Authority shall set an employee's salary on promotion or career progression at no less than 5% and no more than 20% of the employee's salary before promotion or career progression, except as follows:

(A) If the increase would make the employee's salary after promotion or career progression greater than the maximum rate of pay for the new pay band, the employee's salary shall be set at the maximum rate of pay for the new pay band.

(B) If the increase is insufficient to raise the employee's salary to the minimum of the new pay band, the employee's salary shall be raised to the minimum of the new pay band.

(C) The Appointing Authority may set the employee's salary at any rate within the hiring range established for the position in an approved salary administration plan.

(D) The Appointing Authority shall not lower the salary of an employee on promotion or career progression. If the employee's salary before promotion or career progression exceeds the maximum of the new pay band, the employee's salary 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 pay band for the job to which demoted, which does not exceed that employee's last rate of pay. 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 upon intra-agency lateral transfer.** An Appointing Authority may provide up to a 5% increase in salary, not to exceed the maximum rate of pay for the pay band, for an employee upon intra-agency lateral transfer to a position in the same job family and level or another job family and level with the same pay band assignment, based on the needs of the agency. [74:840-2.17]

#### **530:10-7-16. On-call pay**

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

#### **530:10-7-17. Rate of pay upon detail to special duty**

The pay of an employee who is detailed to special duty in accordance with ~~530:10-5-11~~ 530:10-5-110 shall not be reduced, but must be increased to at least the minimum rate but not more than the maximum rate the employee could receive upon promotion to that job family and level, provided:

(1) any such temporary increase shall not affect eligibility for increase in the regular job family and level which the Appointing Authority could grant if the employee had not been detailed.

(2) at the conclusion of the detail, pay shall revert to the authorized rate of pay in the employee's regular job family and level.

### **530:10-7-20. Market adjustments**

~~(a) A cost of living raise or any other type of raise that would be given to state employees on an across the board basis is prohibited unless specifically authorized by the Legislature. The Office of Personnel Management conducts annual compensation surveys of relevant markets to determine rates of pay for various jobs within the designated market areas. The Administrator shall make any recommendations concerning salary adjustments for state employees on an across the board basis in the Annual Compensation Report for consideration by the Legislature.~~

~~(b) At the discretion of~~ Upon approval by the Administrator, an Appointing Authority may make market adjustments may be made for all employees in individual a job families family or job family levels or limit such adjustment to employees who perform the same or similar duties, or who perform the same role or accountabilities upon the request of an Appointing Authority. An Appointing Authority making such a request shall provide the Administrator with information supporting the request, such as relevant market data, information on recruitment or retention problems, or other appropriate data. The Appointing Authority shall also certify that an adjustment can be made within the agency's budget for the current and subsequent fiscal year without the need for additional funding. An Appointing Authority may limit market adjustments to employees rated at least "Meets Standards" on the most recent performance evaluation. Such limitation must be included in the agency's approved Salary Administration Plan. All eligible employees of an agency in jobs affected by a market adjustment shall be given uniform treatment.

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

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

(b) Skill-based pay adjustments may be provided as a differential over and above an employee's base pay or as ~~a one-time~~ lump-sum payment. Lump sum skill-based pay adjustments may be awarded upon initial certification and any subsequent recertification as may be required by the certifying organization and identified in the agency's skill-based pay plan. Lump sum payments shall be limited to **10%** of an employee's annual salary, and differentials shall be limited to **10%** of an employee's monthly salary for

employees paid on a monthly basis, and 10% of an employee's biweekly salary for employees paid on a biweekly basis. Employees whose base pay is at or exceeds the maximum of the pay band shall not be eligible for a differential, but may receive a lump-sum payment. ~~Skill-based~~ Except as provided in Subsection (c), skill-based pay adjustments shall be paid only as long as the employee occupies a position to which the skill is applicable in accordance with the agency's salary administration plan. An employee may receive multiple skill-based pay differentials so long as the combined total of all skill-based pay differentials does not exceed 15%.

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

### **530:10-7-26. Equity-based pay adjustments**

An Appointing Authority may provide equity-based pay adjustments when individual employees are significantly underpaid relative to other employees performing the same or similar duties, or employees with the same role or accountabilities, in the same job family and level within the same agency. Adjustments above the midpoint of the pay band require approval of the Administrator. ~~An Appointing Authority may make adjustments~~ Adjustments which do not cause an employee's salary to exceed below the midpoint of the pay band and which are consistent with the requirements of this section may be made at his or her the Appointing Authority's discretion. ~~Adjustments which cause an employee's salary to exceed the midpoint of the pay band require approval of the Administrator.~~ An Appointing Authority may limit equity-based pay adjustments to employees rated at least "Meets Standards" on the most recent performance evaluation. Such limitation must be included in the agency's approved Salary Administration Plan. No employee may receive more than one equity-based adjustment in the same job family and level in a twelve-month period.

## **PART 3. PAYROLL**

### **530:10-7-31. Certification of payrolls**

(a) ~~Certification by the Office of Personnel Management.~~ No state disbursing or auditing officer shall make, approve or take part in making or approving any payment for personal service to any person holding a position in the classified service, unless the payroll voucher or account of such pay bears the certification of the ~~Office of Personnel Management~~ Appointing Authority that the persons named therein have been appointed and employed in accordance with the provisions of the Oklahoma Personnel Act ~~or~~ and the Merit Rules [74:840-1.18(D)].

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

auditing officer shall not approve any payment to such person except in accordance with the provisions of the Act or the Merit Rules.

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

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

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

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

## SUBCHAPTER 9. RECRUITMENT AND SELECTION

### PART 11. DIRECT HIRE AUTHORITY

#### **530:10-9-122.** [RESERVED]

#### **530:10-9-123. Expedited recruitment**

(a) The Administrator may select positions or job family levels for expedited recruitment when in the opinion of the Administrator the education, experience or certification requirements for such positions or job family levels substantially limit the pool of available applicants to less than an adequate applicant pool as defined by 530:10-9-111. Applicants for positions selected for expedited recruitment who have been approved by the Office of Personnel Management as meeting the minimum qualifications for the job may be referred to agencies having such vacancies without examination and ranking, provided that the register for the job has been publicly announced for at least 14 calendar days. Applicants for positions selected for expedited recruitment are eligible for appointment upon referral. [74:840-1.6A]

(b) An Appointing Authority may request that positions or job family levels be considered for expedited recruitment by submitting a written request to the Administrator. The request shall describe the unique education, experience or

certification requirements that substantially limit the pool of available applicants, the recruitment efforts made by the agency, the suggested duration of the expedited recruitment designation, and shall be accompanied by a Position Description Questionnaire (OPM-39) for the position(s). The Administrator may request clarification or additional information from the agency. The Administrator shall provide the agency with written notification of his approval or denial of the request. The decision of the Administrator shall be final.

(c) An Appointing Authority who has expedited recruitment authority may retain that authority for 12 months from the date of approval by the Administrator unless that authority is terminated by the Administrator pursuant to 530:10-9-121. The Appointing Authority may reapply to continue expedited recruitment authority for additional 12 month periods in the same manner as in the initial request.

## **SUBCHAPTER 11. EMPLOYEE ACTIONS**

### **PART 3. PROBATIONARY EMPLOYEES**

#### **530:10-11-34. Suspension of probationary employees [REVOKED]**

~~(a) A probationary employee may be suspended from duty without pay for disciplinary or internal investigatory purposes for up to 60 calendar days without right of appeal or hearing.~~

~~(b) The date of the final working day of the probationary period shall be adjusted for the same number of calendar days as the suspension.~~

~~(c) If a probationary employee is suspended in conjunction with an internal investigation, the Merit Protection Commission shall be so notified. If the investigation subsequently clears the employee, the agency, with the prior authorization of the Commission, shall reinstate the employee to the former position. The employee shall be fully compensated for the time lost, and the time spent on suspension shall be fully considered as part of the probationary period.~~

### **PART 5. PROMOTIONS**

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

*(a) The appointing authority shall post announcements of a vacancy or vacancies in accordance with a promotional plan filed by the agency with the Office of Personnel Management. [A copy of this plan shall be posted throughout the agency.] ~~In order to give qualified employees an opportunity to apply for and be considered for possible promotions, the vacancy notices shall be posted conspicuously in transparent, secured enclosures situated in prominent locations throughout the agency, at least five (5) working days prior to the closing date for the receipt of applications by the appointing authority. Promotional posting shall be required for initial entry into a job family at any level. Promotional posting shall also be required for entry into any supervisory position or level. Each agency's promotional posting plan shall describe where promotional notices will be posted and require that all vacancy or promotional notices be posted conspicuously in transparent, secured enclosures. Notices must be posted throughout the agency. However, an agency's plan may limit the posting of notices for a vacancy in a~~*

~~work unit, local office or administrative area to within that location, if the vacancy is to be filled by an employee from the same location the method by which all agency employees will be notified of vacancy announcements.~~ [74:840-4.15] The Appointing Authority shall post all promotional opportunities to vacant positions and to all supervisory levels. Promotional posting is not required for career progression or for reallocation of occupied, non-supervisory positions.

(b) *The posting shall include:*

- ~~(1) A copy of the job family descriptor;~~
- ~~(2) Identification of the job family level of the vacancy or vacancies;~~
- (2) A listing of job title, major work duties and minimum qualifications;
- (3) *The pay band and range;*
- (4) *The anticipated number of vacancies;*
- (5) *The specific location of work;*
- (6) *The time limits and procedure for filing an application with the appointing authority; and*
- (7) *Any additional factors which the appointing authority will consider in filling the vacancy.* [74:840-4.15]

## **PART 7. TRANSFERS AND VOLUNTARY DEMOTIONS**

### **530:10-11-71. Intra-agency transfer**

(a) The intra-agency transfer of a permanent employee from one position to another position in the same job family or another job in the same pay band, for which the employee has currently qualified, may be made at any time by the Appointing Authority. Such transfer may be made simultaneously with a promotion or demotion in accordance with the provisions of the Merit Rules.

(b) Upon intra-agency lateral transfer, an employee shall serve a six-month trial period in the job level to which the employee is transferred, unless the trial period is waived in writing by the Appointing Authority. [74:840-4.12]

~~(b)(c)~~ *A state agency shall have sole and final authority to designate the place or places where its employees shall perform their duties. The Oklahoma Merit Protection Commission shall not have jurisdiction to entertain an appeal of an employee from action of the employing agency transferring the employee from one county or locality to another, changing the assigned duties of the employee, or relieving the employee from performance of duty at a particular place and reassigning to the employee duties to be performed at another place, unless:*

- (1) the action results in a change in job classification or reduction of base salary; or*
- (2) an investigation by the Commission indicates that a violation of the provisions of Section 840-2.5 or 840-2.9 of . . . [the Oklahoma Personnel Act] may have occurred;*  
*or*
- (3) it is established that the action was clearly taken for disciplinary reasons and to deny the employee the right of appeal.* [74:840-4.19]

## **PART 13. RESIGNATIONS**

**530:10-11-134. Resignation or leave without pay to accept an unclassified position**

(a) No classified employee may be assigned to an unclassified or exempt position unless the employee so desires and such acceptance shall be transmitted in writing to the Administrator.

(b) Any classified employee shall be deemed to have resigned the classified position on the date of accepting an appointment to a position in the exempt or unclassified service of the state; except that, a person appointed to a temporary or acting position in the exempt or unclassified service, including appointment as an acting incumbent as provided in Section 840-5.5(A)(50) of Title 74 of the Oklahoma Statutes, may alternatively request leave without pay status in the classified position while assigned to the unclassified or exempt position. Such leave without pay shall not exceed 2 years from the date of the appointment to the unclassified service.

**SUBCHAPTER 13. REDUCTION-IN-FORCE**

**PART 1. GENERAL PROVISIONS FOR REDUCTION-IN-FORCE**

**530:10-13-1. Purpose**

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 classified employees within the 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**

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 job family levels"** means those 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 families, 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 one (1) year or more 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. [74:840-2.27B]

**"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 Notice of reduction-in-force and time requirements**

(a) **Cabinet Secretary approval.** Prior to the posting of any reduction-in-force notice, the notice shall be approved by the cabinet secretary for the agency conducting the reduction-in-force. [74:840-2.27C] If there is no incumbent cabinet secretary for the agency, the approval requirement shall not apply.

(b) **Notice.** ~~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~~ At least 60 days before the scheduled beginning of reduction-in-force separations or as otherwise provided by law, the Appointing Authority shall post a notice in each office affected by the proposed reduction-in-force that a reduction-in-force will be conducted in accordance with the Oklahoma Personnel Act and Merit Rules. Such notice shall be posted for 5 days. The Appointing Authority shall provide a copy of the notice to the Administrator. A

~~reduction-in-force shall not be used as a disciplinary action. [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) **Implementation plan.** -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. The reduction-in-force implementation plan and subsequent personnel transactions directly related to the reduction-in-force shall be in compliance with rules adopted by the Administrator. The reduction-in-force implementation plan, including the description of and reasons for displacement limits and protections from displacement actions, and severance benefits that will be offered shall be posted in each office affected by the plan within 5 business days after posting of the reduction-in-force notice. At the discretion of the Appointing Authority, the reduction-in-force implementation plan may be posted concurrently with the reduction-in-force notice. The reduction-in-force implementation plan shall:~~

~~(1) Specify the position or positions to be abolished within specified units, divisions, facilities, agency-wide or any parts thereof, as determined by the Appointing Authority;~~

~~(2) Provide for retention of affected employees based on type of appointment;~~

~~(3) Require separation of probationary classified affected employees in affected job family levels, except those affected employees in probationary status after reinstatement from permanent classified status without a break in service, prior to the separation of any permanent classified affected employee in an affected job family level;~~

~~(4) Provide for the retention of permanent classified affected employees in affected job family levels and those affected employees in probationary status after reinstatement, based on years of service;~~

~~(5) Provide for exercise of displacement opportunities by permanent classified affected employees and those affected employees in probationary status after reinstatement if any displacement opportunities exist; and~~

~~(6) Provide for outplacement assistance and employment counseling from the Oklahoma Employment Security Commission and any other outplacement assistance and employment counseling that may be available. [74:840-2.27C(B)]~~

~~(d) **Review of fiscal components.** *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)]~~

The Director of the Office of State Finance shall, within 5 business days of receipt, review the fiscal components of the reduction-in-force implementation plan and reject any plan that does not meet the requirements of Section 840-2.27C(C) of Title 74 of the Oklahoma Statutes.

~~(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 [REVOKED]**

~~(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)]~~

#### **530:10-13-8. Required freeze on personnel actions**

(a) At least **14** calendar days before the reduction-in-force implementation ~~schedule~~ plan is posted in accordance with Section 840-2.27C of Title 74 of the **Oklahoma Statutes** and 530:10-13-35, all personnel actions within affected job families 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~~ plan is posted.

**530:10-13-10. Appeal of reduction-in-force**

Employees may only appeal a reduction-in-force to the Merit Protection Commission on the basis of procedural errors in the application of the reduction-in-force plan of the employing agency [~~74:840-6.2(C)~~ 74:840-6.2(J)]. A reduction-in-force shall not be used as a disciplinary action.

**530:10-13-11. ~~Options~~ Option in lieu of reduction-in-force**

Agencies may provide voluntary out benefits to eligible ~~classified employees and eligible regular unclassified~~ employees in accordance with the provisions of Section 840-2.28 of Title 74 of the **Oklahoma Statutes**.

**530:10-13-12. Severance benefits**

(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, and 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 who are separated as a result of the same reasons that a reduction-in-force is conducted for classified employees. 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; Employees who are reemployed by the agency from which separated by a reduction-in-force

(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 agency which is separating only unclassified employees with 1 year or more continuous service for budgetary reasons may provide severance benefits pursuant to Sections 840-2.27D and 840-5.1A of Title 74 of the **Oklahoma Statutes**.

(c) 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**

*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 or voluntary out 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**

### **530:10-13-31. Abolishing positions and retaining positions**

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]. The Appointing Authority shall determine which vacant positions will be retained. *If an agency has both classified and unclassified positions in affected job family levels, the appointing authority shall not reduce a higher percentage of occupied classified positions than occupied unclassified positions* [74:840-2.27C].

### **530:10-13-32. Order of employee removal**

(a) Agency-wide, or within displacement limits, if established, retention of affected employees shall be based on job family level and type of appointment [74:840-2.27C]. Subject to eligible classified employees accepting displacement offers, unclassified employees in a job family level 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 job family level [74:840-2.27C].

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

(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 job family level 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~~ plan.

(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 job family level, not on the basis of the job to which detailed.

### **530:10-13-33. Calculation of retention points for years of service**

(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**. Periods of leave without pay of **30** calendar days or less shall be counted as full-time service.

(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~~ plan is posted.

#### **530:10-13-34. Displacement opportunities and limits**

(a) **Limitations on displacement opportunities.** Except as provided in this Section, ~~Displacement~~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. *The appointing authority may protect from displacement action up to twenty percent (20%) of projected post-reduction-in-force employees in affected positions within displacement limits; provided that any fractional number resulting from the final mathematical calculation of the number of those positions shall be rounded to the next higher whole number. The appointing authority must explain why affected employees are being protected. Employees must have received an overall rating of "meets standards" on the most recent performance evaluation in order to exercise a displacement opportunity. For the purposes of this Section, employees who have not been rated within the past **12** months shall be deemed to have received an overall rating of "meets standards" on the most recent performance evaluation. [74:840-2.27C]*

(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. If the affected employee has not held within the last five (5) years a position in the job family level or predecessor class in which the affected employee is otherwise eligible for a displacement opportunity, the appointing authority may determine that the affected employee does not possess the recent relevant experience for the position and deny in writing the displacement opportunity. [74:840-2.27C]

(1) Transfer within the same job family and level into a retained position which is currently:

- (A) vacant and available for displacement in accordance with 530:10-13-31,
- (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) Lateral transfer to a retained position in another job family previously held in the reverse order in which they were held by the employee on a permanent basis which is currently:

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

~~(2)(3)~~ Voluntary demotion to a retained position in the next available lower level of the same job family which is currently:

- (A) vacant and available for displacement in accordance with 530:10-13-31,
- (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)(4)~~ Voluntary demotion to a retained lower level position in another job family previously held 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,
- (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.~~

(c) An eligible 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)]

### **530:10-13-35. Reduction-in-force implementation schedule plan**

As provided in Section 840-2.27C of Title 74 of the **Oklahoma Statutes** and OAC 530:10-13-3, Appointing Authorities of executive branch agencies shall post the reduction-in-force implementation schedule plan in all offices of the agency within ~~2~~ **5** business days after approval of the reduction in force plan by the Administrator posting the reduction-in-force notice. ~~Appointing Authorities of executive branch agencies A~~

copy of the implementation plan shall submit the reduction-in-force implementation schedule, including the lists described in (4) of this Section, be provided 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 no later than the time it is posted in the agency. The reduction-in-force implementation schedule plan is not subject to the approval of the Administrator or the Commission. The In addition to the information required by 530:10-13-3(b), the reduction-in-force implementation schedule plan 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, listings of affected positions and employees, to include the following information (or if such lists are not posted, the location of the office where they are available for review):
  - (A) all occupied and vacant positions in affected job families within any displacement limits, indicating those to be abolished and those available for displacement, showing in each case: geographical and administrative location, job family, level, and pay band for the position; the name, job family, level, and pay band, appointment type, and rate of pay of the incumbent; and, for permanent employees, retention points and other lateral or lower level job families and levels 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 positions and employees in affected job families which are subject to displacement, showing the same information;
  - (C) other occupied and vacant positions and employees in affected job families, showing the same information. The agency may include all other positions in the agency in affected job families or may limit posting to ten percent of positions occupied by employees with the least number of retention points based on longevity dates in affected job families, and
  - ~~(C)~~ (D) all retained funded vacant positions anywhere in the agency;
  - ~~(D)~~ all affected job families, and unclassified jobs grouped by series;
- (5) the schedule and procedure to be followed if an eligible employee chooses to accept any a displacement 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; and
- (8) the method established by the Appointing Authority to break ties in retention points.

### **530:10-13-36. Written notice to employees**

Appointing Authorities of executive branch agencies shall provide individual written notice to ~~an affected employee~~ employees in abolished positions within ~~14~~ 5 calendar days after ~~approval of the reduction-in-force plan by the Administrator~~ posting of the implementation plan. Other employees affected through the exercise of a displacement opportunity shall be notified within 5 calendar days after being identified as being displaced. The written notice to employees 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,~~ exercising a displacement opportunity, if one is available; and
- (4) provide notice of appeal rights for classified employees in accordance with 530:10-13-10.

### **530:10-13-37. Exercise of displacement privileges**

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~~ plan. 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.

## **PART 5. RECALL RIGHTS**

### **530:10-13-50. Eligibility for recall**

(a) ~~Eligible~~ Consistent with any displacement limits adopted pursuant to Section 840-2.27C of Title 74 of the Oklahoma Statutes, permanent classified employees and employees in probationary status after reinstatement from permanent classified status without a break in service who are removed from a job family level as a result of a reduction-in-force in an agency shall be eligible for recall by that agency to the job family level from which removed for **18** months after the effective date of separation or demotion [74:840-2.27C]. ~~Regular unclassified employees who are removed from a position as a result of a reduction in force in an agency shall normally be eligible for recall by that agency to the position 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 job family level, an Appointing Authority may not appoint or reclassify persons to the job family level from the employment register, by internal action, such as promotion or reinstatement, or from Priority Reemployment Consideration Rosters [840-2.27C]. However, an Appointing Authority may reclassify an employee by involuntary demotion for cause to a job family level 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 of Title 74 of the Oklahoma Statutes,~~

~~—(2) who are employed reemployed by any the agency from which separated as a result of a reduction-in-force 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 840-2.28 of Title 74 of the **Oklahoma Statutes** shall not be eligible for recall.

### **530:10-13-51. Order of recall**

Individuals who are eligible for recall shall be ranked in order of their retention points at the time the reduction-in-force implementation ~~schedule~~ plan 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~~ was removed from the job family level by voluntary demotion or lateral transfer to another job family level. ~~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.~~

## **PART 7. PRIORITY CONSIDERATION FOR REEMPLOYMENT**

### **530:10-13-70. Eligibility for priority reemployment consideration**

(a) Permanent classified employees, ~~regular unclassified full-time employees with one (1) year or more continuous service,~~ and employees on probationary status after reinstatement from permanent classified status without a break in 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] for jobs in the classified service. In addition, affected employees shall be eligible for Priority Reemployment Consideration beginning with the date the implementation ~~schedule~~ plan 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~~ notice and implementation ~~schedule~~ plan 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]

(b) To be placed on the Priority Reemployment Consideration Roster for a job family level, a person shall apply to the Office of Personnel Management and meet all requirements for the job [74:840-2.27C]. The job family level need not be announced for recruitment. The names of the persons on Rosters shall be ranked in order of their individual final earned ratings [74:840-2.27C].

- (c) Employees who accept severance benefits:
- (1) are eligible for Priority Reemployment Consideration in accordance with the provisions of Section 840-2.27C of Title 74 of the **Oklahoma Statutes**,
  - (2) who are ~~employed~~ reemployed ~~by any agency~~ less than **1** year after receiving severance benefits by the agency from which they separated 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 840-2.28 of Title 74 of the Oklahoma Statutes shall not be eligible for Priority Reemployment Consideration.

**530:10-13-72. Conditions of employment and entrance salary**

Persons who are appointed from a Priority Reemployment Consideration Roster shall be employed in accordance with 530:10-9-102, if they are eligible for reinstatement as provided in that Section. The entrance salary of such persons shall be fixed in accordance with 530:10-7-4. ~~Persons appointed from a Priority Reemployment Consideration Roster, who were in the unclassified or exempt service at the time of separation and ineligible for reinstatement as provided in 530:10-9-102, shall be employed in accordance with 530:10-11, Part 3. The entrance salary of such persons shall be at the hiring rate established by the agency for the job to which appointed.~~

**SUBCHAPTER 15. TIME AND LEAVE**

**PART 3. ANNUAL AND SICK LEAVE POLICIES**

**530:10-15-11. Annual leave**

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

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

(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~~ based upon the number of hours (excluding overtime hours) an employee is on the payroll [74:840-2.20].

(4) An Appointing Authority may require an employee to take annual leave whenever in the administrative judgment of the Appointing Authority such action would be in the best interests of the agency; except that the employee shall not be

required to reduce accrued annual leave below **5** days. An Appointing Authority shall not apply this rule in lieu of 530:10-11-120. Leaves of absence for internal investigatory purposes shall be administered according to 530:10-11-120.

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

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

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

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

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

(10) Any probationary or permanent employee who leaves the employ of an agency shall receive payment for the accrued number of hours of annual leave in accordance with the hourly rate. Payment may only be withheld pending settlement of a legal debt to the agency. If a person is reemployed by the State within a period of **30** calendar days from the date of separation, any portion of the accumulated annual leave which has not yet been paid may be reinstated.

#### **530:10-15-12. Sick leave**

Eligible employees shall accrue sick leave ~~on a calendar month basis~~ based upon hours worked (excluding overtime), paid leave, and holidays [74:840-2.20(1)] according to 530:10-15-10 and this Section, not to exceed the total possible work hours for the month. The hourly rate is equal to the annual accrual divided by the number or work

hours in the current year. Sick leave earned during one month shall not be available for use until the beginning of the next month.

- (1) Sick leave means a period when the employee cannot work because of sickness, injury, pregnancy, or medical, surgical, dental or optical examination, or treatment, or where the employee's presence at work would jeopardize the health of the employee or others. An employee may charge family and medical leave, taken in accordance with 530:10-15-45, against sick leave accumulations.
- (2) An employee shall not use sick leave for annual leave.
- (3) An employee shall not use sick leave before it is accrued.
- (4) Immediately on return to work, an employee who has been absent on sick leave shall give the Appointing Authority a signed statement that the absence was due to reasons listed in (1) of this Section. If an absence exceeds **3** working days, the employee shall give the Appointing Authority a physician's statement unless the Appointing Authority waives it. For shorter absences, the Appointing Authority may require the employee to supply proof the absence was consistent with (1) of this Section. Sick leave shall not be granted until approved by the Appointing Authority. An Appointing Authority shall approve sick leave unless there are facts to show that an employee abused sick leave privileges or the employee failed to supply requested evidence of illness.
- (5) Sick leave shall be charged against an employee's sick leave balance based on the amount of time an employee is absent from work during the employee's assigned work schedule. Holidays, or the scheduled days off for holidays, occurring within a period of sick leave shall not be charged to sick leave.
- (6) Sick leave earned during a pay period shall be prorated according to the days number of hours (excluding overtime) an employee is on the payroll [74:840-2.20(1)].
- (7) Part-time employees shall accrue sick leave in an amount proportionate to that which would have accrued under full-time employment [74:840-2.20(1)].
- (8) When an employee transfers from one agency to another, the Appointing Authority of the receiving agency shall give the employee credit for all unused sick leave accumulations.
- (9) Employees shall not be compensated for accumulated sick leave when they separate from state service.
- (10) If an absence because of illness or injury extends beyond the sick leave an employee has accumulated, the Appointing Authority may charge additional absence to the employee's annual leave accumulations.
- (11) Unless it is against the law, an Appointing Authority shall approve sick leave when an employee is absent due to illness or injury and receiving Oklahoma State Workers Compensation benefits.
- (12) If an employee leaves the state service on or after October 1, 1992, and is reemployed within a period of **2** years from the date of separation, the Appointing Authority may reinstate all or a part of the unused sick leave accumulated during the previous period of continuous employment with the state [74:840-2.20(6)].
- (13) There is no limit on sick leave accumulations.

## **PART 5. MISCELLANEOUS TYPES OF LEAVE**

### **530:10-15-43. Holidays**

(a) Holidays shall be granted in accordance with state law and the Governor's proclamations as they are observed by the individual agencies in accordance with their work load and policies.

(b) To be eligible to receive holiday pay, an employee shall be in pay status or on furlough for the entire regularly-scheduled workday either the workday before or the workday after the holiday. An employee shall not be eligible to be paid for holidays which occur either before the employee's entry on duty date or after the last day the employee works. The receiving Appointing Authority shall pay an employee who transfers from another agency for any holidays occurring after the last day worked in the sending agency. An employee who is recalled, reemployed, or reinstated shall not be paid for any holiday occurring after the last day worked while previously employed and before entry on duty.

(c) Appointing Authorities shall pay full-time employees for holidays based on an **8**-hour workday. Full-time employees who are eligible for holiday pay under (b) of this Section and who are scheduled to work either more or less than **8** hours on a holiday shall receive the equivalent of **8** hours of holiday pay or compensatory time off.

(d) Appointing Authorities shall prorate holiday pay for part-time employees based on one of the following methods:

(1) Holiday pay as a percentage of normally scheduled hours worked divided by full-time hours; or

(2) Holiday pay equal to regular pay for hours normally worked if a holiday occurs on a normally scheduled work day.

(e) If a full-time or part-time employee's scheduled hours worked plus holiday hours total less than the employee's normally scheduled hours during the workweek, the Appointing Authority shall account for the difference exercising one or more of the following options:

(1) Work additional hours during the same workweek;

(2) Charge to accumulated annual leave; or

(3) Record as leave without pay under 530:10-15-47.

(f) If an employee's scheduled hours worked plus holiday hours are more than **40** hours in a workweek, the Fair Labor Standards Act requires that only hours actually worked be counted as hours worked in accordance with the Fair Labor Standards Act and 530:10-7-12.

(g) For employees who are scheduled to work on a holiday and for employees whose regular day off falls on a holiday, the Appointing Authority shall either:

(1) reschedule the employee's holiday to be taken within **180** days; or

(2) pay the employee for the holiday based on an **8**-hour workday times the employee's base rate of pay at the time of payment.

(h) An Appointing Authority may request an extension of the **180** days for taking holiday time off up to an additional **180** days providing the Appointing Authority submits proper documentation to the Office of Personnel Management justifying the extension. All extensions are subject to the approval of the Office of Personnel Management.

**530:10-15-45. Family and medical leave**

(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~~ 2601 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. An Appointing Authority may adopt a policy allowing family and medical leave to be taken intermittently to care for a newborn child or newly placed adopted or foster child.

(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 has the right to designate leave taken for an FMLA-qualifying event as FMLA leave, regardless of whether the employee has requested FMLA 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.

#### **530:10-15-49. Leave and first preference due to work related illness or injury**

(a) **Purpose.** The purpose of this Section is to interpret Section 840-2.21 of Title 74 of the **Oklahoma Statutes** (Section 840-2.21). Section 840-2.21 establishes the rights and benefits of state employees who are absent from work because of an illness or injury arising out of and sustained in the course of employment with the State. These employees have a right to return to work if certain conditions are met. **In applying Section 840-2.21 and this Section, employing agencies shall return an employee to work as soon as possible, either to the original position or to an alternate position if an employee, with reasonable accommodation, is unable to return to the original position.**

(b) **Employee eligibility.** This Section applies to all eligible probationary and permanent classified and regular unclassified employees. It does not apply to unclassified employees on temporary and other limited term appointments. An employee shall file a claim for workers compensation benefits to be eligible [74:840-2.21].

(c) **Termination of rights.** All rights and benefits under Section 840-2.21 and this Section shall end **1** year after the start of leave without pay under this Section and shall end immediately if the claim for workers compensation is denied or canceled within the **1** year period [74:840-2.21].

(d) **Employing agency practice, policy, and procedure.** An agency's policy, procedure and practice affecting employees who file claims for workers compensation benefits shall agree with Section 840-2.21.

(e) **Required notice to employees.** Appointing Authorities shall give employees who report a job related illness or injury copies of this Section, Section 840-2.21, and the agency's policies and procedures for complying with this Section and the law. The procedures shall include instructions about requesting leave without pay under Section 840-2.21.

(f) **Placement of employee on leave without pay.** Appointing Authorities shall refer to this Section when they place an employee on leave without pay under Section 840-2.21. The Appointing Authority shall not require employees to exhaust paid sick and annual leave accumulations before placing them on leave without pay [74:840-2.21]. The Appointing Authority shall continue paying the employee's basic plan insurance coverage and dependent insurance benefit allowance while the employee is on leave without pay, and the leave shall not be a break in service [74:840-2.21].

(g) **Medical reports.** At least every 3 months, an employee on leave without pay under this Section shall give the Appointing Authority a medical statement as to his or her ability to perform the essential duties of the original position [74:840-2.21]. The medical statement shall be made by a physician as defined in Section 14 of Title 85 of the **Oklahoma Statutes.**

(h) **Inability to perform essential duties of original position.** If an employee on leave without pay under this Section cannot perform the essential duties of the original position, the employing agency shall give the employee first preference for other classified and unclassified positions according to Section 840-2.21.

(1) Appointing Authorities shall establish a procedure for giving employees on leave without pay under this Section first preference to fill classified and unclassified positions that do not represent a promotion to the employee, if the employee is medically able to do the essential duties and has the minimum qualifications for positions the Appointing Authority seeks to fill.

(2) The Appointing Authority's procedure shall include either notifying an employee of all vacant classified and unclassified positions the Appointing Authority seeks to fill or allowing the Appointing Authority and the employee to agree on notice for specific positions or jobs. The procedure may require employees to submit medical reports stating their ability to perform the essential duties of specific positions or groups of positions. The Appointing Authority shall give a copy of the procedure to each employee on leave without pay under this Section.

(3) Appointing Authorities do not have to notify employees on leave without pay under this Section when the Appointing Authority fills a vacant position temporarily (by temporary unclassified appointment or detail to special duty).

(4) Before an Appointing Authority may give a classified or unclassified employee first preference for a classified position, the employee shall be certified by the Office of Personnel Management as meeting the minimum qualifications. Neither classified nor unclassified employees shall be required to compete through the open competitive process for a classified position. The Appointing Authority shall submit the necessary paperwork to the Office of Personnel Management for review.

(5) Before an Appointing Authority assigns an employee to an alternate position (a position that is not the original position), the Appointing Authority shall give the employee written notice of the requirement to return to the original position under (i) of this Section. While in an alternate position, an employee shall submit medical reports at least every **3** months and whenever the medical condition changes enough to affect his or her ability to return to the original position.

(i) **Return to original position.** An employee on leave without pay or working in an alternate position shall have the right to return to his or her original position according to this Section and Section 840-2.21. When a medical report indicates the employee is able to perform the essential duties of the original position, with or without reasonable accommodation, the Appointing Authority shall return the employee to the original position. The employee and the Appointing Authority may agree in writing to waive the requirement to return the employee to the original position from an alternate position.

(j) **Failure to return to work.**

(1) The Appointing Authority may discipline a permanent classified employee or a probationary classified employee or an unclassified employee if:

(A) a medical report states the employee is able to do the essential duties of the original position or an alternate position (for which the employee is qualified); and

(B) the employee does not return to work within **7** days after the Appointing Authority mails a notice to the employee's last known address or delivers a notice to the employee.

(2) If an employee does not return to the original position or an alternate position within **1** year after the start of leave without pay, the Appointing Authority may terminate the employee under Section 840-2.21. An Appointing Authority that uses Section 840-2.21 as authority to terminate an employee shall give the employee a copy of (k) of this Section. Termination of a permanent classified employee under this Section is subject to the pretermination hearing requirements of Section 840-6.4 of Title 74 of the **Oklahoma Statutes**.

~~(3) If Section 5 (A)(2) of Title 85 of the Oklahoma Statutes prevents the Appointing Authority from terminating the employee, the Appointing Authority shall place the employee on leave without pay according to that law. The rights and benefits of this Section and Section 840-2.21 shall no longer apply.~~

(k) **Reinstatement upon separation.** A classified employee shall be eligible for reinstatement to either classified or unclassified employment with any state agency for **12** months after the date of separation under (j)(2) of this Section. An unclassified employee shall be eligible for reinstatement to unclassified employment with any state agency for **12** months after the date of separation under (j)(2) of this Section. This does not reduce eligibility under other general reinstatement or reemployment laws or rules, such as 530:10-9-102. [74:840-2.21]

## **SUBCHAPTER 17. EMPLOYEE PERFORMANCE MANAGEMENT SYSTEM AND CAREER ENHANCEMENT PROGRAMS**

### **PART 3. ~~EMPLOYEE PERFORMANCE MANAGEMENT~~ EVALUATION SYSTEM**

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

(a) *The Office of Personnel Management shall make available one standard performance management system to be used by all agencies for completing employee service ratings. Agencies shall implement this new system on or before January 1, 2000. Until January 1, 2000, agencies may continue to use employee service rating systems which were approved or provided by the Administrator prior to November 1, 1999. The purpose of this employee performance management system is to evaluate the performance of each classified, unclassified and exempt employee in the executive branch of state government except those in the exempt unclassified service as specified in paragraphs 1 and 2 of 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 [74:840-4.17].*

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

(1) *An objective evaluation of the employee, 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 immediate supervisor shall hold a meeting in person with the employee at least three times during a 12-month evaluation period.*

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

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

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

(e) *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].*

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

(g) *The basic document to be used in conducting performance evaluations is the Performance Management Process form (OPM-111), a form prescribed by the Administrator. The form contains spaces for the supervisor to describe a list of accountabilities on which the employee will be evaluated. The form also lists behaviors*

on which state employees will be evaluated. The form provides spaces for the supervisor to enter an overall accountability rating, an overall performance rating, and a summary/development plan. The form requires signature by the employee, the supervisor, and the reviewer.

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

## **PART 7. CARL ALBERT PUBLIC INTERNSHIP PROGRAM**

### **530:10-17-74. Undergraduate internship program**

(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 during each semester employed, 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 job-related 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.

### **530:10-17-75. Executive Fellows program**

(a) **Eligibility.** An Executive Fellows Program consists of six-month to two-year placements in professional or managerial level positions for students [74:840-3.4(2)]. No person is eligible to participate in the Executive Fellows program for more than **2** years. To be considered for eligibility determination, applicants shall have completed a

baccalaureate degree and at least 6 semester hours of graduate level coursework with at least a 3.0 grade point average on a 4.0 scale [74:840-3.4(2)(a)] or a 7.0 on a 12.0 scale in all graduate level coursework. Applicants shall follow the procedures in 530:10-17-77 for eligibility determination.

(b) The Administrator may waive the completion of 6 semester hours of graduate level coursework required by subsection (a) of this section for 1 semester, if:

(1) An individual currently employed by a state agency as a Carl Albert Public Internship Program undergraduate intern provides written verification to the Office of Personnel Management that he or she has:

(A) completed an undergraduate degree, and

(B) is enrolled in 6 semester hours of approved graduate level work; and

(2) The Appointing Authority or designee of the agency where the undergraduate intern is currently employed certifies in writing on a form provided by the Office of Personnel Management that the agency intends to employ the undergraduate intern as a Carl Albert Public Internship Program Executive Fellow immediately upon the undergraduate intern's completion of an undergraduate degree.

(c) The appointment of an Executive Fellow in accordance with subsection (b) is not effective until the Administrator approves:

(1) the waiver of the 6 semester hours of graduate level coursework; and

(2) an Executive Fellow agreement form prepared by the Appointing Authority in accordance with 530:10-17-77(f).

(d) At the end of the semester for which the waiver of the 6 semester hours of graduate level coursework was approved by the Administrator pursuant to subsection (b), the individual employed as a Carl Albert Public Internship Program Executive Fellow shall meet the eligibility requirements in subsection (a) of this section or be removed from the Carl Albert Public Internship Program. [74:840-3.5]

~~(b)~~**(e) Conditions of employment.** Participants in the Executive Fellows Program who receive internship appointments shall:

(1) be appointed in accordance with paragraph 10 of Section 840-5.5 of Title 74 of the **Oklahoma Statutes** [74:840-3.5(4)],

(2) be granted leave benefits commensurate with regular state employees [74:840-3.5(4)],

(3) be enrolled in the state health insurance and retirement benefits programs, if expected to work one thousand (1,000) or more hours per year,

(4) continue to make scholastic progress toward their graduate degrees during each fall and spring semester until completion of all graduate degree requirements,

(5) maintain the grade point average set out in (a) of this Section, and

(6) complete the training requirements described in (c)(3) of this Section.

~~(e)~~**(f) 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 scholastic progress toward a graduate degree, until completion of all graduate degree requirements, 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 **8** clock hours of job related training for Executive Fellows during each **6**-month period, 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.

(4) Each Appointing Authority shall rate the performance of participants in the Executive Fellows Program in accordance with Section 840-4.17 of Title 74 of the Oklahoma Statutes. [74:840-3.4]

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

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

(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~~ be assigned to a management rotation assignment which consists of six months in any or all of the following entities: in any state agency accepting the Mentor Executive, and the Mentor Executive's sending agency, provided that each agency rotation shall not exceed six months. Rotational assignments may be consecutive or intermittent and shall not exceed a total of 24 months for all rotations combined.

~~(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 job family, 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) **Intercession by the Office of Personnel Management.** *The Administrator of the Office of Personnel Management may intercede in mentor executive rotational*

assignments if the Administrator determines that the assignments are not functioning in accordance with guidelines established for the state mentor program. The result of the intercession may include, but is not limited to, reassignment or removal from the program. [74:840-3.8]

(g) **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 job family or its successor job family, 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**

### **530:10-17-177. Conversion**

(a) **Eligibility.** 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 family level by the Office of Personnel Management.

(b) **Direct conversion.** Direct conversion means the conversion of an employee to permanent classified status immediately following the successful completion of 2 years service under the State Work Incentive Program. Conversion shall be to a job 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.

(c) **Conversion following a break in service or to a different job.** If an employee completes a 2 year appointment under the State Work Incentive Program and is separated from the unclassified appointment under this program without being directly converted, the employee will be eligible for future appointment for up to 2 years following the completion of the State Work Incentive Program and eligible persons may make application for employment directly with state agencies. Additionally, a person may be converted to a different job which is not consistent with the duties and responsibilities performed under the State Work Incentive Program appointment subject to the following conditions. Prior to appointment and conversion of a person under this authorization, the

agency shall meet the internal posing requirement of Part 5 of 530:10-11 and may require a probationary period in accordance with 530:10-9-102. The following requirements must also be met:

- (1) The Administrator must certify that the person meets the current minimum qualifications for the job;
- (2) The Administrator may require the person to pass a qualifying examination before approving the appointment;
- (3) The date the person enters on duty must be within 2 years after the completion of the State Work Incentive Program appointment; and
- (4) The probationary period must be in accordance with 530:10-11-30.

(d) **Salary upon conversion.** If there is no break in service and conversion is to a job which is consistent with the duties and responsibilities performed during the State Work Incentive Program appointment, the salary shall be fixed at the rate of pay in effect for the employee at the time of conversion. If the conversion is to a different job, or the conversion follows a break in service, the salary shall be determined in accordance with 530:10-7-3.

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

### **PART 1. GENERAL PROVISIONS**

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

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

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

- (1) The participant consents in writing to the release of information;
- (2) The participant's employing agency requests verification of an employee's appointment with an EAP professional for the purpose of granting authorized absence according to 530:10-21-7. The disclosure shall be limited to the date and time of the employee's appointment with the EAP professional;
- (3) The EAP professional determines that the participant poses a threat to deliberately harm the participant or others [74:840-2.10(D)];
- (4) There is reason to believe that a child under the age of eighteen (18) years has had physical injury or injuries inflicted upon the child by other than accidental means where the injury appears to have been caused as a result of physical abuse, sexual abuse, or neglect [21:846(A)];

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

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

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

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

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

**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<br>[74:840-2.20(2)]   |                   |                       |                   |                       |
|---|-------------------|-----------------------|-------------------|-----------------------|
| Note: "Days" refers to 8-hour working days.   |                   |                       |                   |                       |
| Years of<br>Cumulative<br>Service   | Annual Leave      |                       | Sick Leave        |                       |
|   | Yearly<br>Accrual | Accumulation<br>Limit | Yearly<br>Accrual | Accumulation<br>Limit |
| Less than 5<br>years  | 15 days/year      | 30 days*              | 15 days/year      | No limit.             |
| 5 but less<br>than 10<br>years  | 18 days/year      | 60 days*              | 15 days/year      | No limit.             |
| 10 to 20<br>years   | 20 days/year      | 60 days*              | 15 days/year      | No limit.             |
| Over 20<br>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. |                   |                       |                   |                       |