



**State of Oklahoma**  
Office of Management and Enterprise Services

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**HCM 13-02**

**DATE:** March 11, 2013  
**TO:** All Appointing Authorities  
**FROM:** Lucinda Meltabarger, Administrator  
**SUBJECT:** **Public Hearing on Proposed Permanent 2013 Amendments to the Merit Rules – Part II**

A public hearing for comments has been scheduled in regard to proposed 2013 permanent amendments to the Merit Rules (please see attachment).

I hope that you or your representative will be able to attend this hearing:

**Merit Rules (Part II)**  
**10:30 a.m.**  
**Friday, March 22, 2013**  
**HCM Training Room**  
**Jim Thorpe Building (Basement)**  
**2101 North Lincoln Boulevard**  
**Oklahoma City, OK 73105**

Please advise if there are questions or if additional information is needed.

Attachment

A handwritten signature in cursive script, appearing to read "Lucinda Meltabarger".

## Title 530. Office of Personnel Management

### Chapter 10. Merit System of Personnel Administration Rules

#### 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**" or "**e-list**". 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 a job's pay, its of a particular job family level and the assigned job evaluation points, and market survey data, 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.

**"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 1.3].

**"Trial period"** means a working test period after promotion, voluntary demotion, or intra-agency lateral transfer during which a classified employee is required to demonstrate satisfactory performance in the job to which promoted, 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].

### **530:10-1-9. Self-Evaluation Plans, Best Practices, Consulting Services**

The Administrator shall develop and make available to state agencies Self-Evaluation Plans, Best Practices and Consulting Services for the development of an efficient and effective system of personnel administration that meets the management needs of the various agencies[74:840-1.6A,1]. Self-Evaluation Practices, Best Practices and Consulting Services may include but not be limited to: Overtime Policies; Salary Administration Plans; New Employee Actions; Training and Development; Salary and Benefits; Health, Safety and Security; Record-keeping and Miscellaneous Requirements; Job Posting Requirements; and other areas as determined by the Administrator.

### **530:10-1-65. Effect of Merit Rules on model projects**

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

### **530:10-5-34. Determination of appropriate job family**

(a) Job family descriptors shall be used in the determination of the allocation of positions. In determining the job family to which a position shall be allocated, a Position Description Questionnaire and a job family descriptor shall be interpreted and applied as a composite picture of positions the job family includes [74:840 4.3].

(b) Relevant information about the position shall be considered. This may include, but is not limited to, individual position descriptions, information submitted by the Appointing Authority and employee, job audit reports, organizational charts, and lists of accountabilities to be used in appraising performance in the position.

(c) Consideration shall be given to the specific tasks and duties, levels of authority and responsibility, supervision received and exercised, discretion and judgment required, management of work processes and programs, organizational relationships to other positions, and any other factors which assist in the proper allocation of the position.

(d) The Office of Personnel Management may consider the relationship of positions to gain a better understanding of the duties and responsibilities of a position being allocated. ~~However, comparisons among positions are not the basis for the allocation of a position to a job family.~~

(e) The fact that all of the tasks of a position do not appear in the job family descriptor to which the position has been allocated shall not be taken to mean that the position is necessarily excluded from the job family, nor shall any one example of a typical task, taken without relation to the other parts of the job family descriptor, be construed as determining that a position should be allocated to the job family.

(f) If a job family descriptor which clearly encompasses the duties and responsibilities of a position does not already exist, the Office of Personnel Management shall allocate the position to the most appropriate existing job family, revise an existing job family descriptor, or prepare a new job family descriptor to describe the position.

#### **530:10-5-44. Determination of appropriate job family level**

##### **(Summary of Proposed Change: Statement appears to be confusing or redundant.)**

(a) Appointing Authorities shall use job family descriptors and the job family allocation made by the Administrator in assigning positions to job family levels. In determining the job family level to which a position shall be assigned, Appointing Authorities shall interpret and apply the Position Description Questionnaire (OPM 39), and the job family descriptor as a composite picture of positions the job family level includes [74:840 4.3]. Appointing Authorities may also use a Supplemental Position Description Questionnaire (OPM 39A) in assigning positions to job family levels.

(b) Relevant information about the position shall be considered. This may include, but is not limited to, individual position descriptions, information submitted by the Appointing Authority and employee, job audit reports, organizational charts, and lists of accountabilities to be used in appraising performance in the position.

(c) Consideration shall be given to the specific tasks and duties, levels of authority and responsibility, supervision received and exercised, discretion and judgment required, management of work processes and programs, organizational relationships to other positions, and any other factors which assist in the proper allocation of the position.

(d) Appointing Authorities may consider the relationship of positions to gain a better understanding of the duties and responsibilities of a position in assigning a position to a job family level. ~~However, comparisons among positions are not the basis for the assignment of a position to a job family level.~~

#### **530:10-5-91. Other position reallocations**

(a) If a position is reallocated under conditions other than those outlined in 530:10 5 90, and the classification of an incumbent employee does not match the new allocation of the position, the Appointing Authority shall take action within 60 calendar days after the effective date of the allocation to ensure that the employee is properly classified. The Appointing Authority may:

- (1) transfer a permanent employee to another position in the agency allocated to the job family matching the classification of the employee in accordance with the Merit Rules governing transfers; or
- (2) change the duties of the position to the extent necessary to reflect the classification of the employee and initiate another audit of the position; or
- (3) reclassify or promote a permanent employee to the job family to which the position occupied by the employee was reallocated.

(b) If the employee is ineligible or is not selected to continue in the reallocated position, and if the Appointing Authority does not or cannot promote, demote or transfer the employee, detail the employee to special duty or change the duties of the position to match the classification of the employee, the applicable provisions in Merit Rules for reductions-in-force shall apply.

#### **~~530:10-7-1.2. Funding and reporting requirements~~**

~~(a) Use of pay movement mechanisms involving market adjustments, lateral transfers, skill-based pay adjustments, equity-based adjustments, career progression increases, probationary increases, increases upon the completion of trial periods, and performance-based adjustments are limited to those possible~~



using funds available in the agency's budget for the current and subsequent fiscal year without the need for additional funding. [74:840 2.17]

(b) All Appointing Authorities shall, no later than August 1 of each year, report to the Office of Personnel Management the cost of the pay movement mechanisms listed in subsection (a) used during the previous fiscal year. [74:840 2.17]

### **530:10-7-3. Entrance salary**

(a) Appointing Authorities may establish the hiring rate for a classified job at any point between the minimum and ~~midpoint~~ maximum of the pay band for the job family level without prior approval of the Administrator. Upon approval of the salary administration plan by the Administrator, ~~the Appointing Authority may establish hiring rates above the midpoint in accordance with the plan.~~ Hiring rates shall not be established below the minimum or above the maximum rate of pay established for a pay band.

(b) Appointing Authorities shall establish hiring rates for jobs included in a pay band based on the work performed, the duties and responsibilities assigned, and other relevant factors. This may include consideration of recruitment and retention issues, internal pay equity, market rates, previous hiring rates, and the training and qualifications of the employee being appointed.

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

(a) The Administrator may authorize a pay differential [74:840 1.6A(11)] for a position within a job family because of special duty requirements related to the position. This may include shift pay, on-call 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. Pay differentials are not limited by the maximum of the pay band.

### **530:10-7-9. Rate of pay for positions that become classified**

Whenever a position in an agency is brought under the classified service, the rate of base pay of the continuing incumbent shall be placed in the pay band for the job family and level to which the position is allocated, without adjustment, if such base rate is equal to or greater than the minimum rate of pay established for that job. If it is not, the rate of pay shall be increased to the minimum rate established by the agency for that job. Unless otherwise provided by statute, pay adjustments and required classification actions for incumbent employees shall be retroactive to the effective date of the placement of the employee in the classified service. No employee's base rate of pay shall be reduced as a direct result of becoming classified.

### **530:10-7-12. Payment of Overtime**

(a) An Appointing Authority shall neither require nor allow FLSA Non-Exempt employees to work in excess of **40** hours a week without establishing and implementing a comprehensive policy for compensation. Such policy shall be in compliance with the Fair Labor Standards Act (29 U.S.C. 201 et seq.). The policy shall be made available by the Appointing Authority to interested persons upon request and the Appointing Authority shall so notify employees. Copies of such policy shall be forwarded to the Office of Personnel Management. This section is not a comprehensive listing of the provisions of the Fair Labor Standards Act (29 U.S.C. 201 et seq.) and regulations promulgated thereunder, and is not intended to conflict with either the Act or the regulations.

(b) FLSA Non-Exempt (as defined by the Fair Labor Standards Act) employees shall be paid

1-1/2 times their regular hourly rate for each overtime hour worked.

(c) The Executive Branch of the State of Oklahoma is one employer for FLSA purposes; therefore, concurrent employment in more than one agency is considered joint employment. Employees working in one or more nonexempt positions in Executive Branch agencies and who work more than 40 total hours per week shall be eligible for overtime. Employees shall be required to notify their current agency upon accepting employment with another Executive Branch agency. It will be the responsibility of all agencies involved to insure that all FLSA requirements associated with multiple agency appointments are met.

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

(1) Prior to the performance of overtime work, the Appointing Authority and the employee shall agree in writing that the employee may be required to take compensatory time in lieu of overtime pay. A written agreement is not required with respect to employees hired prior to April 15, 1986, if the employer had a regular practice in effect on April 15, 1986, of granting compensatory time off in lieu of overtime pay (29 U.S.C. 553.23).

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

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

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

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

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

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

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

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

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

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

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

- (2) Compensatory time shall only be given on an hour-for-hour basis, 1 hour off for each hour worked overtime. The maximum compensatory time which may be accrued by an FLSA exempt employee shall be the same as that outlined in 530:10-7-12(d)(3).
- (3) Payments shall not be made for compensatory time accrued by an employee on FLSA Exempt status for any reason, except as provided for in (f) of this Section.
- (f) After submitting written notice to the Office of Personnel Management, an Appointing Authority may provide overtime payments to persons in FLSA Exempt classes based on a prevailing market condition.

### **530:10-9-37. Repeating examinations**

- (a) A person with a current and qualifying application may repeat a multiple-choice test ~~182~~ 60 days from the original test date. A performance test may be repeated daily for as long as an applicant has a current and qualifying application that requires the performance test.
- (b) The repeat interval for a written or performance test shall apply to both entrance and promotional examinations. The most recent, valid score on a written test will be used. An applicant may request to be certified with a score on a performance test other than the most recent one, provided that the score requested on a test is consistent with guidelines issued and made public by the Administrator. Otherwise, the examination is considered void.

### **~~530:10-9-94. Time limits for entering on duty~~**

~~An eligible shall be given at least 14 calendar days to report to work. The time permitted, in excess of 14 calendar days, shall be at the discretion of the Appointing Authority, with periods in excess of 30 days approved by the Office of Personnel Management. Eligibles who are unable to report for duty within the time specified by the Appointing Authority will be deemed to have declined the appointment and their names will be removed from the register.~~

### **530:10-9-102. Reinstatement to the classified service**

- (a) A permanent employee who leaves the classified service is eligible for reinstatement ~~for a period of time equal to the total period of service in a probationary and subsequently permanent status. Previous part-time employment shall be prorated.~~
- (b) ~~If a permanent employee leaves a classified position to accept a regular unclassified position within 30 calendar days, the period of time the person is eligible for reinstatement shall begin on the date the employee is separated from the unclassified service. The unclassified service shall not add to the period of time the person is eligible for reinstatement.~~
- (c) If an Appointing Authority elects to appoint a person who is eligible for reinstatement, the person shall be certified according to 530:10 9 10. A test may be required under 530:10 9 35 before his or her reinstatement.
- (d) The Appointing Authority may place the person in probationary status with the agency for the maximum period required for original appointments or for a shorter period. The Appointing Authority may not extend the probationary period. If the Appointing Authority requires a probationary period, the Appointing Authority shall notify the reinstated employee and the Office of Personnel Management in writing of the length of the probationary period before the employee's entry on duty. The Appointing Authority may cancel the probationary period at any time and grant permanent status to the employee.
- ~~(e) Permanent and probationary employees who have been separated as a result of a reduction in force shall be eligible for reinstatement for at least 18 months from the date of separation~~

### **530:10-9-111. Definitions**

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

**"Adequate applicant pool"** means 10 or more available qualified eligibles on open competitive announcements maintained by the Office of Personnel Management for the location of a vacancy under the conditions of employment required for the position. ~~However, the presence of one Absolute Preference Veteran on open competitive announcements maintained by the Office of Personnel Management for the location of a vacancy under the conditions of employment required for the position shall also constitute an adequate applicant pool, regardless of the presence or absence of other available qualified eligibles.~~

**"Conditions for employment"** means requirements for the position established by the agency and approved by the Office of Personnel Management such as willingness to travel, perform shift work, or work in a particular geographic location, or possession of any selective qualifications or special requirements for the position.

**"Direct hire authority"** means the authorization for an Appointing Authority to certify the qualifications of and appoint an eligible applicant to a position requiring professional practice licensure or to a position which has been identified by the Administrator as hard-to-fill.

**"Hard-to-fill positions"** means a vacant position or positions in a job family for which a state agency has been unable to identify an adequate applicant pool within the past 2 weeks of open competitive announcement.

**"Professional practice licensure positions"** means those positions within a job family for which the Administrator has determined the minimum qualifications for the job require professional licensure with the State of Oklahoma to legally practice in the profession. Such a job shall involve work requiring knowledge of an advanced type in a field of science or learning, customarily obtained by a prolonged course of specialized instruction or study such as a bachelor's degree from an accredited college or university. The Administrator shall maintain a list of jobs requiring professional practice licensure and shall make the list available to all state agencies with positions allocated to these job families.

#### **530:10-11-51. Promotional posting [AMENDED EFF. 7/11/04]**

(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.] 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 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) *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]

#### **530:10-11-110. Detail to special duty**

(a) When the services of a permanent classified employee are temporarily needed in a job family or level other than the one to which the incumbent is regularly assigned the employee may be detailed to special duty, at the discretion of the Appointing Authority, to perform the duties of the job to which temporarily assigned.

~~(b) An employee may be detailed to special duty for 6 months or less without meeting the minimum qualifications for the job family level to which the employee is detailed. An employee may be detailed to special duty for a total of 12 months if:~~

- ~~(1) the employee meets the minimum qualifications of the job to which the employee is detailed; and~~
- ~~(2) the position to which the employee is assigned while on detail is a filled position; that is, the position is temporarily vacant because the incumbent is absent.~~

(c) A detail to special duty in no way shall affect the status, title or job family held before the detail.

(d) An employee shall not be placed on detail to special duty more than 12 months in any 36 month period.

(e) Pay upon detail to special duty is covered in 530:10 7 17.

(f) Detail to special duty is not required when an employee is temporarily assigned duties of another job for a period of less than 60 days in any 12-month period, or when an employee is temporarily performing such duties as part of a return to work program as a result of a work-related illness or injury, regardless of whether that period exceeds 60 days in any 12-month period. Such temporary placement shall not exceed 6 month. ~~However, any temporarily assigned duties shall count toward the time limitations described in subsection (b).~~

### **530:10-11-120. Suspension with pay**

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

~~(b) If an Appointing Authority certifies that an internal investigation cannot be completed within 20 days, the Appointing Authority may continue the suspension in accordance with this subsection. The suspension with pay may not exceed the time necessary to complete the investigation and if the investigation warrants, to give the employee the required notice and opportunity to respond before termination.~~

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

### **530:10-15-40. Enforced leave**

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

(b) Immediate Family is defined as spouse, children, parents, brothers, sisters, including step, grand, half, foster, or in-law relationships, brother-in-law, sister-in-law and grandparent-in-law.

(c) Household is defined as those persons who reside in the same home, who have reciprocal duties and provide financial support for one another. This term shall include foster children and legal wards even if they do not live in the household. The term does not include persons sharing the same general house or when the living style is primarily that of a dormitory or commune.

(d) Personal Disaster is defined as an unforeseeable, catastrophic event such as the destruction of the employee's residence.

#### **530:10-15-44. Military leave of absence and restoration to position**

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

(b) Military leave shall be granted to classified and unclassified employees who are a member of any component of the Armed Forces of the United States or the Reserve Components, to include the Army & Air National Guard and the Army, Navy, Air Force, Marine Corps & Coast Guard Reserves, when ordered by proper authority to active or inactive duty (includes weekend drills and training exercises) or service. Such employees are entitled to leave of absence without loss of status or seniority.

(c) The National Guard and Reserves Component - The first 30 regularly scheduled work days of military leave of absence during any federal fiscal year (October 1 to September 30) are with pay. If the period of military status extends beyond 30 days, the employee's absence for the period beyond 30 days is governed by applicable leave rules. Accrued compensatory leave, holiday leave, annual leave, or leave without pay may be requested to cover this period of time. During the remainder of such leave of absence the Appointing Authority may elect to pay the employee an amount equal to the difference between his or her regular state pay and his or her military pay. The military pay could be verified through a Leave and Earnings Statement provided by the Military.

(d) An employee who is requested to report for physical examination in connection with military service is not considered absent from duty during the time required for the examination and travel.

(e) An employee must notify the immediate supervisor of the requirement for military leave and provide as much advance notice as possible.

(f) A supervisor does not have the right to request an employee or the federal government to reschedule military exercises for the convenience of the agency.

### **530:10-15-46. Court and jury services**

(a) A state employee, directed by the proper authority or in obedience to a subpoena, shall be entitled to time-off from work without loss of compensation or leave to serve in a capacity described in paragraphs (1) through (4) of this subsection. Such time shall be counted as hours worked in accordance with the Fair Labor Standards Act and 530:10 7 12.

- (1) A jury member;
- (2) A witness on behalf of the federal government, the state of Oklahoma, or a political subdivision of the state;
- (3) A witness or party before a state agency, board, commission, or legislative body; or
- (4) A witness, party, attorney, representative, or spokesperson in the employee's official capacity as a state employee.

(b) A state employee shall take annual leave or leave without pay, at the employee's discretion, for the time absent to serve:

- (1) as a party in private litigation;
- (2) as a witness to testify as an individual or a paid expert in private litigation;
- (3) as an attorney outside of the employee's official capacity as a state employee; or
- (4) in any other capacity of court and jury services not covered in subsection (a) of this Section.

(c) The Appointing Authority may require the employee to submit a copy of the subpoena, summons, or other court order or process as a prerequisite for determining whether or not leave is to be taken.

(d) State officers and employees are prohibited from receiving expert witness fees when acting in their official capacities as state employees. [Ethics Rules 257:20-1-3]

(e) Any jury fees received by the employee in accordance with state statute can be retained by the employee. [28 O.S. § 86]

### **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.** 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 otherwise concluded 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. The employee must notify the Appointing Authority of the job classifications and locations they are interested in while they are unable to perform the duties of their original position.~~

(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**.

(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]

**530:10-15-71. Leave when an office is temporarily closed due to unsafe working conditions or hazardous weather; or when services are temporarily reduced due to hazardous weather (paid administrative leave)**

(a) If agency offices are closed because of an imminent peril threatening the public health, safety, or welfare of state employees or the public, or when state offices are temporarily closed or reduced due to hazardous weather conditions, the Appointing Authority shall place employees who are scheduled to work in the affected work areas on paid administrative leave for a maximum of 8 hours, if applicable, shall assign them to work in another location. During their normal duty hours, employees on paid administrative leave due to unsafe working conditions are on stand-by or on-call status. Appointing Authorities may call employees to return to their normal duties or respond to the demands of the situation as necessary. [74:840-2.20A(A)]

(b) As used in this Section, paid administrative leave means leave granted to affected employees if offices of agencies are closed because of an imminent peril threatening the public health, safety, or welfare of state employees or the public, or when state offices are temporarily closed or reduced due to hazardous weather. Examples of reasons for temporarily closing an office due to unsafe working conditions are: leaks of toxic fumes in buildings; life threatening damage to building structures; or emergency operations which would be disrupted by the presence of the usual work force; or any other condition which poses a significant threat to the safety of the work force.

(c) Paid administrative leave shall be accorded to all affected employees only when a state office is temporarily closed or services are temporarily reduced due to hazardous weather in accordance with 530:10-15-70 and this Section. Upon its reopening, normal Merit Rules governing leave and agency procedures shall apply. The granting of administrative leave applies only to employees scheduled to work during the time period of the closure or reduced services. It does not apply to employees who are absent during the closure or reduction on any previously approved leave. Employees who are not eligible to accrue leave, such as temporary employees, shall not be granted administrative leave under this section when state services are temporarily closed or temporarily reduced due to hazardous weather conditions.

(d) *When the Governor or a designee of the Governor authorizes agencies or parts of agencies to maintain basic minimum services because hazardous weather conditions impede or delay the movement of employees to and from work, employees responsible for providing such basic minimum services shall report to work. Appointing Authorities of agencies shall be responsible for determining essential agency functions [basic minimum services] and ensuring that employees who staff such functions are so informed.* [74:840-2.20A(B)] Employees who are considered responsible for basic minimum services and who are required to work when state services are temporarily reduced due to hazardous weather conditions shall be entitled to accrue administrative leave on a straight-time basis up to eight hours per day for hours worked in their regularly scheduled work periods during such reduction. Administrative leave accrued under this provision must be taken within 180 days of its accrual or the employee shall be paid for the leave. An extension of the time period for taking the leave may be

approved for up to an additional 180 days, providing the Appointing Authority submits a written request with sufficient justification to the Office of Personnel Management. Accrued administrative leave must be used before granting of any annual leave except when the employee may lose accrued leave under 530:10-15-10 and 530:10-15-11(b)(5).

(e) Employees who are responsible for basic minimum services who do not report to work have the following options to account for leave:

- (1) Charge the absence to accumulated compensatory time;
- (2) Charge the absence to accumulated annual leave;
- (3) Make up lost time in a manner consistent with the FLSA, if the Appointing Authority determines that office hours and schedules permit.

(f) An employee who leaves earlier than a designated early dismissal time, or who arrives later than a designated late arrival time, shall be charged leave for the excess time.

### **530:10-17-31. Employee performance evaluation system**

(a) *The Office of Personnel Management shall make available one standard performance management system that shall be used by all agencies for completing employee performance evaluations. 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(A)].*

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

- (1) *An objective evaluation by the immediate supervisor of the performance of the employee within the assigned duties of the job. The evaluation shall contain the agency number, date of review, and employee identification number;*
- (2) *The identification by the immediate supervisor of accountabilities and behaviors upon which the employee will be evaluated;*
- (3) *A mid-term interview with the immediate supervisor for the purpose of discussing the progress of the employee in meeting the accountabilities and behaviors upon which the employee will be evaluated;*
- (4) *Identification of performance strengths and performance areas for development;*
- (5) *A final interview with the employee by the immediate supervisor who shall provide the employee with a copy of the performance evaluation; and*
- (6) *The opportunity for the employee to submit written comments regarding the performance evaluation. [74:840-4.17].*

(c) Each classified employee in probationary status shall be rated at least thirty days prior to the end of the probationary period. All unclassified and permanent classified employees not otherwise exempt from this requirement shall have an evaluation period of no more than twelve months. Supervisors may perform as many additional evaluations as they deem necessary in order to effectively manage the performance of a subordinate.

(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 performance evaluations 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)]. With or without the performance evaluations the Appointing Authority can make decisions regarding demotions and discharges on current state employees if determined necessary.*

(f) *The agency shall retain a copy of the performance evaluation for each employee of the agency. A copy of the performance evaluation 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 March 31st, Appointing Authorities shall report their agency's compliance with the requirements of 74:840-4.17 to the Administrator. The report shall be conveyed on a form prescribed by the Administrator and shall include information from the most recent annual review period used by that agency.

(i) *The Administrator of the Office of Personnel Management shall conduct an annual random audit of state agencies to determine whether they are in compliance with this section (840-4.17). Any agency deemed to be out of compliance shall submit a written plan to the administrator detailing the efforts the agency will make to come into compliance at the earliest possible date [74:840-4.17].*

### **530:10-17-76. Senior Undergraduate Program**

(a) **Eligibility.** The Senior Undergraduate Program consists of positions for a term of up to 24 months for students who are currently enrolled in institutions of higher education and working toward a baccalaureate degree. [74:840-3.4(A)(2)]. No person is eligible to participate in the Senior Undergraduate Program for more than 2 years. To be considered for eligibility determination, applicants shall have at least 90 semester hours of undergraduate coursework with at least a 2.5 grade point average on a 4.0 scale [74:840-3.4(A)(2)]. Applicants shall follow the procedures in 530:10-17-77 for eligibility determination.

(b) **Conditions of employment.** Participants in the Senior Undergraduate 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 baccalaureate degrees during each fall and spring semester until completion of all undergraduate 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.

(c) **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 baccalaureate degree, until completion of all undergraduate 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 **4** clock hours of job related training for Senior Undergraduate Interns 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 Senior Undergraduate Program in accordance with Section 840-4.17 of Title 74 of the Oklahoma Statutes.* [74:840-3.4]

### **530:10-17-77. Application form and procedure**

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

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

(2) Applicants may apply at any time.

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

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

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

(1) A completed application form as prescribed by the Administrator;

(2) Transcript(s) of coursework from accredited higher education institutions;

(3) ~~A letter of nomination from a faculty member of the higher education institution where they are enrolled;~~

(4) A letter of recommendation from the current Appointing Authority, if the applicant is a state employee [74:840-3.4(C)];

(5) A resume;

(6) ~~Three letters of recommendation from persons other than relatives or the nominating faculty member;~~

(7) Verification of current enrollment.

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

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

#### **(f) Appointment.**

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

~~(2) An agency may provisionally appoint any eligible applicant pending the review and approval of the Administrator. The Administrator must approve a completed Carl Albert Public Internship Agreement Form described in (3) of this subsection within 30 days of the provisional appointment of the eligible applicant. A new form shall be completed if there are any substantive changes to the original agreement.~~

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

~~(A) The eligible applicant;~~

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

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

~~(D) A representative of the Administrator.~~

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

~~(5) The signature of the faculty member shall not be required when a Carl Albert Executive Fellow who has already completed his or her degree requirements is completing a new agreement form.~~

(g) State employees. State employees may apply to participate in the Carl Albert Public Internship Program. Permanent classified and regular unclassified employees who receive internship appointments may request leave without pay from their permanent or regular employment in accordance with 530:10-15-47, Leave of absence...

### **530:10-17-80. General conditions of employment**

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

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

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

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

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

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

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

(4) Salary adjustments may be made in accordance with Section 840-2.17 of Title 74 of the **Oklahoma Statutes**.

(c) **Report of work performance to educational institution.** The Appointing Authority or designee of the employing agency shall provide the internship faculty member with information necessary to evaluate the intern's work experience for academic purposes at the faculty member's request.

(d) **Intercession by the Office of Personnel Management.** The Office of Personnel Management may intercede in an internship if the Office determines, at the request of the intern, the agency, or the institution of higher education at which the intern is enrolled, that an internship is not functioning [74:042-3.5(8)] in accordance with the rules in this Part, and the individual internship agreement. The intercession process may include, but is not limited to the following actions: modification of certain ~~agreement~~ internship terms, reassignment, and separation or early release from the internship.