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Continued Hearings/Comment Periods

If an agency continues a hearing or comment period announced in a published Notice of Rulemaking Intent, the agency may submit a notice of such continuation to the Office of Administrative Rules (OAR). The OAR publishes the continuation notice in the *Register* if such publication can be achieved at least five days prior to the announced date of the continued hearing or closing date of the continued comment period.

For additional information on continued hearings and comment periods, see OAC 655:10-7-28.

TITLE 510. STATE BOARD OF OSTEOPATHIC EXAMINERS CHAPTER 10. LICENSURE OF OSTEOPATHIC PHYSICIANS AND SURGEONS

[OAR Docket #03-499]

RULEMAKING ACTION:

Continued public hearing relating to a proposed PERMANENT rulemaking action.

RULES:

Subchapter 7. Fee Schedule

510:10-7-1. Fees for Licensure [AMENDED]

REGISTER PUBLICATION OF NOTICE:

The Notice of Rulemaking Intent for this Action was published at 20 Ok Reg 44

CONTINUED PUBLIC HEARING:

Original public hearing:

10:00 a.m. on March 20, 2003, Board Meeting Room, Oklahoma State Board of Osteopathic Examiners, 4848 N. Lincoln Blvd., Suite 100, Oklahoma City, OK 73105

Continued to:

10:00 a.m. on June 19, 2003, Board Meeting Room, Oklahoma State Board of Osteopathic Examiners, 4848 N. Lincoln Blvd., Suite 100, Oklahoma City, OK 73105

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the office of the Oklahoma State Board of Osteopathic Examiners, 4848 N. Lincoln Blvd., Suite 100, Oklahoma City, OK 73105. Copies of proposed rules may be obtained at no cost from the Oklahoma State Board of Osteopathic Examiners, 4848 N. Lincoln Blvd., Suite 100, Oklahoma City, OK 73105

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. 2001, Sec. 303(D), a Rule Impact Statement was prepared and is available for review at the same location listed above for obtaining copies of proposed rules.

ADDITIONAL INFORMATION:

For additional information contact Gary Clark, Executive Director, Oklahoma State Board of Osteopathic Examiners, (405) 528-8625.

[OAR Docket #03-499; filed 3-27-03]

Submissions for Review

Within 10 calendar days after adoption by an agency of a proposed PERMANENT rulemaking action, the agency must submit the proposed rules to the Governor and the Legislature for review. In addition, the agency must publish in the *Register* a "statement" that the rules have been submitted for gubernatorial/legislative review.

For additional information on submissions for gubernatorial/legislative review, see 75 O.S., Section 303.1, 303.2, and 308.

TITLE 90. ~~EXECUTIVE AND LEGISLATIVE BOND OVERSIGHT COMMISSIONS~~ COUNCIL OF BOND OVERSIGHT CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #03-534]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
90:1-1-1. [AMENDED]
90:1-1-2. [AMENDED]
90:1-1-3. [AMENDED]
90:1-1-4. [AMENDED]
Subchapter 3. General Operations of the ~~Commissions~~ Council
90:1-3-1. [AMENDED]
90:1-3-2. [AMENDED]
90:1-3-3. [AMENDED]
90:1-3-4. [AMENDED]
90:1-3-5. [AMENDED]
90:1-3-6. [AMENDED]
90:1-3-7. [AMENDED]
90:1-5-1. [AMENDED]
90:1-7-1. [AMENDED]
90:1-9-2. [AMENDED]
SUBMITTED TO GOVERNOR:
March 27, 2003
SUBMITTED TO HOUSE:
March 27, 2003
SUBMITTED TO SENATE:
March 27, 2003

[OAR Docket #03-534; filed 3-31-03]

TITLE 90. ~~EXECUTIVE AND LEGISLATIVE BOND OVERSIGHT COMMISSIONS~~ COUNCIL OF BOND OVERSIGHT CHAPTER 10. ADMINISTRATION OF THE OKLAHOMA BOND OVERSIGHT AND REFORM ACT

[OAR Docket #03-535]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
90:10-1-1. [AMENDED]
90:10-1-2. [AMENDED]
90:10-1-3. [DELETED]
90:10-1-4. [AMENDED]
Subchapter 3. Application Procedure ~~for Applicants Subject to Commission Approval of Obligations~~ [AMENDED]
90:10-3-1. [AMENDED]
90:10-3-3. [AMENDED]
90:10-3-4. [AMENDED]
90:10-3-5. [AMENDED]
90:10-3-6. [AMENDED]
90:10-3-7. [AMENDED]
90:10-3-8. [AMENDED]
10:10-5-1. [AMENDED]
90:10-5-2. [AMENDED]
90:10-7-1. [AMENDED]
90:10-7-2. [AMENDED]
90:10-7-3. [AMENDED]
90:10-7-4. [AMENDED]
90:10-7-5. [AMENDED]
90:10-9-1. [AMENDED]
90:10-9-2. [AMENDED]
90:10-11-1. [AMENDED]
90:10-11-2. [AMENDED]
SUBMITTED TO GOVERNOR:
March 27, 2003
SUBMITTED TO HOUSE:
March 27, 2003
SUBMITTED TO SENATE:
March 27, 2003

[OAR Docket #03-535; filed 3-31-03]

TITLE 90. ~~EXECUTIVE AND LEGISLATIVE BOND OVERSIGHT COMMISSIONS~~ COUNCIL OF BOND OVERSIGHT CHAPTER 15. ADMINISTRATION OF THE OKLAHOMA PRIVATE ACTIVITY BOND ALLOCATION ACT

[OAR Docket #03-536]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
90:15-1-1. [AMENDED]
90:15-1-2. [AMENDED]
90:15-1-3. [AMENDED]
90:15-3-1. [AMENDED]
90:15-3-2. [AMENDED]

90:15-7-1. [AMENDED]
90:15-7-2. [REVOKED]
90:15-7-3. [REVOKED]
90:15-7-4. [REVOKED]
90:15-7-5. [REVOKED]
90:15-7-6. [REVOKED]
90:15-7-7. [REVOKED]
90:15-7-8. [REVOKED]
90:15-7-9. [REVOKED]
90:15-9-1. [AMENDED]
90:15-9-4. [AMENDED]
90:15-9-5. [AMENDED]
90:15-9-7. [AMENDED]
90:15-9-8. [REVOKED]
90:15-9-9. [REVOKED]
90:15-9-10. [REVOKED]
90:15-9-11. [REVOKED]
90:15-9-12. [REVOKED]
90:15-9-13. [REVOKED]
90:15-9-14. [REVOKED]
90:15-9-15. [REVOKED]
90:15-11-1. [AMENDED]
90:15-11-2. [AMENDED]
90:15-13-2. [AMENDED]

SUBMITTED TO GOVERNOR:
March 27, 2003

SUBMITTED TO HOUSE:
March 27, 2003

SUBMITTED TO SENATE:
March 27, 2003

[OAR Docket #03-536; filed 3-31-03]

TITLE 92. OKLAHOMA PROFESSIONAL BOXING COMMISSION CHAPTER 10. RULES FOR BOXING AND OTHER ACTIVITIES

[OAR Docket #03-470]

RULE MAKING ACTION:
Submission for gubernatorial and legislative review

RULES:
Subchapter 1. General Provisions
92:10-1-1. through 92:10-1-2. [AMENDED]
92:10-1-4. through 92:10-1-6. [AMENDED]
Subchapter 3. Boxing and Kickboxing Participants
92:10-3-5. through 92:10-3-6. [AMENDED]
92:10-3-8. [AMENDED]
92:10-3-11. through 92:10-3-13. [AMENDED]
Subchapter 5. Professional Boxing and Kickboxing Events
92:10-5-7. [AMENDED]
92:10-5-10. [AMENDED]
92:10-5-13. [AMENDED]
92:10-5-15. [AMENDED]
Subchapter 7. Elimination Tournaments
92:10-7-1. through 92:10-7-2. [AMENDED]
92:10-7-4. [AMENDED]
Subchapter 11. Mixed Martial Arts [NEW]
92:10-11-1. through 92:10-11-9. [NEW]

SUBMITTED TO GOVERNOR:
March 26, 2003

SUBMITTED TO HOUSE:
March 26, 2003

SUBMITTED TO SENATE:
March 26, 2003

[OAR Docket #03-470; filed 3-26-03]

TITLE 135. COMMISSION ON CHILDREN AND YOUTH CHAPTER 1. GENERAL COURSE AND METHOD OF OPERATION

[OAR Docket #03-496]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review

RULES:
Subchapter 1. General Course and Method of Operation [AMENDED]
135:1-1-3. [AMENDED]
135:1-1-4. [AMENDED]
135:1-1-6. [AMENDED]
135:1-1-7. [REVOKED]
135:1-1-9. [REVOKED]
135:1-1-10. [REVOKED]
Subchapter 3. Additional Powers and Duties [AMENDED]
135:1-3-4. [AMENDED]
135:1-3-3. [AMENDED]
135:1-3-4. [AMENDED]

SUBMITTED TO GOVERNOR:
March 27, 2003

SUBMITTED TO HOUSE:
March 27, 2003

SUBMITTED TO SENATE:
March 27, 2003

[OAR Docket #03-496; filed 3-27-03]

TITLE 135. COMMISSION ON CHILDREN AND YOUTH CHAPTER 10. PROGRAMS, BOARDS, AND COUNCILS: OPERATION AND ADMINISTRATION

[OAR Docket #03-497]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review

RULES:
Subchapter 7. Oklahoma Planning and Coordinating Council for Services to Children and Youth [REVOKED]
Subchapter 9. Regional and District Planning and Coordination Boards for Services to Children and Youth [AMENDED]
135:10-9-1. [AMENDED]
135:10-9-2. [AMENDED]
Subchapter 13. Serious and Habitual Juvenille Offender Implementation Task Force [REVOKED]
Subchapter 15. Juvenille Justice and Delinquency Prevention Program [REVOKED]
Subchapter 19. Interagency Coordinating Council for Special Services to Children and Youth [REVOKED]
SUBMITTED TO GOVERNOR:
March 27, 2003
SUBMITTED TO HOUSE:
March 27, 2003
SUBMITTED TO SENATE:
March 27, 2003

[OAR Docket #03-497; filed 3-27-03]

TITLE 195. BOARD OF DENTISTRY CHAPTER 1. ORGANIZATION, OPERATION, AND PURPOSES

[OAR Docket #03-584]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
195:1-1-3. Rules promulgated by the Board [AMENDED]
195:1-1-6. Public inspection of records [AMENDED]
SUBMITTED TO GOVERNOR:
April 7, 2003
SUBMITTED TO HOUSE:
April 7, 2003
SUBMITTED TO SENATE:
April 7, 2003

[OAR Docket #03-584; filed 4-7-03]

TITLE 195. BOARD OF DENTISTRY CHAPTER 2. INTERNAL OPERATIONS AND PROCEDURES

[OAR Docket #03-585]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
195:2-1-3. Appointment of ~~Dental Hygiene~~Advisory Members [AMENDED]
195:2-1-4. Nomination and appointment of dental laboratory advisory members [REVOKED]
195:2-1-5. Annual meeting of the Board [AMENDED]
SUBMITTED TO GOVERNOR:
April 7, 2003
SUBMITTED TO HOUSE:
April 7, 2003
SUBMITTED TO SENATE:
April 7, 2003

[OAR Docket #03-585; filed 4-7-03]

TITLE 195. BOARD OF DENTISTRY CHAPTER 3. COMPLAINTS, INVESTIGATOINS AND HEARINGS

[OAR Docket #03-589]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
195:3-1-2. Investigations [AMENDED]
195:3-1-3. Initiation of individual proceeding; settlement agreement [AMENDED]
195:3-1-4. Statement of complaint and notice of hearing; setting of hearing date, emergency hearings [AMENDED]
SUBMITTED TO GOVERNOR:
April 7, 2003
SUBMITTED TO HOUSE:
April 7, 2003
SUBMITTED TO SENATE:
April 7, 2003

[OAR Docket #03-589; filed 4-7-03]

TITLE 195. BOARD OF DENTISTRY CHAPTER 10. EXAMINATION AND LICENSING OF DENTISTS, DENTAL HYGIENISTS, AND DENTAL SPECIALISTS

[OAR Docket #03-588]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. Examinations for Dentists
195:10-1-2. [AMENDED]
195:10-1-3. [AMENDED]
Subchapter 3. Examination for Dental Hygienists
195:10-3-2. [AMENDED]
195:10-3-3. [AMENDED]
Subchapter 5. Reciprocity and Criteria Approval
195:10-5-2. [AMENDED]

Subchapter 7. Issuance of Temporary Licenses to Dental Hygienists, Faculty Permits, and Dental Intern Permits
195:10-7-2. [AMENDED]
Subchapter 9. Recognition of Specialties
195:10-9-2. [AMENDED]
SUBMITTED TO GOVERNOR:
April 7, 2003
SUBMITTED TO HOUSE:
April 7, 2003
SUBMITTED TO SENATE:
April 7, 2003

[OAR Docket #03-588; filed 4-7-03]

TITLE 195. BOARD OF DENTISTRY CHAPTER 15. DUTIES FOR DENTAL ASSISTANTS AND THE RULES REGULATING THE PRACTICE OF DENTAL HYGIENE

[OAR Docket #03-587]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
195:15-1-6.1. Advanced procedures for dental hygienists [AMENDED]
SUBMITTED TO GOVERNOR:
April 7, 2003
SUBMITTED TO HOUSE:
April 7, 2003
SUBMITTED TO SENATE:
April 7, 2003

[OAR Docket #03-587; filed 4-7-03]

TITLE 195. BOARD OF DENTISTRY CHAPTER 25. RULES FOR CONTINUING DENTAL EDUCATION

[OAR Docket #03-586]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
195:25-1-2. Continuing education required [AMENDED]
195:25-1-7. Categories of continuing education [AMENDED]
195:25-1-8. Procedure for reporting continuing education hours [AMENDED]
SUBMITTED TO GOVERNOR:
April 7, 2003
SUBMITTED TO HOUSE:
April 7, 2003
SUBMITTED TO SENATE:
April 7, 2003

[OAR Docket #03-586; filed 4-7-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 4. CERTIFICATE OF NEED HEARINGS

[OAR Docket #03-512]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
310:4-1-11. [AMENDED]
SUBMITTED TO GOVERNOR:
March 28, 2003
SUBMITTED TO HOUSE:
March 28, 2003
SUBMITTED TO SENATE:
March 28, 2003

[OAR Docket #03-512; filed 3-28-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 99. SECONDHAND TOBACCO SMOKE

[OAR Docket #03-539]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 99. Secondhand Tobacco Smoke [NEW]
SUBMITTED TO GOVERNOR:
March 31, 2003
SUBMITTED TO HOUSE:
March 31, 2003
SUBMITTED TO SENATE:
March 31, 2003

[OAR Docket #03-539; filed 3-31-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 105. VITAL STATISTICS

[OAR Docket #03-513]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. Purpose, Forms and Fees

310:105-1-3. [AMENDED]
SUBMITTED TO GOVERNOR:
March 28, 2003
SUBMITTED TO HOUSE:
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March 28, 2003

[OAR Docket #03-513; filed 3-28-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 205. ALARM INDUSTRY ~~REGULATIONS~~

[OAR Docket #03-514]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. License Requirements
310:205-3-2. [AMENDED]
310:205-3-3. [AMENDED]
310:205-3-4. [AMENDED]
Appendix A. [REVOKED AND REENACTED]
SUBMITTED TO GOVERNOR:
March 28, 2003
SUBMITTED TO HOUSE:
March 28, 2003
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[OAR Docket #03-514; filed 3-28-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 400. LICENSED MARITAL AND FAMILY ~~THERAPIST REGULATIONS~~THERAPISTS

[OAR Docket #03-515]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Rules of Professional Conduct
310:400-5-3. [AMENDED]
Subchapter 17. Enforcement
310:400-17-2.1. [AMENDED]
SUBMITTED TO GOVERNOR:
March 28, 2003
SUBMITTED TO HOUSE:
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[OAR Docket #03-515; filed 3-28-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 403. LICENSED BEHAVORIAL PRACTITIONERS

[OAR Docket #03-516]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 7. Rules of Professional Conduct
310:403-7-2. [AMENDED]
Subchapter 15. Supervised Experience Requirement
310:403-15-1. [AMENDED]
SUBMITTED TO GOVERNOR:
March 28, 2003
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March 28, 2003

[OAR Docket #03-516; filed 3-28-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 405. LICENSED PROFESSIONAL ~~COUNSELOR REGULATIONS~~COUNSELORS

[OAR Docket #03-517]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Rules of Professional Conduct
310:405-3-2. [AMENDED]
SUBMITTED TO GOVERNOR:
March 28, 2003
SUBMITTED TO HOUSE:
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March 28, 2003

[OAR Docket #03-517; filed 3-28-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 515. COMMUNICABLE DISEASE AND INJURY REPORTING

[OAR Docket #03-518]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
310:515-1-3. [AMENDED]
310:515-1-4. [AMENDED]
SUBMITTED TO GOVERNOR:
March 28, 2003
SUBMITTED TO HOUSE:
March 28, 2003
SUBMITTED TO SENATE:
March 28, 2003

[OAR Docket #03-518; filed 3-28-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 641. EMERGENCY MEDICAL SERVICES

[OAR Docket #03-519]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Ambulance Services
Part 1. General Provisions
310:641-3-2. [AMENDED]
Part 3. Ambulance Services
310:641-3-15. [AMENDED]
Part 5. Ground Transport Vehicles
310:641-3-20. [AMENDED]
310:641-3-23. [AMENDED]
Part 7. Air Ambulances
310:641-3-30. [AMENDED]
310:641-3-31. [AMENDED]
Part 9. Specialty Care
310:641-3-41. [AMENDED]
Part 23. Emergency Medical Services Regions
310:641-3-110. [AMENDED]
Subchapter 5. Personnel Licenses and Certification
Part 3. Emergency Medical Personnel Licenses
310:641-5-14. [AMENDED]
310:641-5-16. [REVOKED]
Subchapter 7. Training Programs
Part 3. Training Programs
310:641-7-10. [AMENDED]
310:641-7-11. [AMENDED]
310:641-7-12. [AMENDED]
310:641-7-13. [AMENDED]
310:641-7-14. [AMENDED]
310:641-7-15. [AMENDED]
Part 5. Instructor Qualifications
310:641-7-20. [AMENDED]
310:641-7-21. [AMENDED]
SUBMITTED TO GOVERNOR:
March 28, 2003
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March 28, 2003

[OAR Docket #03-519; filed 3-28-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 655. HEALTH MAINTENANCE ORGANIZATIONS AND PREPAID HEALTH PLANS

[OAR Docket #03-520]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 25. Protection Against Insolvency
310:655-25-1. [AMENDED]
310:655-25-11. [REVOKED]
310:655-25-12. [NEW]
Subchapter 29. Discontinuation of HMO
310:655-29-2. [AMENDED]
Subchapter 39. Powers of Health Maintenance Organizations
310:655-39-1. [AMENDED]
310:655-39-2. [NEW]
Subchapter 47. Reimbursement of Claims
310:655-47-6. [NEW]
310:655-47-7. [NEW]
310:655-47-8. [NEW]
310:655-47-9. [NEW]
310:655-47-10. [NEW]
310:655-47-11. [NEW]
310:655-47-12. [NEW]
Subchapter 53. Examinations [NEW]
310:655-53-1. [NEW]
310:655-53-2. [NEW]
310:655-53-3. [NEW]
310:655-53-4. [NEW]
310:655-53-5. [NEW]
Subchapter 55. [RESERVED]
Subchapter 57. Risk Based Capital [NEW]
310:655-57-1. [NEW]
310:655-57-2. [NEW]
310:655-57-3. [NEW]
310:655-57-4. [RESERVED]
310:655-57-5. [NEW]

310:655-57-6. [NEW]
SUBMITTED TO GOVERNOR:
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March 28, 2003

[OAR Docket #03-520; filed 3-28-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 664. HOME CARE ADMINISTRATOR CERTIFICATION

[OAR Docket #03-521]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Initial Certificate Process
310:664-3-3. [AMENDED]
310:664-3-6. [AMENDED]
Subchapter 7. Requirements for Examination
310:664-7-1. [AMENDED]
310:664-7-2. [AMENDED]
Subchapter 9. Continuing Education Requirements
310:664-9-2. [AMENDED]
310:664-9-3. [AMENDED]
310:664-9-4. [AMENDED]
Subchapter 11. Renewal of Certification
310:664-11-1. [AMENDED]
310:664-11-2. [AMENDED]
Subchapter 13. Enforcement
310:664-13-4. [AMENDED]
SUBMITTED TO GOVERNOR:
March 28, 2003
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March 28, 2003

[OAR Docket #03-521; filed 3-28-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 670. JAIL STANDARDS

[OAR Docket #03-522]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
310:670-1-2. [AMENDED]
310:670-1-3. [AMENDED]
Subchapter 3. Standards for Lockup Facilities
310:670-3-1. [AMENDED]
Subchapter 5. Standards for Jail Facilities
310:670-5-1. [AMENDED]
310:670-5-2. [AMENDED]
310:670-5-3. [AMENDED]
310:670-5-4. [AMENDED]
310:670-5-5. [AMENDED]
310:670-5-6. [AMENDED]
310:670-5-7. [AMENDED]
310:670-5-8. [AMENDED]
310:670-5-9. [AMENDED]
310:670-5-10. [AMENDED]
310:670-5-11. [AMENDED]
Subchapter 7. Standards for Jails Holding Juveniles
310:670-7-1. [AMENDED]
SUBMITTED TO GOVERNOR:
March 28, 2003
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March 28, 2003
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March 28, 2003

[OAR Docket #03-522; filed 3-28-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 675. ~~REGULATIONS FOR LICENSURE OF~~ NURSING AND SPECIALIZED FACILITIES

[OAR Docket #03-523]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
310:675-1-2. [AMENDED]
310:675-1-5. [NEW]
Subchapter 3. Licenses
310:675-3-2.1. [AMENDED]
310:675-3-3.1. [AMENDED]
310:675-3-4.1. [AMENDED]
310:675-3-5. [AMENDED]
310:675-3-5.1. [AMENDED]
310:675-3-8. [NEW]
Subchapter 7. Administration
310:675-7-4. [AMENDED]
310:675-7-5.1. [AMENDED]
310:675-7-6.1. [AMENDED]
310:675-7-16.1. [AMENDED]
310:675-7-20. [NEW]
Subchapter 9. Resident Care Services
310:675-9-4.1. [AMENDED]
310:675-9-5.1. [AMENDED]

Subchapter 13. Staff Requirements
310:675-13-12. [AMENDED]
Subchapter 15. Temporary Manager or Receiver [AMENDED]
310:675-15-3. [AMENDED]
310:675-15-8. [AMENDED]
310:675-15-11. [AMENDED]
310:675-15-12. [AMENDED]
310:675-15-15. [AMENDED]
310:675-15-16. [AMENDED]
310:675-15-17. [NEW]
Subchapter 17. Inspection Protocols
310:675-17-3. [NEW]
SUBMITTED TO GOVERNOR:
March 28, 2003
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March 28, 2003
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March 28, 2003

[OAR Docket #03-523; filed 3-28-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS

[OAR Docket #03-483]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. Human Resources Management Division (HRMD)
Part 1. General Provisions
340:2-1-1. through 340:2-1-3. [AMENDED]
340:2-1-5. through 340:2-1-6. [AMENDED]
Part 3. Personnel Regulations Relative to Individual Employee
340:2-1-25. through 340:2-1-29. [AMENDED]
340:2-1-31. through 340:2-1-32. [AMENDED]
340:2-1-34. [AMENDED]
Part 5. Administrative Procedures
340:2-1-55. through 340:2-1-58. [AMENDED]
Part 7. Recruitment, Selection, and Placement Policy and Procedures
340:2-1-75. through 340:2-1-86. [AMENDED]
340:2-1-88. through 340:2-1-89. [AMENDED]
(Reference APA WF # 02-43 and 03-01)
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TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS

[OAR Docket #03-484]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Office of Client Advocacy
Part 1. Administration
340:2-3-1. through 340:2-3-2. [AMENDED]
340:2-3-12. [AMENDED]
Part 3. Investigations
340:2-3-32. through 340:2-3-38. [AMENDED]
Part 5. Grievances
340:2-3-45. through 340:2-3-46. [AMENDED]
340:2-3-50. through 340:2-3-53. [AMENDED]
340:2-3-55. [AMENDED]
Part 7. Grievance And Abuse Review Committee
340:2-3-61. [AMENDED]
340:2-3-63. through 340:2-3-64. [AMENDED]
Part 9. Ombudsman Programs
340:2-3-71. through 340:2-3-75. [AMENDED]
(Reference APA WF # 03-08)
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TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS

[OAR Docket #03-485]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 28. ~~Child Support Administrative Hearings~~ Office of Administrative Hearings: Child Support
340:2-28-1. through 340:2-28-4. [AMENDED]
340:2-28-4.1. through 340:2-28-4.3. [NEW]
340:2-28-5. through 340:28-7. [REVOKED]

340:2-28-8. and 340:2-28-9. [AMENDED]
340:2-28-10. [REVOKED]
340:2-28-11. through 340:2-28-12. [AMENDED]
340:2-28-13. through 340:2-28-15. [AMENDED AND RENUMBERED TO 340:2-28-4.1. through 340:2-28-4.3.]
340:2-28-16. [REVOKED]
340:2-28-16.1. through 340:2-28-16.2. [NEW]
340:2-28-17. [REVOKED]
340:2-28-17.1. and 340:2-28-17.2. [NEW]
340:2-28-18. through 340:2-28-26. [AMENDED]
340:2-28-27. [AMENDED AND RENUMBERED TO 340:2-28-17.2.]
340:2-28-28. [REVOKED]
340:2-28-29. through 340:2-28-31. [AMENDED]
340:2-28-32. [REVOKED]
340:2-28-33. through 340:2-28-34. [AMENDED]
340:2-28-35. through 340:2-28-47. [REVOKED]
340:2-28-48. [AMENDED]
340:2-28-49. [REVOKED]
340:2-28-50. [AMENDED]
340:2-28-51. through 340:2-28-54. [REVOKED]
340:2-28-55. [AMENDED]
340:2-28-56. [REVOKED]
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TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 40. CHILD CARE SERVICES

[OAR Docket #03-486]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review

RULES:
Subchapter 7. Eligibility
340:40-7-9. through 340:40-7-13. [AMENDED]
Subchapter 9. Procedures Relating to Case Changes
340:40-9-2. through 340:40-9-3. [AMENDED]
340:40-13-1. through 340:40-13-2. [AMENDED]
Subchapter 13. Child Care Rates and Provider Issues
340:40-13-5. [AMENDED]
(Reference APA WF # 02-27 and 03-06)

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TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 65. PUBLIC ASSISTANCE PROCEDURES

[OAR Docket #03-487]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review

RULES:
Subchapter 1. General Provisions
340:65-1-5. [AMENDED]
Subchapter 3. Eligibility for Benefits
340:65-3-4. [AMENDED]
Subchapter 5. Procedures Relating to Case Changes
Part 5. Overpayments [REVOKED]
340:65-5-35. through 340:65-5-44. [REVOKED]
Subchapter 9. Overpayments and Fraud in Temporary Assistance for Needy Families and State Supplemental Payment Benefits [NEW]
340:65-9-1. through 340:65-9-8. [NEW]
(Reference APA WF # 03-03)

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TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE

[OAR Docket #03-475]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review

RULES:
Subchapter 1. General Provisions
Part 1. Scope and Applicability
340:75-1-18.1. [AMENDED]
340:75-1-22. [AMENDED]
Subchapter 6. Permanency Planning
Part 5. Permanency Planning Services
340:75-6-30. through 340:75-6-31. [AMENDED]
Part 7. Case Plans
340:75-6-40.5. [AMENDED]
(Reference APA WF # 03-02)

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TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE

[OAR Docket #03-476]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 4. Family-Centered and Community Services
Part 1. Voluntary Family-Centered Services
340:75-4-9. [AMENDED]
340:75-4-10. [REVOKED]
340:75-4-11. [AMENDED]
340:75-4-12. [REVOKED]
340:75-4-12.1. through 340:75-4-12.2. [NEW]
340:75-4-13. through 340:75-4-14. [AMENDED]
Subchapter 15. Adoptions
Part 2. Legal Base and Scope of the Adoption Program
340:75-15-5. through 340:75-15-9. [AMENDED]
Part 6. Adoption ~~Matching~~ Process
340:75-15-41. through 340:75-15-43. [AMENDED]
340:75-15-45. [AMENDED]
340:75-15-47. [AMENDED]
Part 8. Adoptive Placement Process
340:75-15-59. [AMENDED]
340:75-15-61. [AMENDED]
Part 10. Adoptive Family Assessment and Preparation Process
340:75-15-82. through 340:75-15-85. [AMENDED]
340:75-15-87. through 340:75-15-89. [AMENDED]
340:75-15-91. [AMENDED]
340:75-15-93. [AMENDED]
Part 12. Post Placement Services
340:75-15-103. [AMENDED]
340:75-15-104. [REVOKED]
340:75-15-106. [AMENDED]
340:75-15-108. [AMENDED]
Part 14. Post Adoption Services
340:75-15-124. [AMENDED]
(Reference APA WF # 03-04 and 03-05)
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TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE

[OAR Docket #03-477]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 7. Foster Home Care
Part 5. Eligibility and Payments
340:75-7-54. [AMENDED]
Part 6. Foster Home Care Support Services
340:75-7-65. [AMENDED]
Subchapter 15. Adoptions
Part 14. Post Adoption Services
340:75-15-128.1. [AMENDED]
340:75-15-128.4. through 340:75-15-128.5. [AMENDED]
(Reference APA WF # 02-48 and 02-49)
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TITLE 380. DEPARTMENT OF LABOR
CHAPTER 25. BOILER AND PRESSURE VESSEL RULES

[OAR Docket #03-576]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 19. Boiler Operator Licensing
380:25-19-1 [AMENDED]
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TITLE 380. DEPARTMENT OF LABOR CHAPTER 30. PROTECTION OF LABOR

[OAR Docket #03-577]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
380:30-1-7 [AMENDED]
380:30-1-14 [NEW]
Subchapter 3. Wage Claim Procedures
380:30-3-3 [AMENDED]
Subchapter 5. Administrative Hearing Procedures
380:30-5-2 [AMENDED]
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TITLE 380. DEPARTMENT OF LABOR CHAPTER 40. OKLAHOMA OCCUPATIONAL HEALTH AND SAFETY STANDARDS ACT RULES

[OAR Docket #03-578]

RULEMAKING ACTION:
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RULES:
380:40-1-9 [AMENDED]
380:40-1-18 [AMENDED]
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TITLE 380. DEPARTMENT OF LABOR CHAPTER 50. ABATEMENT OF FRIABLE ASBESTOS MATERIALS RULES

[OAR Docket #03-579]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
380:50-1-2 [AMENDED]
Subchapter 4. Project Design Requirements
380:50-4-1 [AMENDED]
Subchapter 5. Contractor, Supervisor, and Worker Licensing and Requirements
380:50-5-5 [AMENDED]
380:50-5-6 [AMENDED]
380:50-5-8 [AMENDED]
380:50-5-12 [AMENDED]
Subchapter 6. Training Requirements
380:50-6-3 [AMENDED]
380:50-6-4 [AMENDED]
380:50-6-5 [AMENDED]
380:50-6-6 [AMENDED]
Subchapter 9. Contractor Procedures
380:50-9-1 [AMENDED]
380:50-9-2 [AMENDED]
380:50-9-3 [AMENDED]
380:50-9-7 [AMENDED]
380:50-9-8 [NEW]
Subchapter 11. Laboratory Requirements
380:50-11-1 [AMENDED]
380:50-11-2 [AMENDED]
380:50-11-3 [AMENDED]
380:50-11-5 [AMENDED]
380:50-11-7 [AMENDED]
Subchapter 13. Glovebag Operations
380:50-13-1 [AMENDED]
Subchapter 14. Operation and Maintenance Procedures
380:50-14-1 [AMENDED]
Subchapter 15. Worker and Work Area Protection
380:50-15-12 [AMENDED]
380:50-15-13 [AMENDED]
380:50-15-14 [AMENDED]
Subchapter 17. Minimum Abatement Standards
380:50-17-2 [AMENDED]
380:50-17-4 [AMENDED]
380:50-17-6 [AMENDED]
380:50-17-8 [AMENDED]
380:50-17-9 [AMENDED]
380:50-17-10 [AMENDED]
Subchapter 21. Non-Friable Asbestos-Containing Material Procedures
380:50-21-2 [AMENDED]
Subchapter 23. Miscellaneous Friable Asbestos Material Abatement Procedures
380:50-23-1 [AMENDED]
380:50-23-2. [AMENDED]
380:50-23-3 [AMENDED]
380:50-23-4 [AMENDED]
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TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 10. PEACE OFFICER CERTIFICATION

[OAR Docket #03-507]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
390:10-1-5. [AMENDED]
390:10-1-6. [AMENDED]
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[OAR Docket #03-507; filed 3-28-03]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 15. BASIC PEACE OFFICER CERTIFICATION TRAINING

[OAR Docket #03-508]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. Basic Academy Programs
390:15-1-3. [AMENDED]
390:15-1-13. [AMENDED]
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TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 20. RESERVE PEACE OFFICER CERTIFICATION AND TRAINING

[OAR Docket #03-509]

RULEMAKING ACTION:
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RULES:
390:20-1-3. [AMENDED]
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TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 35. REGULATION OF PRIVATE SECURITY INDUSTRY

[OAR Docket #03-510]

RULEMAKING ACTION:
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RULES:
Subchapter 5. License Requirements
390:35-5-3. [AMENDED]
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TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 40. OKLAHOMA SELF-DEFENSE ACT

[OAR Docket #03-511]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Instructor Approval

390:40-5-4. [AMENDED]
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TITLE 420. OKLAHOMA LIQUEFIED PETROLEUM GAS BOARD CHAPTER 10. LIQUEFIED PETROLEUM GAS ADMINISTRATION

[OAR Docket #03-469]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
420:10-1-5. Permits [AMENDED]
420:10-1-6. Application for certificate or permit [AMENDED]
420:10-1-14. Standards for the storage and handling of liquefied petroleum gas [AMENDED]
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TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 15. PHYSICIAN ASSISTANTS

[OAR Docket #03-557]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review.
RULES:
Subchapter 11. Prescriptive Guidelines and Drug Formulary
435:15-11-2. Drug Formulary [AMENDED]
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[OAR Docket #03-557; filed 4-3-03]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 20. PHYSICAL THERAPISTS AND ASSISTANTS

[OAR Docket #03-558]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review.
RULES:
Subchapter 5. Regulation of Practice
435:20-5-8. Unprofessional conduct - Grounds for disciplinary action [NEW]
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TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 50. LICENSED PEDORTHISTS

[OAR Docket #03-559]

RULEMAKING ACTION:
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RULES:
Subchapter 1. General Provisions
435:50-1-4. Definitions [AMENDED]
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TITLE 510. STATE BOARD OF OSTEOPATHIC EXAMINERS CHAPTER 5. PROFESSIONAL STANDARDS

[OAR Docket #03-500]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 13. Advertising Board Certification [NEW]
510:5-13-1. Requirements of Representation [NEW]
510:5-13-2. Requirements of Certifying Organizations [NEW]

510:5-13-3. Renewal [NEW]
510:5-13-4. Prohibited Terms [NEW]
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TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #03-546]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 11. Fees
535:1-11-1. Annual licenses, permits and renewals [AMENDED]
535:1-11-2. Pharmacist initial registration [AMENDED]
535:1-11-3. ~~Practical~~ Training experience licenses and certificates [AMENDED]
535:1-11-5. Miscellaneous [AMENDED]
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TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY
CHAPTER 10. PHARMACISTS; INTERNS, PRECEPTORS AND TRAINING AREAS

[OAR Docket #03-547]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Pharmacist
535:10-3-1.2. [AMENDED]
535:10-3-4. [AMENDED]
Subchapter 5. Interns, Preceptors and Training Areas
535:10-5-2. [AMENDED]
535:10-5-2.1. [NEW]
Subchapter 11. Pharmacist Administration of Immunization [NEW]
535:10-11-1. through 535:10-11-6. [NEW]
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TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY
CHAPTER 10. PHARMACISTS; INTERNS, PRECEPTORS AND TRAINING AREAS

[OAR Docket #03-548]

RULEMAKING ACTION:
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RULES:
Subchapter 9. Pharmaceutical Care [NEW]
535:10-9-5. [AMENDED]
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TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY
CHAPTER 15. PHARMACIES

[OAR Docket #03-549]

RULEMAKING ACTION:
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RULES:
Subchapter 3. Pharmacies
535:15-3-2. [AMENDED]
535:15-3-6. [AMENDED]
535:15-3-12. [AMENDED]
535:15-3-12.1. [AMENDED]
535:15-3-21. [AMENDED]
Subchapter 7. Drug Supplier Permits
535:15-7-2. [AMENDED]
Subchapter 13. Pharmacy Technicians and Supportive Personnel
535:15-13-4. [AMENDED]
535:15-13-5. [AMENDED]
535:15-13-8. [AMENDED]
535:15-13-10. [AMENDED]
535:15-13-12. [AMENDED]

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TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY
CHAPTER 15. PHARMACIES

[OAR Docket #03-550]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Hospital Pharmacies
535:15-5-1. Purpose [AMENDED]
535:15-5-2. Definitions [AMENDED]
535:15-5-7.2. Supervision of pharmacy technicians [AMENDED]
535:15-5-10. Director of Pharmacy responsibilities [AMENDED]
535:15-5-18. Drug rooms [AMENDED]
Subchapter 6. Hospital Drug Room [NEW]
535:15-6-1. Purpose [NEW]
535:15-6-2. Definitions [NEW]
535:15-6-3. Registration [NEW]
535:15-6-4. Staffing requirements [NEW]
535:15-6-5. Drug room and PIC responsibilities and duties [NEW]
535:15-6-6. Physical and library requirements [NEW]
535:15-6-7. Drug distribution and control [NEW]
535:15-6-8. Emergency dispensing and pre-packaged medications [NEW]
535:15-6-9. Emergency room pre-packaged medications formulary [NEW]
535:15-6-10. Access to drug room in absence of PIC or drug room supervisor [NEW]
535:15-6-11. Administration of drugs to patients [NEW]
535:15-6-12. Medications from other sources [NEW]
535:15-6-13. Investigational drugs [NEW]
535:15-6-14. Drug storage stock inspections [NEW]
535:15-6-15. Non-distributive roles of pharmacists [NEW]
535:15-6-16. Performance improvement [NEW]
535:15-6-17. Board of Pharmacy inspections [NEW]
535:15-6-18. Drug room training area [NEW]
535:15-6-19. Violations [NEW]
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TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY
CHAPTER 20. MANUFACTURERS, PACKAGERS, AND WHOLESALERS

[OAR Docket #03-551]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Manufacturers
535:20-3-1. [AMENDED]
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TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY
CHAPTER 25. RULES AFFECTING VARIOUS REGISTRANTS

[OAR Docket #03-552]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Applicants, Registrants, and Applications
535:25-3-3. [AMENDED]
Subchapter 7. Rules of Registrant Conduct
535:25-7-6. [AMENDED]
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TITLE 565. OKLAHOMA BOARD OF PRIVATE VOCATIONAL SCHOOLS CHAPTER 10. LICENSURE AND REGULATION OF PRIVATE VOCATIONAL SCHOOLS AND REPRESENTATIVES

[OAR Docket #03-498]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Fees
565:10-5-1. [AMENDED]
565:10-5-4. [AMENDED]
565:10-5-4.1. [NEW]
565:10-5-4.2. [NEW]
565:10-5-5. [AMENDED]
Subchapter 7. Facilities and Equipment
565:10-7-1. [AMENDED]
Subchapter 9. Surety Bonds
565:10-9-1. [AMENDED]
565:10-9-5. [AMENDED]
Subchapter 11. School Operation
565:10-11-1. [AMENDED]
565:10-11-4. [AMENDED]
565:10-11-6. [AMENDED]
Subchapter 19. Penalty
565:10-19-2. [NEW]
Subchapter 23. Seminars, Workshops, and Short Courses
565:10-23-10. [NEW]
Subchapter 27. Financial Statements and Financial Stability
565:10-27-2. [AMENDED]
SUBMITTED TO GOVERNOR:
March 27, 2003
SUBMITTED TO HOUSE:
March 27, 2003
SUBMITTED TO SENATE:
March 27, 2003

[OAR Docket #03-498; filed 3-27-03]

TITLE 570. STATE BOARD FOR PROPERTY & CASUALTY RATES CHAPTER 10. FILING PROCEDURES, INTERPRETATIONS AND ADDITIONAL BOARD RULES

[OAR Docket #03-543]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
570:10-1-36. Use of lack of prior insurance in underwriting or rating [NEW]
570:10-1-37. Use of auto accidents in underwriting or rating [NEW]
SUBMITTED TO THE GOVERNOR:
March 31, 2003
SUBMITTED TO THE HOUSE:
March 31, 2003
SUBMITTED TO THE SENATE:
March 31, 2003

[OAR Docket #03-543; filed 4-1-03]

TITLE 600. REAL ESTATE APPRAISER BOARD CHAPTER 15. DISCIPLINARY PROCEDURES

[OAR Docket #03-542]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
600:15-1-2. Definitions [AMENDED]
600:15-1-3. Screening officers and hearing officers [REVOKED]
600:15-1-4. Complaint process procedure [AMENDED]
600:15-1-5. ~~Screening officers to respond~~ Issuance of formal complaint: setting date for formal hearing [AMENDED]
600:15-1-6. Notice of disciplinary proceedings [AMENDED]
SUBMITTED TO THE GOVERNOR:
March 31, 2003
SUBMITTED TO THE HOUSE:
March 31, 2003
SUBMITTED TO THE SENATE:
March 31, 2003

[OAR Docket #03-542; filed 4-1-03]

TITLE 655. SECRETARY OF STATE CHAPTER 10. ADMINISTRATIVE RULES ON RULEMAKING

[OAR Docket #03-540]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 7. Preparation of Documents
Part 5. Notice Documents
655:10-7-26. [AMENDED]
Subchapter 13. Correction of Errors
655:10-13-3. [AMENDED]
SUBMITTED TO GOVERNOR:
March 31, 2003

SUBMITTED TO HOUSE:
March 31, 2003
SUBMITTED TO SENATE:
March 31, 2003

[OAR Docket #03-540; filed 4-1-03]

TITLE 655. SECRETARY OF STATE
CHAPTER 25. NOTARY PUBLIC

[OAR Docket #03-541]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions [AMENDED]
Subchapter 3. Revocation, Resignation and Death [AMENDED]
Subchapter 5. ~~Journal and~~ Seal [AMENDED]
Subchapter 7. Change of Name and Address [REVOKED]
Subchapter 9. Availability of Information [REVOKED]
SUBMITTED TO GOVERNOR:
March 31, 2003
SUBMITTED TO HOUSE:
March 31, 2003
SUBMITTED TO SENATE:
March 31, 2003

[OAR Docket #03-541; filed 4-1-03]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #03-531]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review.
RULES:
Chapter 1. Administrative Operations [AMENDED]
SUBMITTED TO GOVERNOR:
March 31, 2003
SUBMITTED TO HOUSE:
March 31, 2003
SUBMITTED TO SENATE:
March 31, 2003

[OAR Docket #03-531; filed 3-31-03]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 20. ALCOHOL, MIXED BEVERAGES, AND LOW-POINT BEER

[OAR Docket #03-532]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review.
RULES:
Subchapter 3. Alcoholic Beverages [AMENDED]
Subchapter 5. Mixed Beverages [AMENDED]
SUBMITTED TO GOVERNOR:
March 31, 2003
SUBMITTED TO HOUSE:
March 31, 2003
SUBMITTED TO SENATE:
March 31, 2003

[OAR Docket #03-532; filed 3-31-03]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 60. MOTOR VEHICLES

[OAR Docket #03-504]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review.
RULES:
Subchapter 4. Registration Pursuant to the International Registration Plan
710:60-4-15. Mileage [AMENDED]
APPENDIX A. Estimated Mileage Chart for New IRP Registrants [REVOKED]
SUBMITTED TO GOVERNOR:
March 27, 2003
SUBMITTED TO HOUSE:
March 27, 2003
SUBMITTED TO SENATE:
March 27, 2003

[OAR Docket #03-504; filed 3-27-03]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 60. MOTOR VEHICLES

[OAR Docket #03-505]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review.
RULES:
Subchapter 4. Registration Pursuant to the International Registration Plan

710:60-4-3. Registration [AMENDED]
710:60-4-6. ~~Owner-operator vehicles~~ Registration as an owner-operator [AMENDED]
710:60-4-10. Renewal applications [AMENDED]
710:60-4-11. Enforcement [AMENDED]
710:60-4-13. Amended mileage/adding states [AMENDED]

SUBMITTED TO GOVERNOR:
March 27, 2003
SUBMITTED TO HOUSE:
March 27, 2003
SUBMITTED TO SENATE:
March 27, 2003

[OAR Docket #03-505; filed 3-27-03]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 60. MOTOR VEHICLES

[OAR Docket #03-506]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review.
RULES:
Subchapter 4. Registration Pursuant to the International Registration Plan
710:60-4-5. Established place of business requirements [AMENDED]

SUBMITTED TO GOVERNOR:
March 27, 2003
SUBMITTED TO HOUSE:
March 27, 2003
SUBMITTED TO SENATE:
March 27, 2003

[OAR Docket #03-506; filed 3-27-03]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 85. VARIOUS TAX INCENTIVES

[OAR Docket #03-533]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review.
RULES:
Chapter 85. Various Tax Incentives [AMENDED]
SUBMITTED TO GOVERNOR:
March 31, 2003
SUBMITTED TO HOUSE:
March 31, 2003
SUBMITTED TO SENATE:
March 31, 2003

[OAR Docket #03-533; filed 3-31-03]

Gubernatorial Approvals

Upon notification of approval by the Governor of an agency's proposed PERMANENT rulemaking action, the agency must submit a notice of such gubernatorial approval for publication in the *Register.*

For additional information on gubernatorial approvals, see 75 O.S., Section 303.2.

TITLE 75. ATTORNEY GENERAL CHAPTER 10. TELEMARKETER RESTRICTION ACT CONSUMER REGISTRY

[OAR Docket #03-560]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 1. Establishment, Use and Enforcement of Telemarketer Restriction Act Consumer Registry [NEW]
Part 1. Establishment and Maintenance of the Telemarketer Restriction Act Consumer Registry [NEW]
75:10-1-1. through 75:10-1-8. [NEW]
Part 2. Access and Use of the Telemarketer Restriction Act Consumer Registry
75:10-1-9. through 75:10-1-10. [NEW]
Part 3. Fines and Reporting of Violations
75:10-1-11. [NEW]
GUBERNATORIAL APPROVAL:
March 17, 2003

[OAR Docket #03-560; filed 4-3-03]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 16. STANDARDS AND CRITERIA FOR RESIDENTIAL CARE FACILITIES

[OAR Docket #03-581]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 1. General Provisions
450:16-1-2. [AMENDED]
450:16-1-5. [REVOKED]
Subchapter 7. Critical Incidents
450:16-7-3. [AMENDED]
Subchapter 13. Quality of Life
450:16-13-2. [AMENDED]
450:16-13-4. [AMENDED]
450:16-13-13. [AMENDED]
450:16-13-15. [AMENDED]
450:16-13-17. [AMENDED]
450:16-13-24. [AMENDED]
450:16-13-45. [AMENDED]
450:16-13-46. [AMENDED]
450:16-13-48.1. [AMENDED]
Subchapter 15. Resident Rights
450:16-15-1. [AMENDED]
450:16-15-5. [AMENDED]
Subchapter 17. Security and Disclosure of Resident Information
450:16-17-1. [AMENDED]
450:16-17-3. [REVOKED]
450:16-17-3.1. [NEW]
450:16-17-4. [AMENDED]
Subchapter 21. Personnel, Staffing, and Training
450:16-21-1. [AMENDED]
450:16-21-2. [AMENDED]
450:16-21-5. [AMENDED]
Subchapter 27. Behavior
450:16-27-3. [AMENDED]
Subchapter 29. Enhanced Residential Care
450:16-29-1. [REVOKED]
450:16-29-3. [AMENDED]
450:16-29-6. [REVOKED]
450:16-29-7. [AMENDED]
450:16-29-8. [AMENDED]
GUBERNATORIAL APPROVAL:
March 31, 2003

[OAR Docket #03-581; filed 4-7-03]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 17. STANDARDS AND CRITERIA FOR COMMUNITY MENTAL HEALTH SERVICES CENTERS

[OAR Docket #03-582]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 1. General Provisions
450:17-1-1. [AMENDED]
450:17-1-2. [AMENDED]
450:17-1-5. [REVOKED]
450:17-1-6. [AMENDED]
Subchapter 3. Required Services
Part 1. Required Services
450:17-3-3. [AMENDED]
450:17-3-21. [AMENDED]
450:17-3-22. [AMENDED]
Part 5. Emergency Services
450:17-3-41. [AMENDED]
450:17-3-42. [AMENDED]

450:17-3-43. [AMENDED]
Part 7. Outpatient Counseling Services
450:17-3-62. [AMENDED]
Part 9. Medication Clinic Services
450:17-3-81. [AMENDED]
450:17-3-82. [AMENDED]
450:17-3-83. [AMENDED]
Part 11. Case Management
450:17-3-101. [AMENDED]
450:17-3-101.1. [AMENDED]
450:17-3-103. [AMENDED]
450:17-3-106. [AMENDED]
450:17-3-122. [AMENDED]
Part 15. Adult Day Programs
450:17-3-141. [AMENDED]
450:17-3-142. [AMENDED]
450:17-3-144. [AMENDED]
450:17-3-144.1. [AMENDED]
Part 17. Services to Homeless Individuals
450:17-3-161. [AMENDED]
Subchapter 5. Optional Services
Part 5. Homebased Services to Children and Adolescents
450:17-5-22. [AMENDED]
Part 9. Vocational Employment Services
450:17-5-45. [AMENDED]
Part 11. Community Living Programs
450:17-5-56. [AMENDED]
450:17-5-67. [AMENDED]
450:17-5-67.1. [AMENDED]
450:17-5-67.2. [AMENDED]
450:17-5-67.3. [AMENDED]
Part 13. Crisis Stabilization
450:17-5-81. [AMENDED]
Part 15. Inpatient Services
450:17-5-100. [AMENDED]
Part 19. Program for Assertive Community Treatment
450:17-5-127. [NEW]
Subchapter 7. Facility Clinical Records
450:17-7-3. [AMENDED]
450:17-7-4. [AMENDED]
450:17-7-5. [AMENDED]
450:17-7-6. [AMENDED]
450:17-7-7. [AMENDED]
450:17-7-8. [AMENDED]
450:17-7-9. [AMENDED]
450:17-7-10. [AMENDED]
Subchapter 9. Consumer Records and Confidentiality
450:17-9-1.1. [NEW]
Subchapter 11. Consumer Rights
450:17-11-1. [AMENDED]
450:17-11-3. [AMENDED]
450:17-11-4. [AMENDED]
Subchapter 13. Organizational Management
450:17-13-1. [AMENDED]
450:17-13-2. [AMENDED]
Subchapter 15. Performance Improvement and Quality Management
450:17-15-1.1. [AMENDED]
Subchapter 19. Human Resources
450:17-19-3. [AMENDED]
Subchapter 21. Staff Development and Training
450:17-21-1. [AMENDED]
450:17-21-2. [AMENDED]
450:17-21-3. [AMENDED]
450:17-21-4. [NEW]
450:17-21-5. [NEW]
Subchapter 23. Facility Environment
450:17-23-1.[AMENDED]
Subchapter 27. Special Populations
450:17-27-1.[AMENDED]

GUBERNATORIAL APPROVAL:
March 31, 2003

[OAR Docket #03-582; filed 4-7-03]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 23. STANDARDS AND CRITERIA FOR COMMUNITY-BASED STRUCTURED CRISIS CENTERS

[OAR Docket #03-583]

RULEMAKING ACTION:
Gubernatorial approval

RULES:
Subchapter 1. General Provisions
450:23-1-2. [AMENDED]
Subchapter 3. CBSCC Services
450:23-3-2. [AMENDED]
450:23-3-3. [AMENDED]
450:23-3-5. [AMENDED]
450:23-3-6. [AMENDED]
450:23-3-7. [AMENDED]
450:23-3-8. [AMENDED]
Subchapter 5. CBSCC Clinical Records
450:23-5-2. [AMENDED]
450:23-5-3. [AMENDED]
450:23-5-4. [AMENDED]
450:23-5-7. [AMENDED]
450:23-5-7.1. [NEW]
450:23-5-8. [AMENDED]
Subchapter 7. Confidentiality
450:23-7-1. [REVOKED]
450:23-7-1.1. [NEW]
450:23-7-2. [REVOKED]
Subchapter 9. Consumer Rights
450:23-9-1. [AMENDED]
450:23-9-2. [AMENDED]
450:23-9-3. [AMENDED]

Subchapter 11. Organizational Management
450:23-11-1. [AMENDED]
450:23-11-2. [AMENDED]
Subchapter 13. Performance Improvement and Quality Management
450:23-13-1. [AMENDED]
450:23-13-5. [AMENDED]
Subchapter 19. Staff Development and Training
450:23-19-2. [AMENDED]
450:23-19-3. [AMENDED]
Subchapter 21. Facility Environment
450:23-21-2. [AMENDED]

GUBERNATORIAL APPROVAL:
March 31, 2003

[OAR Docket #03-583; filed 4-7-03]

TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #03-569]

RULEMAKING ACTION:
Gubernatorial approval

RULES:
Subchapter 1. General Provisions
550:1-1-6. [AMENDED]
Subchapter 3. Organization of Board
550:1-3-3. [AMENDED]
550:1-3-4. [AMENDED]
550:1-3-5. [AMENDED]
Subchapter 7. Collections and Disbursements
550:1-7-4. [AMENDED]

GUBERNATORIAL APPROVAL:
March 31, 2003

[OAR Docket #03-569; filed 4-4-03]

TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #03-573]

RULEMAKING ACTION:
Gubernatorial approval

RULES:
Subchapter 7. Collections and Disbursements
550:1-7-2.1. [NEW]
550:1-7-5. [NEW]

GUBERNATORIAL APPROVAL:
March 31, 2003

[OAR Docket #03-573; filed 4-4-03]

TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM CHAPTER 10. RETIREMENT AND PENSION BENEFIT PROGRAM

[OAR Docket #03-570]

RULEMAKING ACTION:
Gubernatorial approval

RULES:
550:10-1-2. [AMENDED]
550:10-1-4. [AMENDED]

GUBERNATORIAL APPROVAL:
March 31, 2003

[OAR Docket #03-570; filed 4-4-03]

TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM CHAPTER 15. OKLAHOMA POLICE DEFERRED OPTION PLAN

[OAR Docket #03-571]

RULEMAKING ACTION:
Gubernatorial approval

RULES:
550:15-1-2. [AMENDED]

GUBERNATORIAL APPROVAL:
March 31, 2003

[OAR Docket #03-571; filed 4-4-03]

TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM CHAPTER 20. PURCHASE OF TRANSFERRED CREDITED SERVICE

[OAR Docket #03-572]

RULEMAKING ACTION:
Gubernatorial approval

RULES:
550:20-1-2 [AMENDED]

GUBERNATORIAL APPROVAL:
March 31, 2003

[OAR Docket #03-572; filed 4-4-03]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 45. OKLAHOMA'S WATER QUALITY STANDARDS

[OAR Docket #03-544]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
785:45-1-2. Definitions [AMENDED]
785:45-1-4. Testing procedures [AMENDED]
Subchapter 5. Surface Water Quality Standards
Part 1. General Provisions
785:45-5-3. Beneficial uses: default designations [AMENDED]
785:45-5-4. Applicability of narrative and numerical criteria [AMENDED]
Part 3. Beneficial Uses and Criteria to Protect Uses
785:45-5-12. Fish and wildlife propagation [AMENDED]
785:45-5-19. Aesthetics [AMENDED]
Part 5. Special Provisions
785:45-5-25. Implementation Policies for the Antidegradation Policy Statement [AMENDED]
Appendix A. Designated Beneficial Uses for Surface Waters [REVOKED]
Appendix A. Designated Beneficial Uses for Surface Waters [NEW]
Appendix E. Requirements for Development of Site Specific Criteria for Metals [REVOKED]
Appendix E. Requirements for Development of Site Specific Criteria for Metals [NEW]
GUBERNATORIAL APPROVAL:
March 24, 2003

[OAR Docket #03-544; filed 4-1-03]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 46. IMPLEMENTATION OF OKLAHOMA'S WATER QUALITY STANDARDS

[OAR Docket #03-545]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 1. General Provisions
785:46-1-1. Purpose, scope and applicability [AMENDED]
785:46-1-2. Definitions [AMENDED]
785:46-1-6. Determination of 7Q2 and seasonal 7Q2 [AMENDED]
Subchapter 3. Implementation Of Narrative Toxics Criteria To Protect Aquatic Life Using Whole Effluent Toxicity (WET) Testing [AMENDED]
785:46-3-1. Applicability and scope [AMENDED]
785:46-3-2. ~~Whole~~ Dilutions for whole effluent toxicity testing [AMENDED]
785:46-3-3. Sampling for whole effluent toxicity testing [AMENDED]
785:46-3-4. Toxicity reduction evaluation [REVOKED]
785:46-3-6. Regulatory flow determination [NEW]
Subchapter 5. Implementation Of Numerical Criteria To Protect Fish And Wildlife From Toxicity Due To Conservative Substances [AMENDED]
785:46-5-1. Applicability and scope [AMENDED]
785:46-5-2. Regulatory flow determination [AMENDED]
785:46-5-3. ~~Permitting strategy to implement numerical aquatic criteria~~ Reasonable potential [AMENDED]
785:46-5-4. Wasteload allocations [REVOKED]
785:46-5-5. Long term average to protect against chronic toxicity [REVOKED]
785:46-5-6. Long term average to protect against acute toxicity [REVOKED]
785:46-5-7. Obtaining permit limits from long term averages [REVOKED]
785:46-5-9. Consideration of background concentration [REVOKED]
Subchapter 7. Implementation of Numerical Criteria to Protect Human Health from Toxicity Due to Conservative Substances [AMENDED]
785:46-7-1. Applicability and scope [AMENDED]
785:46-7-2. Determination and use of regulatory flow ~~,Q_u~~ [AMENDED]
785:46-7-3. ~~Permitting strategy to implement numerical human health criteria~~ Reasonable potential [AMENDED]
785:46-7-4. Performance of wasteload allocation; implementation into permitting [REVOKED]
Subchapter 9. Implementation of Criteria to Protect the Agriculture Beneficial Use [AMENDED]
785:46-9-1. Applicability and scope [AMENDED]
785:46-9-4. Background concentration [REVOKED]
785:46-9-5. ~~Permitting strategy to implement mineral criteria~~ Reasonable potential [AMENDED]
785:46-9-6. Wasteload allocations [REVOKED]
785:46-9-7. Long term average [REVOKED]
785:46-9-8. Obtaining permit limits from long term averages [REVOKED]
Subchapter 11. Implementation of Temperature Criteria to Protect Fish and Wildlife Propagation [AMENDED]
785:46-11-1. Applicability and scope [AMENDED]
785:46-11-4. Permitting strategy to protect temperature criteria [REVOKED]
785:46-11-7. Wasteload allocation [REVOKED]
Subchapter 15. Use Support Assessment Protocols [AMENDED]
785:46-15-3. Data requirements [AMENDED]

785:46-15-5. Assessment of Fish and Wildlife Propagation support [AMENDED]

Appendix A. Dilutions for Chronic Toxicity Testing [REVOKED]

GUBERNATORIAL APPROVAL:

March 24, 2003

[OAR Docket #03-545; filed 4-1-03]

Gubernatorial Disapprovals

Upon notification of disapproval by the Governor of an agency's proposed PERMANENT rulemaking action, the agency must submit a notice of such gubernatorial disapproval for publication in the *Register.*

For additional information on gubernatorial disapprovals, see 75 O.S., Section 303.2

TITLE 465. OKLAHOMA MOTOR VEHICLE COMMISSION
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #03-590]

RULEMAKING ACTION:

Gubernatorial disapproval

RULES:

Subchapter 9. Petitions

465:1-9-2 [AMENDED]

GUBERNATORIAL DISAPPROVAL:

Written disapproval received February 20, 2003

[OAR Docket #03-590; filed 4-7-03]

Emergency Adoptions

An agency may adopt new rules, or amendments to or revocations of existing rules, on an emergency basis if the agency determines that "an imminent peril exists to the preservation of the public health, safety, or welfare, or that a compelling public interest requires an emergency rule[s] . . . . [A]n agency may promulgate, at any time, any such [emergency] rule[s], provided the Governor first approves such rule[s]" [75 O.S., Section 253(A)].

An emergency action is effective immediately upon approval by the Governor or on a later date specified by the agency in the preamble of the emergency rule document. An emergency rule expires on July 15 after the next regular legislative session following promulgation, or on an earlier date specified by the agency, if not already superseded by a permanent rule or terminated through legislative action as described in 75 O.S., Section 253(H)(2).

Emergency rules are not published in the *Oklahoma Administrative Code*; however, a source note entry, which references the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action.

For additional information on the emergency rulemaking process, see 75 O.S., Section 253.

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 15. ANIMAL INDUSTRY

[OAR Docket #03-473]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 11. Importation of Livestock, Poultry, and Pets
Part 11. Poultry and Other Avian Species [NEW]
35:15-11-41. [NEW]
AUTHORITY:
Oklahoma State Board of Agriculture and the Oklahoma Agriculture Code; 2 O.S. 2001 §§ 2-4 (2 & 7), 6-2, and 6-133
DATES:
Adoption:
February 19, 2003
Approved by Governor:
March 18, 2003
Effective:
Immediately upon Governor's approval
Expiration
Effective through July 14, 2004 unless superseded by another rule or disapproved by the Legislature
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
FINDING OF EMERGENCY:
This emergency rule will aid in the prevention, control, and eradication of a devastating foreign animal disease. Exotic Newcastle Disease is a contagious disease that affects poultry and other avian species. Currently, California has an outbreak of Exotic Newcastle Disease that is uncontrolled, and the agency is concerned about shipments of poultry and other avian species from this high-risk area into Oklahoma. Therefore, the agency finds a compelling public interest for this emergency rule by aiding in the prevention of an outbreak of this devastating disease in Oklahoma by prohibiting importation of high-risk animals and products.
ANALYSIS:
The proposed rule is necessary to provide specific importation restrictions in order to protect the poultry and other avian species industries from the recent outbreak of Exotic Newcastle Disease. These rules are needed to address a recent importation problem and to promote the continued growth and economic development of the poultry and other avian species industries in Oklahoma.
CONTACT PERSON:
Dr. Burke Healey, (405) 522-6134

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253 (D):

SUBCHAPTER 11. IMPORTATION OF LIVESTOCK, POULTRY, AND PETS

PART 11. POULTRY AND OTHER AVIAN SPECIES

35:15-11-41. Poultry and other avian species importation

(a) No person shall import poultry or other avian species or products of poultry or other avian species originating from or transported through an area under quarantine by any state or federal animal health official for Exotic Newcastle Disease.

(b) Poultry or other avian species determined to be infected with or exposed to Exotic Newcastle Disease shall be destroyed without compensation to the owner.

[OAR Docket #03-473; filed 3-25-03]
(format accepted 3-31-03)

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 20. FORESTRY

[OAR Docket #03-474]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 17. Forest Resources Development Program [NEW]
Part 3. Cost-Share Program Guidelines [NEW]
35:20-17-7. [NEW]
35:20-17-9. [NEW]
35:20-17-11. [NEW]
35:20-17-12. [NEW]
35:20-17-14. [NEW]
35:20-17-19. [NEW]
AUTHORITY:
Oklahoma State Board of Agriculture; 2 O.S., Article 16, Section 16-10 through 16-13
DATES:
Adoption:
February 19, 2003
Approved by Governor:
March 17, 2003
Effective:
Immediately upon Governor's approval

Expiration

Effective through July 14, 2004 unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

There are two compelling reasons why these rules are proposed for emergency approval. The Department currently has $800,000 in emergency federal funding intended to assist private landowners to restore forestlands damaged by the 2000 ice storm in southeastern Oklahoma. These federal funds expire in less than one year. Because most of these funds will be used for tree planting during the normal planting season of December through mid-April, obligations to landowners must be made immediately. If not passed as an emergency rule, these landowners will lose a year's tree-planting season and the state may lose the federal funds entirely.

In addition, a new federal cost-share program (the Forest Land Enhancement Program) to be administered by the states was included in the 2002 Farm Bill. The USDA Forest Service is currently finalizing program rules and will be making funding allocations to the states in the very near future. It is critical that we have the proposed cost-share program and rules in place immediately so that the agency can administer these new federal funds in a timely and effective manner. If the rules are not passed as an emergency now, landowners will lose a full tree-planting season and Oklahoma's allocation of federal funds could be reduced.

ANALYSIS:

These rules will enable the Department of Agriculture, Food, and Forestry to administer a forestry cost-share program to help landowners implement forest resource management and conservation projects in Oklahoma, as authorized in Title 2, Sections 16-10 through 16-13 of the Oklahoma Statutes. The rules and accompanying program guidelines will be used to administer funds allocated to Oklahoma through the federal Forest Land Enhancement Program, and other funds for forestry cost-share programs from state appropriations, federal grants, private foundation grants, donations or similar sources. The administrative rules provide the basic framework for the cost-share program, and describe eligibility requirements, application procedures, payment limitations, requirements for maintaining funded practices, and the appeals process.

CONTACT PERSON:

Kurtis L. Atkinson, (405) 522-6147

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253 (D):

SUBCHAPTER 17. FOREST RESOURCES DEVELOPMENT PROGRAM

PART 3. COST-SHARE PROGRAM GUIDELINES

35:20-17-7. Eligibility for cost-share program

(a) Any private individual, corporation, trust, joint venture, Native American Tribe, association or other legal entity shall be eligible for participation in the program, provided that they meet the program guidelines established and approved by the Department in consultation with the Advisory Committee.

(b) Any federal, state or local government agency or political subdivision, corporations with publicly traded stock, landowners engaged in the manufacture of wood products, public utilities, owners of less than 10 contiguous acres, and any landowner with joint ownership in an eligible tract of land where all joint owners or duly authorized agents do not sign the application shall not be eligible for participation in the program.

(c) Funding shall be available for practices on a statewide basis, unless restricted to certain counties or geographic areas by the Department in consultation with the Advisory Committee based upon the source of cost-share funding.

(d) The Department in consultation with the Advisory Committee will establish the minimum and maximum size ownerships for landowners to be eligible to participate in the program, and the minimum size tract where practices are to be installed under the program.

(e) The Department in consultation with the Advisory Committee may establish additional restrictions for participation in the program, based upon program funding sources and intent.

35:20-17-9. Applications for cost-share funding

(a) Forestry Services shall develop the forms and guidelines required for the cost-share program in consultation with the Advisory Committee.

(b) Any landowner desiring to participate in the program shall submit an application to the Department on a form supplied by the Department. Potential participants shall complete the application for cost-share funding according to the guidelines and shall send completed applications to the Area Forester responsible for the county in which the land where the practice is to be installed is located.

(c) Applications will be accepted on a continuous basis, unless otherwise established by the Department in consultation with the Advisory Committee.

35:20-17-11. Cost-share practices and rates

The Department with the consultation of the Advisory Committee shall establish the cost-share practices and rates that will be offered to landowners under the program and those practices and rates may vary, depending upon the source and expressed intent of cost-share funding. All approved practice descriptions, specifications and cost-share rates shall be made available to potential applicants in the program guidelines. The Advisory Committee shall review the cost-share rates annually and recommend adjustments to the Department as necessary.

35:20-17-12. Maximum payment limitation and agreement period

The maximum payment limitation for all program payments shall be established by the Department in consultation with the Advisory Committee, and will be based on the state fiscal year. The program shall only fund annual agreements, and shall not fund long-term, multi-year agreements.

35:20-17-14. Approval of cost-shares

(a) Cost-share funding shall be allocated on a first-come first served basis, unless the Department in consultation with the Advisory Committee establishes an application rating system to fund projects with the highest priority or to meet specific objectives.

(b) In no case shall a cost-share rate be adjusted from the rate in effect when the application was approved.
(c) In the event funding is not immediately available, an application will be retained on file in the state office and reconsidered as new funding becomes available. At the end of twelve (12) months, and at least annually thereafter, landowners will be required to notify the state office in writing if they wish for their application to remain on file.
(d) Landowners shall obtain written approval prior to implementing cost-shared practices. Reimbursement shall not occur unless an approved cooperative agreement is on file with the Department prior to practice implementation.

35:20-17-19. Practice maintenance requirement

Landowners are generally required to maintain cost-share practices in accordance with the cooperative agreement for a period of ten (10) years following the date of performance certification. The Department in consultation with the Advisory Committee may establish a maintenance period of less than ten (10) years for certain practices or under certain conditions. Foresters will perform random spot checks of practices completed in prior years and notify Forestry Services' State Office of discrepancies.

[OAR Docket #03-474; filed 3-25-03]
(format accepted 3-27-03)

Permanent Final Adoptions

An agency may promulgate rules on a permanent basis upon "final adoption" of the proposed new, amended, or revoked rules. "Final adoption" occurs upon approval by the Governor and the Legislature, or upon enactment of a joint resolution of approval by the Legislature. Before proposed permanent rules can be reviewed and approved/disapproved by the Governor and the Legislature, the agency must provide the public an opportunity for input by publishing a Notice of Rulemaking Intent in the *Register.*

Permanent rules are effective ten days after publication in the *Register*, or on a later date specified by the agency in the preamble of the permanent rule document.

Permanent rules are published in the *Oklahoma Administrative Code*, along with a source note entry that references the *Register* publication of the permanent action.

For additional information on the permanent rulemaking process, see 75 O.S., Sections 303, 303.1, 303.2, 308 and 308.1.

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 2. FEES

[OAR Docket #03-530]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Fee Schedules
35:2-3-2. [AMENDED]
35:2-3-2.1 [NEW]
35:2-3-2.2 [NEW]
35:2-3-2.3 [NEW]
35:2-3-2.4 [NEW]
35:2-3-2.5 [NEW]
35:2-3-2.6 [NEW]
35:2-3-2.7 [NEW]
35:2-3-2.8 [NEW]
AUTHORITY:
Oklahoma State Board of Agriculture; Title 2, §§ 2-4(2) and 14-83(B)
DATES:
Comment period:
October 15, 2002 through November 18, 2002
Public hearing:
November 18, 2002
Adoption:
December 19, 2002
Submitted to Governor:
December 20, 2002
Submitted to House:
December 20, 2002
Submitted to Senate:
December 20, 2002
Gubernatorial approval:
January 30, 2003
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 25, 2003
Final adoption:
March 25, 2003
Effective:
May 12, 2003
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The purpose of the new amendments is to restructure and reorganize the laboratory fee rules into a format that better reflects the analytical processes, to recover the increasing cost of performing certain tests, and to meet standards determined through an audit and necessary for the continuation of certain programs in the Department which are necessary for promoting the continued growth and economic development for agriculture in Oklahoma. Several factors have contributed to a dramatic increase in the cost of laboratory analysis, including: the prices for reagent chemicals, solvents and laboratory supplies have increased; the cost of disposal of laboratory waste products has significantly increased; the quality assurance requirements imposed on the laboratory by federal certifying authorities have significantly increased the cost of making each analysis; required audit samples that used to be furnished by the federal government at no charge, now must be purchased, at considerable expense, from private vendors; the maintenance costs of highly technical and delicate instrumentation has increased; and customer demands for better reproducibility and lower detection limits have further increased the cost of analysis.
CONTACT PERSON:
Dr. Mike Talkington, Director, Laboratory Services, Oklahoma Department of Agriculture, Food, and Forestry (405) 522-5432

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2003:

SUBCHAPTER 3. FEE SCHEDULES

35:2-3-2. ~~Schedule~~ Schedules of laboratory fees

(a) The following ~~schedule~~ schedules of laboratory testing fees ~~as stated~~ shall apply to all samples submitted ~~from Oklahoma producers~~ to the Oklahoma Department of Agriculture, Food, and Forestry Laboratory Services Division, unless otherwise stated. ~~Any samples or standards submitted from out of state entities will be double the stated fees.~~

~~(1) FEEDS:~~
~~(A) Protein - $7.50~~
~~(B) Ash - $6.00~~
~~(C) Fat - $7.50~~
~~(D) Fiber - $7.50~~
~~(E) Moisture - $4.00~~
~~(F) Urea Protein (NPN) - $10.00~~
~~(G) Phosphorus - $15.00~~
~~(H) Salt - $10.50~~
~~(I) Microscopic Analysis - $30.00~~
~~(J) Invert Sugar - $50.00~~
~~(K) Nitrates - $12.00~~
~~(L) Aflatoxin - $25.00~~
~~(M) Vitamin A - $40.00~~
~~(2) DRUGS IN FEEDS:~~
~~(A) Amprolium - $22.50~~
~~(B) Sulfamethazine - $22.50~~
~~(C) Sulfathiazole - $22.50~~
~~(3) MICROBIOLOGICAL ASSAY:~~
~~(A) Bacitracin - $25.00~~
~~(B) Chlortetracycline - $25.00~~
~~(C) Decoquinate - $25.00~~

~~(D) Lasalocid - $25.00~~
~~(E) Oxytetracycline - $25.00~~
~~(F) Tylosin - $25.00~~
~~(4) FERTILIZER:~~
~~(A) Nitrogen - $10.00~~
~~(B) Phosphorus - $15.00~~
~~(C) Potash - $11.00~~
~~(D) Sulfur - $15.00~~
~~(5) LIME:~~
~~(A) Sieve Analysis & Equiv. Calcium Carbonate - $15.00~~
~~(6) ELEMENTAL ANALYSIS BY ATOMIC AB-SORPTION:~~
~~(A) Calcium - $11.00~~
~~(B) Copper - $11.00~~
~~(C) Iron - $15.50~~
~~(D) Magnesium - $11.00~~
~~(E) Manganese - $11.00~~
~~(F) Potassium - $11.00~~
~~(G) Sodium - $11.00~~
~~(H) Zinc - $11.00~~
~~(7) PESTICIDE RESIDUE:~~
~~(A) Insecticide - Pesticide Screen - $80.00~~
~~(B) Single Pesticide/Herbicide - $80.00~~
~~(8) PESTICIDE FORMULATION:~~
~~(A) Gas Chromatography Analysis - $80.00~~
~~(B) Total Chloride Method - $35.00~~
~~(C) HPLC Formulations - $80.00~~
~~(D) Ultraviolet-Visible Scanning - $30.00~~
~~(E) T. L. C. Screen - $22.00~~
~~(9) MISCELLANEOUS:~~
~~(A) Equine Infectious Anemia - $5.00~~
~~(B) Pseudorabies - $3.00~~
~~(C) pH - $4.00~~
~~(D) Facsimile copies of results per page - $1.00~~
~~(10) MEAT SAMPLES:~~
~~(A) Total Protein - $10.50~~
~~(B) Total Fat - $12.50~~
~~(C) Total Water - $6.50~~
~~(D) Sodium Nitrite (Quantitative) - $16.50~~
~~(E) Cereal - $20.00~~
~~(F) Salt - $10.50~~
~~(G) Soy Flour - $12.50~~
~~(H) Soy Protein Concentrate - $12.50~~
~~(I) Corn Syrup Solids - $ 17.50~~
~~(J) Non Fat Dry Milk - $15.50~~
~~(K) Phosphate - $11.00~~
~~(L) Benzoate - $14.00~~
~~(M) Imidazole - $ 10.00~~
~~(N) Maximum Internal Temperature - $6.50~~
~~(O) Water for Coliform - $10.00~~
~~(P) Antibiotics - $25.00~~
~~(Q) Chlorinated Hydrocarbons - $80.00~~
~~(R) Organic Phosphates - $80.00~~
~~(S) Sulfite (Quantitative) - $12.50~~
~~(T) Sulfite (Qualitative) - $9.00~~
~~(U) Species Determination - $15.00~~
~~(V) Listeria - $25.00~~
~~(W) Salmonella - $20.00~~
~~(X) Other Tests (Per hour) - $18.00~~
~~(Y) E. Coli O157 - $20.00~~
~~(Z) Campylobacter - $20.00~~
~~(AA) Water Activity - $30.00~~
~~(11) WATER & SEDIMENT:~~
~~(A) Total Suspended Solids - $10.00~~
~~(B) Total Kjeldahl Nitrogen - $15.00~~
~~(C) Total Phosphorus - $20.00~~
~~(D) Turbidity - $5.00~~
~~(E) Chlorides - $12.00~~
~~(F) Nitrate - $12.00~~
~~(G) Pesticide/Herbicide Screen - $80.00~~
~~(H) Single Pesticide/Herbicide - $80.00~~
~~(I) Coliform - $10.00~~
~~(J) Electrical Conductivity - $4.00~~
~~(K) pH - $4.00~~
~~(L) Ammonium Nitrogen - $12.00~~
~~(M) Sodium - $12.00~~
~~(N) Potassium - $12.00~~
~~(O) Calcium - $12.00~~
~~(P) Magnesium - $12.00~~
~~(Q) Sulfates - $12.00~~
~~(R) Total Dissolved Solids - $4.00~~
~~(S) Nitrite - $12.00~~
~~(T) Carbonate/Bicarbonate - $10.00~~
~~(U) Total Coliform - $10.00~~
~~(V) E. Coli - $10.00~~
~~(W) Enterococcus - $10.00~~
~~(X) Hardness - $10.00~~
~~(Y) Water Quality Assessment A - $28.00 (Electrical Conductivity, pH, Ammonium Nitrogen, Nitrate-Nitrogen, & Total Phosphorus~~
~~(Z) Water Quality Assessment B - $47.00 (Assessment A plus Sodium, Potassium, Calcium, Magnesium, TKN, & TSS)~~
~~(AA) Water Quality Assessment C - $25.00 (Nitrate-Nitrogen & Total Phosphorus)~~
~~(BB) Cation Screen - $16.00 (Sodium, Potassium, Calcium, Magnesium, & Ammonium-Nitrogen)~~
~~(CC) Anion Screen - $16.00 (Chloride, Sulfate, & Nitrate-Nitrogen)~~
~~(DD) Oxygen Demand, Biochemical (5Day) - $30.00~~
~~(EE) Oxygen Demand, Biochemical (20 Day) - $40.00~~
~~(FF) Oxygen Demand, Biochemical (30 Day) - $45.00~~
~~(GG) Phosphorus as Orthophosphorus - $15.00~~
~~(HH) Fecal Coliform MF or MPN - $10.00~~
~~(II) Total Coliform MF or MPN - $10.00~~
~~(JJ) Monochromatic chlorophyll a & Pheophytin - $25.00 Pre-extracted and ground - $5.00~~
~~(KK) Trichromatic chlorophyll a, b & c - $35.00~~
~~(12) FOOD & DAIRY PRODUCTS~~
~~(A) Filth & Adulteration of Foods~~
~~(i) Syrup - $2.00~~
~~(ii) Dairy - $4.00~~

~~(iii) Beverage (Soft Drinks) - $4.00~~
~~(iv) Canned Foods - $4.00~~
~~(v) Bread/Pastry - $4.00~~
~~(iv) Flour/Cereal - $4.00~~
~~(B) Meat Adulteration~~
~~(i) Fat in ground meat (Screening) - $14.00~~
~~(C) Bacteriological Food Analysis~~
~~(i) Standard Plate Count (Soft Serve) - $7.00~~
~~(ii) Coliform Plate Count VRB (Soft Serve) - $7.00~~
~~(iii) Coliform MPN (12 tube) - $7.00~~
~~(iv) Total Plate Count - $10.00~~
~~(v) Salmonella - $20.00~~
~~(vi) Shigella - $20.00~~
~~(vii) Listeria - $25.00~~
~~(viii) E. Coli O157 - $20.00~~
~~(ix) Campylobacter - $20.00~~
~~(x) Staphylococcus - $20.00~~
~~(xi) Staphylococcus confirmation of coagulase positive - $5.00~~
~~(xii) C. Perfringens - $14.00~~
~~(xiii) Bacillus cereus (presumptive) - $14.00~~
~~(xiv) Bacillus cereus (confirmed) - $61.00~~
~~(xv) Yeast and Mold Count - $9.00~~
~~(xvi) Utensil Count - $4.00~~
~~(D) Water Tests~~
~~(i) Water for Coliform - $10.00~~
~~(ii) Heterotrophic Plate Count - $10.00~~
~~(iii) Confirmed MF (LST & BGB) - $7.00~~
~~(E) Miscellaneous Tests~~
~~(i) Thermometer Checks - $11.00~~
~~(ii) Gram Stain - $5.00~~
~~(iii) Water Activity - $30.00~~
~~(iv) Gross Examination of Food Container - $5.00~~
~~(v) Sulfite (Screening) - $9.00~~
~~(vi) pH - $4.00~~
~~(13) SEED ANALYSIS:~~
~~(A) Germination & Purity (except Grasses & Clovers) - $12.00~~
~~(B) Germination Only (except Grasses & Clovers) - $8.00~~
~~(C) Purity Only (except Grasses & Clovers) - $9.00~~
~~(D) Germination Grasses & Clovers (each component) - $8.00~~
~~(E) Purity Grasses, Clovers, Unprocessed Seed (Per hour) - $12.00~~
~~(F) Tetrazolium Testing - $15.00~~
~~(G) Stress/Vigor Test - $8.00~~
~~(H) Accelerated Aging - $12.00~~
~~(I) Noxious Weed Check Only (Per hour) - $10.00~~
~~(J) Extra Copies - $1.00~~
~~(14) OKLAHOMA BUREAU OF STANDARDS~~
~~(A) Mass Echelon III~~
~~(i) Tolerance Test Weights Not Adjusted:~~
~~(I) Up to and Including 10 lbs/5 kg - $5.00~~
~~(II) Over 10 lbs/5 kg Up to 50 lbs/30 kg - $8.00~~
~~(III) Over 50 lbs/30 kg Up to 500 lbs/300 kg - $10.00~~
~~(IV) Over 500 lbs/300 kg Up to 1000 lbs/500 kg - $12.00~~
~~(V) Over 1000 lbs/500 kg Up to 2500 lbs/1250 kg - $20.00~~
~~(ii) Tolerance Test Weights When Adjusted:~~
~~(I) Up to and Including 10 lbs/5 kg - $15.00~~
~~(II) Over 10 lbs/5 kg Up to 50 lbs/30 kg - $21.00~~
~~(III) Over 50 lbs/30 kg Up to 500 lbs/300 kg - $25.00~~
~~(IV) Over 500 lbs/300 kg Up to 1000 lbs/500 kg - $29.00~~
~~(V) Over 1000 lbs/500 kg Up to 2500 lbs/1250 kg - $45.00~~
~~(B) Mass Echelon II~~
~~(i) Tolerance Test Weights Not Adjusted:~~
~~(I) Up to and Including 2 lbs/1 kg - $10.00~~
~~(II) Over 2 lbs/1 kg Up to 20 lbs/10 kg - $20.00~~
~~(III) Over 20 lbs/10 kg Up to 50 lbs/30 kg - $30.00~~
~~(IV) Over 50 lbs/30 kg Up to 2500 lbs/1250 kg - $50.00~~
~~(ii) Tolerance Test Weights When Adjusted:~~
~~(I) Up to and Including 2 lbs/1 kg - $30.00~~
~~(II) Over 2 lbs/1 kg Up to 20 lbs/10 kg - $50.00~~
~~(III) Over 20 lbs/10 kg Up to 50 lbs/30 kg - $70.00~~
~~(IV) Over 50 lbs/30 kg Up to 2500 lbs/1250 kg - $110.00~~
~~(C) Mass Echelon I~~
~~(i) Test weights not adjusted:~~
~~(I) Up to and including 1 kg - $40.00~~
~~(II) Over 1 kg and including 30 kg - $60.00~~
~~(ii) Test weights when adjusted:~~
~~(I) Up to and including 1 kg - $100.00~~
~~(II) Over 1 kg and including 30 kg - $140.00~~
~~(D) Tolerance Test for Standards of Volume:~~
~~(i) Up to and including 5 gal/20 liters - $10.00~~
~~(ii) Over 5 gal/20 liters up to 50 gal/200 liters - $50.00~~
~~(iii) Over 50 gal/200 liters up to 100 gal/400 liters - $100.00~~
~~(iv) Over 100 gal/400 liters up to 150 gal/600 liters - $150.00~~
~~(v) Over 150 gal/600 liters up to 200 gal/800 liters - $200.00~~
~~(vi) Over 200 gal/800 liters up to 375 gal/1500 liters - $300.00~~
~~(E) Tolerance Test for Standards of Length:~~
~~(i) Calibration per point - $4.00~~
~~(ii) Minimum per device - $20.00~~
~~(F) Special Tests (not listed) - $50.00 per hour~~

~~(G) Cleaning of standards (if needed); special packing (if needed) - $40.00 per hour~~

(b) Samples submitted by or services provided to nonresident persons shall be billed at twice the listed fee.

(c) Any listed fee may be waived if deemed necessary by the Laboratory Services Division Director.

(d) Fees may be discounted or waived pursuant to a contract for a high volume of samples as approved by the Board.

(e) The following administrative fees shall apply to all types of testing:

(1) Extra copies of official reports - $1.00 per page.

(2) Results delivered by facsimile - $1.00 per page.

(3) Complete analytical data packets with reports - $50.00 per invoice.

(4) Unlisted tests, special - $50.00 per hour.

35:2-3-2.1. Schedule of animal health testing fees

(a) Equine Infectious Anemia - $5.00.

(b) Pseudorabies - $3.00.

(c) Brucellosis - no charge.

35:2-3-2.2. Schedule of feed and fertilizer testing fees

(a) Feeds and grains testing fees.

(1) Proximate analysis:

(A) Ash - $15.00.

(B) Fat, dry pet foods (Mojonnier) - $25.00.

(C) Fat, all feeds (Soxtec) - $20.00.

(D) Fiber, acid detergent (ADF) - $30.00.

(E) Fiber, crude - $20.00.

(F) Moisture - $15.00.

(G) Non-protein nitrogen - $30.00.

(H) Protein - $20.00.

(2) Other feed analysis:

(A) Aflatoxins - $30.00.

(B) Feed microscopy - $99.00.

(C) Salt, from chloride - $10.50.

(D) Sulfur - $15.00.

(E) Sugar, brix - $15.00.

(F) Sugar, total as invert - $50.00.

(G) Vitamin A - $60.00.

(3) Drugs in feeds:

(A) Amprolium - $50.00.

(B) Chlortetracycline - $50.00.

(C) Decoquinate - $65.00.

(D) Lasalocid - $65.00.

(E) Oxytetracycline - $50.00.

(F) Sulfamethazine - $65.00.

(G) Sulfathiazole - $65.00.

(H) Tylosin - $65.00.

(b) Fertilizer testing fees.

(1) Major nutrients:

(A) Nitrogen - $20.00.

(B) Phosphoric acid - $20.00.

(C) Potash - $20.00.

(2) Micro nutrients:

(A) Chlorine - $11.00.

(B) Sulfur - $15.00.

(c) Lime analysis, sieve, and effective calcium carbonate equivalent (ECCE) - $25.00.

(d) Elemental analysis testing fees by atomic absorption (AA) or inductively coupled plasma (ICP) spectrometry.

(1) First element - $20.00.

(2) Each additional element - $15.00.

(3) Includes the following elements:

(A) Calcium (Ca).

(B) Copper (Cu).

(C) Iron (Fe).

(D) Magnesium (Mg).

(E) Manganese (Mn).

(F) Phosphorus (P).

(G) Potassium (K).

(H) Sodium (Na).

(I) Zinc (Zn).

(J) Aluminum (Al).

(K) Arsenic (As).

(L) Boron (B).

(M) Cadmium (Cd).

(N) Chromium (Cr).

(O) Cobalt (Co).

(P) Lead (Pb).

(Q) Mercury (Hg).

(R) Molybdenum (Mo).

(S) Nickel (Ni).

(T) Selenium (Se).

35:2-3-2.3. Schedule of meat chemistry testing fees

(a) Antibiotics - $50.00.

(b) Benzoate - $20.00.

(c) Cereal - $20.00.

(d) Corn syrup solids - $32.00.

(e) Fat, screening - $14.00.

(f) Fat, total - $30.00.

(g) Imidazole - $20.00.

(h) Maximum internal temperature - $10.00.

(i) Non-fat dry milk - $32.00.

(j) Phosphate - $20.00.

(k) Protein, total - $20.00.

(l) Salt - $20.00.

(m) Sodium nitrite, quantitative - $20.00.

(n) Soy flour - $18.00.

(o) Soy protein concentrate - $18.00.

(p) Species determination - $25.00.

(q) Sulfite, qualitative - $9.00.

(r) Sulfite, quantitative - $12.50.

(s) Water, total - $10.00.

35:2-3-2.4. Schedule of microbiological testing fees

(a) Bacillus cereus, confirmed - $61.00.

(b) Bacillus cereus, presumptive - $14.00.

(c) Campylobacter - $20.00.

(d) Clostridium perfringens - $14.00.

(e) Coliform - $10.00.

(f) Confirmed membrane filter (MF), lauryl sulfate tryptose (LST) and brilliant green bile (BGB) - $7.00.

(g) E. coli - $20.00.
(h) E. coli O157 - $20.00.
(i) Enterococcus - $10.00.
(j) Fecal coliform, membrane filter (MF), or most probable number (MPN) - $10.00.
(k) Filth and adulteration of foods, gross examination - $5.00.
(l) Gram stain - $5.00.
(m) Listeria - $25.00.
(n) Plate count, coliform - $10.00.
(o) Salmonella - $20.00.
(p) Shigella - $20.00.
(q) Staphylococcus - $20.00.
(r) Staphylococcus, confirmation of coagulase + - $5.00.
(s) Utensil count - $4.00.
(t) Water activity - $30.00.
(u) Yeast and mold count - $9.00.

35:2-3-2.5. Schedule of pesticide testing fees

(a) Residue analyses:
  (1) In soils or waters - $160.00.
  (2) In other matrices - $240.00.
(b) Formulations or tank mixes:
  (1) Up to two components - $90.00.
  (2) Three or more components - $160.00.
  (3) Aerosols - $160.00.
  (4) Baits - $180.00.
  (5) Unknowns - $180.00.

35:2-3-2.6. Schedule of water and sediment inorganic testing fees

(a) Alkalinity, total - $10.00.
(b) Biochemical oxygen demand, 5-day (BOD_5) - $30.00.
(c) Biochemical oxygen demand, 20-day (BOD_{20}) - $40.00.
(d) Biochemical oxygen demand, 30-day (BOD_{30}) - $45.00.
(e) Carbonate/Bicarbonate - $10.00.
(f) Chloride - $12.00.
(g) Electrical conductivity (EC) - $4.00.
(h) Hardness - $16.00.
(i) Ion balance, cation/anion balance - $20.00.
(j) Ion screen, anions (chloride, sulfate, nitrate-nitrogen, and nitrite-nitrogen) - $16.00.
(k) Ion screen, cations (sodium, potassium, calcium, and magnesium) - $16.00.
(l) Kjeldahl nitrogen, total (TKN) - $15.00.
(m) Monochromatic chlorophyll a and pheophytin - $35.00.
(n) Monochromatic chlorophyll a and pheophytin, pre-extracted and ground - $5.00.
(o) Nitrogen from ammonia - $12.00.
(p) Nitrogen from nitrates - $12.00.
(q) Nitrogen from nitrites - $12.00.
(r) pH - $4.00.
(s) Phosphorus from ortho-phosphorus - $15.00.
(t) Phosphorus, total (TP) - $20.00.
(u) Solids, total dissolved (TDS) - $10.00.
(v) Solids, total suspended (TSS) - $10.00.
(w) Sulfate - $12.00.
(x) Trichromatic chlorophyll a, b, and c - $35.00.
(y) Turbidity - $5.00.
(z) LMFO assessment for licensed managed feeding operations pursuant to the Oklahoma Concentrated Animal Feeding Operations Act, Title 2 of the Oklahoma Statutes, Section 9-205.4 (electrical conductivity, pH, ammonia-nitrogen, nitrate-nitrogen and total phosphorus) - $28.00.

35:2-3-2.7. Schedule of seed testing fees

(a) Germination and purity, other than grasses and clovers - $12.00.
(b) Germination only, other than grasses and clovers - $8.00.
(c) Purity only, other than grasses and clovers - $9.00.
(d) Germinations, grasses and clovers - $8.00 per component.
(e) Purity, grasses, clovers, and unprocessed seed - $12.00 per hour.
(f) Tetrazolium (TZ) testing - $15.00.
(g) Stress/vigor test - $8.00.
(h) Accelerated aging - $12.00.
(i) Noxious weed check - $10.00 per hour.

35:2-3-2.8. Schedule of Oklahoma Bureau of Standards testing fees

(a) Mass Echelon III.
  (1) Tolerance test weights not adjusted:
    (A) Up to and including 10 lbs/5 kg - $5.00.
    (B) Over 10 lbs/5 kg and up to 50 lbs/30 kg - $8.00.
    (C) Over 50 lbs/30 kg and up to 500 lbs/300 kg - $10.00.
    (D) Over 500 lbs/300 kg and up to 1,000 lbs/500 kg - $12.00.
    (E) Over 1,000 lbs/500 kg and up to 2,500 lbs/1,250 kg - $20.00.
  (2) Tolerance test weights when adjusted:
    (A) Up to and including 10 lbs/5 kg - $15.00.
    (B) Over 10 lbs/5 kg and up to 50 lbs/30 kg - $24.00.
    (C) Over 50 lbs/30 kg and up to 500 lbs/300 kg - $30.00.
    (D) Over 500 lbs/300 kg and up to 1,000 lbs/500 kg - $36.00.
    (E) Over 1,000 lbs/500 kg and up to 2,500 lbs/1,250 kg - $60.00.
(b) Mass Echelon II.
  (1) Tolerance test weights not adjusted:
    (A) Up to and including 2 lbs/1 kg - $15.00.
    (B) Over 2 lbs/1 kg and up to 20 lbs/10 kg - $20.00.
    (C) Over 20 lbs/10 kg and up to 50 lbs/30 kg - $30.00.
    (D) Over 50 lbs/30 kg and up to 2,500 lbs/1,250 kg - $50.00.
  (2) Tolerance test weights when adjusted:
    (A) Up to and including 2 lbs/1 kg - $45.00.
    (B) Over 2 lbs/1 kg and up to 20 lbs/10 kg - $60.00.
    (C) Over 20 lbs/10 kg and up to 50 lbs/30 kg - $90.00.

(D) Over 50 lbs/30 kg and up to 2,500 lbs/1,250 kg - $150.00.

(c) Mass Echelon I.

(1) Test weights not adjusted:

(A) Up to and including 1 kg - $40.00.

(B) Over 1 kg and up to 30 kg - $60.00.

(2) Test weights when adjusted:

(A) Up to and including 1 kg - $120.00.

(B) Over 1 kg and up to 30 kg - $180.00.

(d) Volume transfer tests:

(1) Up to and including 5 gal/20 liters - $25.00.

(2) Over 5 gal/20 liters and up to 50 gal/200 liters - $50.00.

(3) Over 50 gal/200 liters and up to 100 gal/400 liters - $100.00.

(4) Over 100 gal/400 liters and up to 150 gal/600 liters - $150.00.

(5) Over 150 gal/600 liters and up to 200 gal/800 liters - $200.00.

(6) Over 200 gal/800 liters and up to 375 gal/1,500 liters - $300.00.

(e) Volume gravimetric tests:

(1) Up to and including 1 qt/1 liter - $50.00.

(2) Over 1 qt/1 liter and up to 5 gal/20 liters - $100.00.

(3) Over 5 gal/20 liters and up to 50 gal/200 liters - $250.00.

(f) Volume LPG Provers up to and including 100 gal/400 liters - $250.00.

(g) Length:

(1) Calibration per point - $7.00.

(2) Minimum per device - $50.00.

(h) Cleaning of standards and special packing, when necessary - $50.00 per hour.

[OAR Docket #03-530; filed 3-28-03]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 10. AGRICULTURAL PRODUCTS

[OAR Docket #03-529]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Eggs
35:10-3-1. through 35:10-3-4. [AMENDED]
35:10-3-5. through 35:10-3-7. [REVOKED]
35:10-3-8. through 35:10-3-10. [AMENDED]
AUTHORITY:
Oklahoma State Board of Agriculture; 2 O.S. 2001 § 10-79
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SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The primary purpose of the proposed rules is to update Oklahoma's egg standards. The proposed amendments to rules such as 35:10-3-1 accomplish this goal by updating references to USDA rules and publications. Amendments to rules such as 35:10-3-9, which establishes a sum-certain egg inspection fee, are necessary in bringing the egg rules into conformance with legislation passed during the last legislative session. The remaining amendments are included for the sole purpose of "cleaning up" the language used in this subchapter in order to remove archaic language and make the rules more readable and easier to understand.
CONTACT PERSON:
Billy Klein, (405) 522-5898

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2003:

SUBCHAPTER 3. EGGS

35:10-3-1. Oklahoma standards

Grades and weight classes for shell eggs shall be those as set forth in ~~Title 7 Code of Federal Regulations Sections 56:200 through 56:218, or revisions, thereof~~ the "United States Standards, Grades, and Weight Classes for Shell Eggs," maintained by the United States Department of Agriculture ("USDA"), Agricultural Marketing Service, Poultry Division, as AMS 56 (1995 Version).

35:10-3-2. Methods of grading

Methods of egg grading shall be the same as those described in USDA Egg-Grading Manual, ~~Agriculture Handbook 75~~ AH-75 (2000 Version) ~~or revisions thereof~~.

35:10-3-3. Display of eggs for sale

All eggs offered ~~for sale~~ or ~~display~~ displayed for sale to consumers shall be in customary containers. ~~No~~ Eggs shall not be offered or displayed for sale to consumers in bulk displays.

35:10-3-4. Improper marking and signs; advertising

~~All authorized inspectors of the Oklahoma State Department of Agriculture shall have authority to deface immediately all labels and/or markings on any egg containers which are not in compliance with the requirements of the Oklahoma Egg~~

~~Law and these rules and regulations. Window signs or placards that give false or misleading information advertising eggs, or that fail to show all the information required by law, may also be defaced by such inspectors. Window display signs advertising eggs for sale must have a price, grade and size plainly and uniformly marked.~~ Window display signs advertising eggs for sale must be plainly and uniformly marked with the price, grade, and size of the eggs. Oklahoma Department of Agriculture, Food, and Forestry inspectors are authorized to deface immediately any label or marking on any egg container or display that does not comply with the Oklahoma Egg Law and rules, including any window sign that contains false or misleading information or that fails to include all required information.

35:10-3-5. Grade labeling [REVOKED]

~~Packed containers shall have a label or stamp applied to the top or side of the container. The label shall indicate the grade, size of the eggs and size of the container. A grade label affixed to a case of eggs shall be placed on one end of the case.~~

35:10-3-6. Transportation of empty egg cases [REVOKED]

~~Empty egg cases bearing official Oklahoma egg labels shall not be transported within the State of Oklahoma until the used Oklahoma egg labels have been defaced or destroyed.~~

35:10-3-7. Grade label exemption on cases [REVOKED]

~~No grade label shall be required on cases containing cartons of graded eggs if such cartons bear appropriate labels.~~

35:10-3-8. Display of egg license

~~Licensee shall display state egg licenses in a prominent place at the location where the eggs are graded, on display or being offered for sale.~~ Egg packers and dealers shall obtain and display in a prominent place a separate state egg license for each packing plant and each shipping point, as set forth in the Oklahoma Egg Law, Section 10-81.

35:10-3-9. Egg inspection fee permits

~~The Oklahoma Egg Law provides for a permit, to those who may be approved, for reporting and remitting to the State for egg inspections fees on a monthly basis. This number shall be issued to an applicant by the Oklahoma Department of Agriculture and must be affixed to the container. It must be shown in bold face legible letters as one of the following methods: Oklahoma Department of Agriculture Permit No. (packer number). It will be permissible to abbreviate thus: Okla. Dept. Agri. Permit No. (packer number), OK (permit no.) or ODA (permit no.). It will also be acceptable to use the USDA Shell Egg Registration Number, including the State and Handler code. Permits or licenses issued by the Board are not transferable.~~

(a) Licensed egg packers selling eggs in the state of Oklahoma shall submit reports and remit inspection fees to the Department on a monthly basis.

(b) At the time of license application, small egg packers that pack less than five thousand (5,000) dozen eggs per year shall pre-pay an annual inspection fee in the amount of fifteen dollars ($15.00).

35:10-3-10. Samples for inspections

(a) Department of Agriculture, Food, and Forestry inspectors shall inspect every retail, dealer, and packer location offering eggs and egg products for sale to consumers.

(b) Inspectors shall personally draw samples from ~~the~~ each lot of eggs and shall follow USDA shell egg statutes, rules, and handbooks on official grading. ~~offered for sale to consumers. The minimum sample shall be one hundred (100) eggs or 10% or each lot, taken at random from the retailer's display. If the retailer's display is less than 100 eggs, all eggs will be checked.~~

[OAR Docket #03-529; filed 3-28-03]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 10. AGRICULTURAL PRODUCTS

[OAR Docket #03-527]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 15. National Type Evaluation Program
35:10-15-2. [AMENDED]
35:10-15-3. [AMENDED]
AUTHORITY:
Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2), 2-4(29), 14-33, and 14-34
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Subchapter 15. National Type Evaluation Program
35:10-15-2. [AMENDED]
35:10-15-3. [AMENDED]

Gubernatorial approval:
October 8, 2002
Register publication:
20 Ok 15
Docket number:
02-1391
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The purpose of the proposed rules is to exempt cotton bale weighing devices from NTEP requirements. The amended rules are needed to protect the few remaining cotton gins located in Oklahoma and allow those wishing to do so to upgrade the weighing devices used at these facilities, thus providing an adequate local market to the cotton producers of this state.
CONTACT PERSON:
Charles Carter, (405) 522-5968

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2003:

SUBCHAPTER 15. NATIONAL TYPE EVALUATION PROGRAM

35:10-15-2. Application

This subchapter shall apply to all classes of devices ~~and/or~~ and equipment (except for cotton bale weighing devices at cotton gins in Oklahoma) as specified by the National Conference on Weights and Measures and published in Handbook 44 and the National Institute of Standards and Technology Handbook 105-1, 105-2, and 105-3.

35:10-15-3. Certificate of Conformance

The Board shall require any weight, measure, or weighting and measuring instrument or device (except for cotton bale weighing devices at cotton gins in Oklahoma) to be issued a Certificate of Conformance prior to its use for commercial or law enforcement purposes.

[OAR Docket #03-527; filed 3-28-03]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 15. ANIMAL INDUSTRY

[OAR Docket #03-524]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 11. Importation of Livestock, Poultry, and Pets
Part 1. General
35:15-11-1. [AMENDED]
Part 7. Livestock
35:15-11-19. [REVOKED]
AUTHORITY:
Article 6, Section 31, Constitution of the State of Oklahoma, Title 2 O.S. 2001, §§ 2-4(2)(7)(16)(17)(29); 6-2; 6-150 et seq.; Oklahoma State Board of Agriculture
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Subchapter 11. Importation of Livestock, Poultry, and Pets
Part 1. General
35:15-11-1 [AMENDED]
Part 7. Livestock
35:15-11-19 [REVOKED]
Gubernatorial approval:
December 5, 2002
Register publication:
20 Ok 297
Docket number:
02-1592
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The amendment of 35:15-11-1 does away with the incorporation by reference of a definition from the 1991 statutes specifically. By revoking 35:15-11-19, ratitae being imported into the state will face less requirements, however, they will still face the same requirements as other species susceptible to avian influenza.
CONTACT PERSON:
Dr. Burke Healey, (405) 522-6134

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2003:

SUBCHAPTER 11. IMPORTATION OF LIVESTOCK, POULTRY, AND PETS

PART 1. GENERAL

35:15-11-1. General import requirements

(a) All livestock, as defined in 2 O.S. ~~1991~~ Section 6-150, ~~et seq.,~~ must have a certificate of veterinary inspection or an approved commuter herd agreement on file prior to entry into Oklahoma.

(b) The President of the Board of Agriculture or the Director of Animal Industry Services shall be authorized to impose pre-entry test requirements on any species if it becomes known

that the threat of disease exists which could place the livestock industries of Oklahoma at risk or become a public health hazard.

PART 7. LIVESTOCK

35:15-11-19. Requirements for ratitae [REVOKED]

~~(a) All members of the family ratitae (including, but not limited to ostrich, emu, rhea) shall meet the following requirements:~~

~~(1) A certificate of veterinary inspection issued by a licensed, accredited veterinarian within thirty (30) days prior to entry;~~

~~(2) A permit obtained prior to entry with the permit number recorded on the certificate of veterinary inspection;~~

~~(3) Individual animal identification by microchip or other permanent identification approved by the Oklahoma Board of Agriculture with this identification recorded on the certificate of veterinary inspection; and,~~

~~(4) A negative USDA (United States Department of Agriculture)approved serological test for avian influenza, within thirty (30) days prior to entry, on all animals regardless of age.~~

~~(b) Ratitae moving direct to slaughter or to the facility of a licensed veterinarian for treatment and/or surgery, with return to premise of origin are exempt from test requirements.~~

[OAR Docket #03-524; filed 3-28-03]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 15. ANIMAL INDUSTRY

[OAR Docket #03-528]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 11. Importation of Livestock, Poultry, and Pets
Part 7. Livestock
35:15-11-15. [NEW]
35:15-11-18. [AMENDED]
Subchapter 47. Chronic Wasting Disease (CWD) in ~~Cervids~~Cervidae
Part 1. General
35:15-47-1. [AMENDED]
35:15-47-2. [AMENDED]
Part 3. Herd Certification Standards
35:15-47-6. [AMENDED]
Part 5. Disposition of Positive and Trace Herds
35:15-47-10. through 35:15-47-14. [AMENDED]
Part 7. Interstate Movement Requirements
35:15-47-18. [AMENDED]
AUTHORITY:
Oklahoma State Board of Agriculture; 2 O.S. 2001 § 2-4(2,7 and 17), 6-3, 6-124, 6-151, 6-153, and 6-291
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Subchapter 11. Importation of Livestock, Poultry, and Pets
Part 7. Livestock
35:15-11-15. [NEW]
35:15-11-18. [AMENDED]
Gubernatorial approval:
June 21, 2002
Register publication:
19 Ok 2761
Docket number:
02-1243
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The purpose of the proposed rules is to update Oklahoma's importation requirements to reflect changes in Federal standards and to protect Oklahoma cervidae from disease, specifically Chronic Wasting Disease ("CWD"). The proposed amendments to 35:15-11-18(a)(2) are necessary to implement the new Federal tuberculosis testing requirements for interstate movement of livestock. The addition of 35:15-11-18(b) and (c) is necessary to assist in controlling the spread of CWD. The proposed amendments to Subchapter 47 are necessary to update Oklahoma's Cervidae Herd Certification Program. These rules are needed to promote the continued growth and economic development of the cervidae industry of Oklahoma.
CONTACT PERSON:
Dr. Burke Healey, (405) 522-6134

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2003:

SUBCHAPTER 11. IMPORTATION OF LIVESTOCK, POULTRY, AND PETS

PART 7. LIVESTOCK

35:15-11-15. Definitions

The following words or terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise.

"Accredited tuberculosis free herd" (cervidae) means a herd that has passed three (3) or more consecutive official tuberculosis tests of all eligible animals conducted at not less than nine (9) nor more than fifteen (15) month intervals, has no evidence of bovine tuberculosis, and meets the standards

of Subchapter 42 of Title 35 of the Oklahoma Administrative Code.

"Accredited veterinarian" means a veterinarian approved by the Deputy Administrator of the United States Department of Agriculture (USDA) to perform functions required for state or cooperative state and federal animal disease control and eradication programs.

"Certified Brucellosis Free Herd" (cervidae) means a herd that has passed three (3) or more consecutive official brucellosis tests of all eligible animals conducted at not less than nine (9) nor more than fifteen (15) month intervals, has no evidence of brucellosis, and meets the standards of Subchapter 45 of Title 35 of the Oklahoma Administrative Code.

"Cervidae" means deer, elk, moose, caribou, and all related species in the cervidae family.

"Official ear tag" means a metal ear tag that provides unique identification for each animal by conforming to the national uniform nine (9) character alphanumeric ear tag system.

"Qualified tuberculosis free herd" (cervidae) means a herd that has passed at least one (1) official test of all eligible animals within the previous twelve (12) months but is not classified as an accredited herd, has no evidence of bovine tuberculosis, and meets the standards of Subchapter 42 of Title 35 of the Oklahoma Administrative Code.

35:15-11-18. Requirements for cervidae

(a) All ~~members of the family~~ persons importing cervidae ~~(including, but not limited to deer, elk, moose, caribou)~~ shall meet the following requirements:

(1) ~~A~~ Have a certificate of veterinary inspection issued by ~~a licensed,~~ an accredited veterinarian within thirty (30) days prior to entry~~;~~ for all cervidae. The certificate of veterinary inspection shall contain the following information:

~~(2) A permit obtained prior to entry with the permit number recorded on the certificate of veterinary inspection;~~

~~(3) Individual identification by official metal ear tag or other visible, permanent identification, with this identification recorded on the certificate of veterinary inspection;~~

(A) Permit numbers of all permits required for entry.

(B) A recordation of the method of identification for each cervid, including an official ear tag or any other visible, permanent identification device approved by the State Board of Agriculture (Board).

~~(4) A negative USDA (United States Department of Agriculture) approved official test for tuberculosis, within thirty (30) days prior to entry, on all animals regardless of age, except cervidae, excluding nursing offspring accompanying a negative tested dam; and,~~

(2) Have two (2) negative USDA-approved official tests for tuberculosis conducted no less than ninety (90) days apart for all cervidae six (6) months of age or older. The second test must be conducted within ninety (90) days prior to entry. Cervidae from Accredited Tuberculosis Free Herds are exempt from this requirement provided each cervid is individually identified and the Accredited Tuberculosis Free Herd number and permit number are recorded on the certificate of veterinary inspection. Cervidae from Qualified Tuberculosis Free Herds are exempt from this requirement provided each cervid is individually identified, the cervidae are accompanied by a certificate stating that the animals originated from a Qualified Herd, and each cervid six (6) months of age or older has passed one (1) USDA-approved official test for tuberculosis that was conducted within ninety (90) days prior to entry.

(~~5~~3) ~~A~~ Have a negative test for brucellosis within thirty (30) days prior to entry ~~on~~ for all ~~animals~~ cervidae six (6) months of age or older. Cervidae from Certified Brucellosis Free Herds are exempt from this requirement provided each cervid is individually identified and the Certified Brucellosis Free Herd number and permit number are recorded on the certificate of veterinary inspection.

(b) A person shall not import white-tail deer, black-tail deer, mule deer, red deer (European elk), or elk into the state of Oklahoma if the state of origin at the time of importation has any free-ranging cervidae infected with chronic wasting disease (CWD). The State Veterinarian may grant an exemption from this requirement but only under quarantine restrictions.

(c) A person shall not import white-tail deer, black-tail deer, mule deer, red deer (European elk), or elk into the state of Oklahoma unless the herd of origin has participated since January 1, 2002, in a state or federal CWD herd certification program that imposes response measures for positive and trace herds at least equal to the requirements described in Subchapter 47 of Title 35 of the Oklahoma Administrative Code.

(d) Any person importing cervidae to an approved slaughter facility operated pursuant to state or federal inspection is exempt from (a) (2), (a) (3), (b), and (c) of this section, as long as the cervidae are transported directly to the slaughter facility without any diversions.

(~~b~~e) ~~Cervidae~~ Any person importing cervidae of rare or endangered species, as identified and mutually agreed upon by the ~~State of Oklahoma Department of Agriculture, Animal Industry Services,~~ Board and the zoos within Oklahoma that are accredited by the American Association of Zoological Parks and Aquariums (AAZPA), ~~will be~~ is exempt from requirements ~~(a)(4) and (5)~~ (a) (2), (a) (3), (b), and (c) of this section if ~~they~~ the cervidae are shipped directly between AAZPA-accredited zoos ~~without~~ and no commingling with other animals ~~in~~ occurs during transit. A list of rare or endangered species of cervidae, ~~as it applies to~~ for purposes of this exemption, will be maintained by the Board. ~~and periodically updated at the Department of Agriculture.~~

~~(c) Cervidae from Accredited Free Herds are exempt from the tuberculosis testing requirements prior to entry provided they are individually identified and the accredited free herd number and permit number are recorded on the Certificate of Veterinary Inspection.~~

(f) The State Veterinarian may issue a special importation permit with individualized requirements for importing cervidae.

SUBCHAPTER 47. CHRONIC WASTING DISEASE (CWD) IN ~~CERVIDS~~CERVIDAE

PART 1. GENERAL

35:15-47-1. Purpose

The chronic wasting disease (CWD) herd certification program for ~~cervids is designed to provide~~ cervidae provides a surveillance and certification system for ~~cervid~~ cervidae breeders. ~~that shall allow~~ The program allows for the continued marketing ~~and exportation or importation~~ and movement of ~~these animals~~ cervidae while maintaining a mechanism that ~~will assure~~ assures breeders, buyers, and sellers that ~~the animals~~ cervidae ~~involved in these transactions~~ are monitored in a manner consistent with national program standards.

35:15-47-2. Definitions

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

"Accredited veterinarian" means a veterinarian licensed by the Oklahoma Board of Veterinary Medical Examiners and approved by the Deputy Administrator of the United States Department of Agriculture (USDA) to perform functions required for state or cooperative state and federal animal disease control and eradication programs.

"Affected herd" means a herd of cervidae that contains or has contained one or more animals infected with chronic wasting disease.

"Cervidae" means, for the purposes of this Subchapter only, white-tail deer, black-tail deer, mule deer, red deer (European elk), and elk but does not include members of the cervidae family that are not susceptible to CWD.

"Herd" means one or more cervidae maintained on common ground and includes all cervidae under single or multiple ownership or supervision that are geographically separated but can have an interchange of cervidae between the groups.

"Herd plan" means a herd management and testing agreement developed by state and federal animal health officials in conjunction with the herd owner. A herd plan shall be valid only upon approval by the State Veterinarian.

"Official ear tag" means a metal ear tag that provides unique identification for each animal by conforming to the national uniform nine (9) character alphanumeric ear tag system.

"Suspect animal" means a cervid that displays clinical signs suggestive of CWD, including but not limited to, weight loss, poor condition, drooling, behavioral abnormalities, incoordination, weakness, or recumbency.

PART 3. HERD CERTIFICATION STANDARDS

35:15-47-6. Minimum requirements for herd certification

(a) ~~Herdowners~~ Herd owners shall have perimeter fencing adequate to ~~prevent entrance or outlet of cervids~~ confine their cervidae and prevent access by other cervidae.

(b) ~~Surveillance~~ Herd owners shall perform surveillance testing of all ~~cervid~~ deaths occurring in ~~animals~~ cervidae over ~~16~~ sixteen (16) months of age ~~shall be mandatory~~. The State Veterinarian may approve exemptions from this requirement on a case by case basis.

(c) ~~Every attempt shall be made to~~ Herd owners shall maintain the highest quality ~~of~~ sampling ~~used~~ for use in the surveillance testing. The State Veterinarian ~~shall have the authority to~~ may adjust the surveillance levels and herd status if poor quality samples are routinely submitted from a premise.

(d) ~~Annual verification of herd inventory by an~~ An accredited veterinarian or state or federal animal health ~~personnel shall be mandatory~~ official shall perform an annual verification of the herd inventory. The ~~inventory~~ annual verification shall include a ~~cross check~~ comparison of all ~~animal identifications~~ cervidae with the herd inventory and provide specific information on the disposition of ~~all animals~~ each cervid not present. The herd inventory shall also include information on ~~management subunits that might be useful in~~ any cervidae subgroups within the herd and shall detail all management, including movement between subgroups, for the purpose of assessing risk to other cervidae on the premises ~~should~~ in the event a CWD positive ~~animal be~~ cervid is diagnosed.

(e) ~~Reporting~~ Herd owners shall report all ~~animal~~ cervidae deaths and maintain documentation on ~~all animal movements shall be mandatory~~ any cervidae movement.

(f) Each ~~animal~~ cervid shall have ~~a minimum of two state and federally approved unique~~ at least two (2) identifiers~~.~~ which may include an official ear tag or any other visible, permanent identification device approved by the Board.

(g) ~~All premise locations shall be specifically identified by~~ The initial herd inventory shall contain a Global Positioning System (GPS) or ~~detailed~~ legal description ~~during the first herd inventory. A~~ of the premises and shall include a detailed description of the physical facilities, ~~shall be required~~ including fences, gates, and structures.

~~(h) The status of each herd shall be based on the number of years surveillance testing has been conducted with no evidence of disease.~~

~~(i) Herd additions are allowed without decrease in status only from herds of equal or greater status. If herd additions are acquired from a herd of lower status, the receiving herd shall revert to the same status as the herd from which the animals were acquired. If a herd participating in the certification program acquires animals from a nonparticipating herd, the receiving herd shall lose its status and shall be required to start at the beginning of the process should certification status be desired.~~

(h) Herd status.

(1) The status of each herd shall be based on the number of years the herd has been enrolled in the CWD herd certification program and shown no evidence of CWD.

(2) If cervidae from a herd of lower status are added to another herd, the receiving herd's status shall revert to the same status as the herd from which the cervidae were acquired.

(3) If a cervid is added from a herd that is not in the CWD herd certification program, the receiving herd shall lose its herd status and start over at the beginning of the herd certification process.

~~(j) A positive diagnosis~~ (i) Diagnosis of CWD shall be ~~based on the~~ determined by testing ~~of~~ a post-mortem brain at a CWD certified laboratory. ~~A~~ Any positive diagnosis at one laboratory shall be confirmed by the National Veterinary Services Laboratory (NVSL) or ~~a second~~ other CWD certified laboratory.

(j) The ~~State~~ Board shall ~~impose an immediate~~ issue a quarantine on ~~a~~ any herd ~~when a positive animal is identified in the herd~~ that contained a CWD positive cervid. The ~~affected~~ quarantined herd shall not participate in the herd certification program until all herd plan requirements ~~have been properly~~ are completed.

PART 5. DISPOSITION OF POSITIVE AND TRACE HERDS

35:15-47-10. Herd plans

~~Herd plans shall be developed for any positive or trace herd. These plans shall be developed by state~~ State and federal animal health officials ~~in conjunction with the producer or breeder and~~ and the herd owner shall develop a herd plan approved ~~shall be valid only upon approval~~ by the State Veterinarian.

35:15-47-11. Disposition of positive herds

~~(a) Whole herd depopulation with or without repopulation.~~

~~(1) Depopulation of the entire herd with payment of indemnity shall be the preferred option for this program.~~

~~(2) Animals that are depopulated shall be disposed only by methods approved by the State Veterinarian.~~

~~(3) Animals to be depopulated may be sent to an approved slaughter establishment and tested. Indemnity payments shall be reduced by the amount of funds received from the slaughter establishment for the depopulated animals. CWD positive carcasses shall not be allowed to enter the human or animal food chains. CWD positive carcasses shall be disposed of only by methods approved by the State Veterinarian. CWD negative carcasses shall not be restricted.~~

~~(4) Repopulation of cervids on the same premises after depopulation shall require mitigating guidelines as defined in the herd plan.~~

~~(b) Quarantine with or without selective depopulation of high risk animals.~~

~~(1) Selective depopulation shall be considered feasible where documented management practices verified in the herd inventory indicate different levels of risk exist within a herd. A selective depopulation herd plan shall require a risk assessment by the state and federal animal health officials to establish possible risk levels. It would also require:~~

~~(A) Herd inspection by state or federal animal health officials with the removal and CWD testing of any clinical suspects and high risk animals and disposal of these animals by methods approved by the State Veterinarian;~~

~~(B) Herd inventory with individual animal identification and annual verification of inventory changes by an accredited, state, or federal veterinarian;~~

~~(C) Perimeter fencing shall be adequate to prevent fence line contact between high risk animals and other captive or free-ranging cervids;~~

~~(D) Quarantine of herd for five (5) years from the last positive case, if high risk animals are not removed;~~

~~(E) Quarantine of herd for three (3) years from the last positive case, if high risk animals are removed; and~~

~~(F) Herd surveillance, including the reporting of all animal deaths and the CWD testing of all animals, shall be conducted for five (5) years from the last positive case.~~

~~(2) When differential levels of risk cannot be established, the herd plan shall consist of all the elements listed above with no selective depopulation.~~

(a) A CWD positive herd shall be depopulated.

(b) The Board may pay an indemnity not to exceed fifty dollars ($50.00) per head for any depopulated cervidae.

(c) After depopulation of a CWD positive herd, the herd owner may repopulate the premise with new cervidae only pursuant to herd plan requirements.

35:15-47-12. Types of trace herds

(a) A trace-forward herd is any herd that ~~has~~ received ~~animals~~ cervidae from an affected herd up to ~~36~~ thirty-six (36) months prior to the death of the affected ~~animal~~ cervid.

(b) A trace-back herd is any herd where an affected ~~animal~~ cervid ~~has~~ resided up to ~~36~~ thirty-six (36) months prior to death.

35:15-47-13. Herd plans for trace-forward herds

~~(a) In herds with the removal and testing of the trace animal with indemnity, the herd plan shall include:~~

~~(1) If the animal is positive, the herd is considered to be positive and an appropriate herd plan is to be developed.~~

~~(2) If the animal is negative, voluntary participate participation in the herd certification program shall be recommended~~

~~(b) In herds where the trace-forward animal is not removed, the herd plan shall include, but not be limited to:~~

~~(1) If the animal is not available for quarantine, herd surveillance, including the reporting of all animal deaths and the CWD testing of all animals, shall be conducted for five (5) years.~~

~~(2) If the animal is available for quarantine, the trace-forward animal shall be quarantined for three (3) years from the date of arrival.~~

(a) In trace-forward herds, the trace-forward cervid shall be removed and tested for CWD.

(b) If the cervid tests positive, the trace-forward herd is deemed positive and shall be depopulated.

(c) If the cervid tests negative, the herd owner shall either enter the trace-forward herd in the CWD herd certification program for a minimum of three (3) years or shall complete the following requirements:

(1) A state or federal animal health official shall inspect the trace-forward herd, and all suspect and high risk cervidae shall be removed and tested for CWD;

(2) The trace-forward herd shall be quarantined for at least three (3) years from the date the trace-forward cervid was removed from the herd; and

(3) The herd owner shall report and CWD test all cervidae that die during the quarantine.

35:15-47-14. Herd plans for trace-back herds

~~(a) A herd inspection by state or federal animal health personnel shall be required and the removal and CWD testing of any clinical or high risk suspects.~~

~~(b) All clinical or high risk suspects shall be disposed by methods approved by the State Veterinarian.~~

~~(c) A herd inventory with individual animal identification and annual verification by an accredited, state, or federal veterinarian.~~

~~(d) Quarantine of trace-back herd required for three (3) years from the date of removal of the traced back animal. The length of quarantine may be altered by the State Veterinarian if epidemiology suggests that the herd in question is not the herd of origin of the disease for the trace-back animal. Animals may be sent to slaughter and tested. Disposal of these animals shall be based on the same criteria as in 35:15-47-8(a)(3).~~

~~(e) Herd surveillance, including the reporting of all animal deaths and the CWD testing of all animals, shall be conducted during the quarantine and shall continue for three (3) years from the last positive case.~~

(a) A state or federal animal health official shall inspect the trace-back herd, and all suspect and high risk cervidae shall be removed and tested for CWD.

(b) A state, federal, or accredited veterinarian shall perform a herd inventory for the trace-back herd. The inventory shall identify each cervid on the premises and shall be verified annually.

(c) The trace-back herd shall be quarantined for at least three (3) years from the date the trace-back cervid was removed from the herd. The term of the quarantine may be altered by the State Veterinarian if epidemiology indicates that the CWD in the trace-back cervid did not originate in the trace-back herd.

(d) Herd owners shall report and CWD test all cervidae that die during the quarantine.

PART 7. INTERSTATE MOVEMENT REQUIREMENTS

35:15-47-18. Minimum CWD requirements for interstate movement of cervids

~~(a) The state of origin shall require all suspected or confirmed cases of CWD be reported to the State Veterinarian.~~

~~(b) The state of origin shall have the authority to quarantine source herds and herds affected with or exposed to CWD.~~

~~(c) Animals shall be accepted for entry into Oklahoma only if they are from herds participating in the herd certification program and the state of origin has and follows response measures for positive and trace herds equal to those described in this subchapter~~

(a) A person shall not import white-tail deer, black-tail deer, mule deer, red deer (European elk), or elk into the state of Oklahoma if the state of origin at the time of importation has any free-ranging cervidae infected with CWD. The State Veterinarian may grant an exemption from this requirement but only under quarantine restrictions.

(b) A person shall not import white-tail deer, black-tail deer, mule deer, red deer (European elk), or elk into the state of Oklahoma unless the herd of origin has participated since January 1, 2002, in a state or federal CWD herd certification program that imposes response measures for positive and trace herds at least equal to the requirements described in this Subchapter.

(c) Any person importing cervidae to an approved slaughter facility operated pursuant to state or federal inspection is exempt from (a) and (b) of this section, as long as the cervidae are transported directly to the slaughter facility without any diversions.

[OAR Docket #03-528; filed 3-28-03]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. PLANT INDUSTRY

[OAR Docket #03-525]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 17. Combined Pesticide
Part 3. Certification, Conduct of Examinations, and Recertification
35:30-17-4. [AMENDED]
Part 5. Prerequisites for Licensing
35:30-17-10. [AMENDED]
35:30-17-11. [AMENDED]
Part 8. Expiration of Registrations and Permits
35:30-17-17. [AMENDED]
35:30-17-18. [AMENDED]
Part 9. Minimum Standards for Contracts and Keeping of Records
35:30-17-21. [AMENDED]
Part 10. Minimum Standards for Pesticides
35:30-17-22.4. [AMENDED]
Part 13. Restricted Areas for the Application of Hormone Type Pesticides
35:30-17-33. [AMENDED]

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The changes proposed to these existing rules allow practical examinations to be conducted at training centers at Oklahoma State University. The amount of deductible for insurance policies of commercial applicators will be raised to $5,000. The Department review time for applications and registrations will be extended from ten (10) to fifteen (15) working days. Language used to stagger expiration dates for pesticide registrations and restricted use dealer permits is being deleted because implementation is now complete. Commercial applicators applying pesticides with a special permit will be required to use satellite tracking and provide those records to the Board within fourteen (14) business days. Applicants identifying an applicator who has had reoccurring violations within the previous thirty-six (36) months will be denied a special permit. Additionally, there is some general language clean-up regarding pesticide records and restricted dealer records that are required to be kept.
CONTACT PERSON:
Bill Taylor, (405) 522-6347

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2003:

SUBCHAPTER 17. COMBINED PESTICIDE

PART 3. CERTIFICATION, CONDUCT OF EXAMINATIONS, AND RECERTIFICATION

35:30-17-4. Examination of applicants for certification

(a) The written examination for certification of commercial and noncommercial applicators shall include two (2) phases. Phase I shall consist of general knowledge common to all licensed categories and shall be successfully completed before examination is attempted in any license category. Phase II shall consist of specific knowledge for each licensed category. An applicant may test in as many different categories as desired. ~~An applicant who successfully completes the Phase II exam in the structural pest category shall be issued a temporary certification for a period of eight (8) months, contingent upon completion of the practical examination. This temporary certification shall be issued to any applicant only once in any twelve (12) month period. This temporary certification may be suspended or revoked for any violation of the Combined Pesticide Law & Rules and the applicator subject to any applicable penalties. Phase I and II may be completed at the structural pest training facility at Oklahoma State University.~~

(b) ~~In addition, a~~ A practical examination shall also be required for commercial and noncommercial applicators in the following categories: Structural Pest, General Pest, Fumigation, and Food Processing. An individual shall successfully complete the practical examination within twelve (12) months of passing the Phase II written examination in the above categories. ~~for General Pest, Fumigation and Food Processing.~~ Failure to meet the twelve (12) month deadline shall require an individual to re-take the Phase II written examination. ~~For Structural Pest, the practical examination shall be successfully completed at the structural pest training facility at Oklahoma State University within eight (8) months. Failure to meet the eight (8) month deadline shall require an individual to re-take the Phase II written examination.~~

(c) The practical examination shall~~, for General Pest, Fumigation and Food Processing, shall include the successful completion of an actual pesticide application in the desired license category. Each practical exam shall be performed at a location secured by the applicant and shall include a thorough knowledge in the handling of pesticides, labels and labeling requirements, storage, transportation, mixing, application, disposal, and safety. The Structural Pest Category shall~~ be conducted at the ~~structural pest~~ training facility at Oklahoma State University ~~which~~ and includes the successful completion of an approved training program which demonstrates a thorough knowledge in the handling of pesticides, labels and labeling requirements, storage, transportation, mixing, application, disposal, insect biology and safety. ~~and~~ The facility at Oklahoma State University meets the following conditions for treatment in the Structural Pest Category: crawl space, voids, and a concrete floor, garage floor, or patio slab.

(d) A service technician shall be certified upon successful completion of a written service technicians examination. An individual shall not act, do business, or advertise as a service technician unless a service technician identification has been issued by the Board. A service technicians' identification shall be issued in the name of the licensed entity. The licensee shall return the service technician identification to the Board upon termination of the employee. A service technician identification shall be valid for five (5) years unless suspended, canceled, revoked, or the service technician is no longer employed by the licensed entity. Recertification may be required at any time by the Board.

(e) Private applicators shall complete a certification form and an education program or written examination as required

by the Board. Private applicators in the Fumigation category shall be required to complete the certification form and a closed book written ~~and on-site practical~~ exam and successfully complete the Fumigation practical at the training facility at Oklahoma State University within twelve (12) months of passing the Fumigation written exam.

(f) An individual shall not act, do business, or advertise as a certified applicator unless all qualifications and standards required by the Board have been met. A certificate in any category shall be valid for five (5) years unless suspended, canceled, or revoked. Recertification may be required by the Board, but shall not exceed one recertification in a five (5) year period.

(g) Successful completion of any written examination shall be a score of 70% or greater.

PART 5. PREREQUISITES FOR LICENSING

35:30-17-10. Application insurance requirements

(a) The Board shall not issue an applicator's license until the applicant or agent has furnished evidence of financial responsibility. A liability insurance policy or certification shall protect persons who may suffer legal damages as a result of the pesticide operations of the applicant. The policy need not apply to damages or injury to agricultural crops, plants, or land being worked on by the applicant.

(b) The liability insurance shall provide for not less than $50,000 per occurrence and $100,000 aggregate bodily injury and not less than $50,000 per occurrence and $100,000 aggregate for property damage. Liability insurance shall be maintained at all times during the licensed period. The Board shall be notified by the insurer fifteen (15) days prior to any applicant's request for a reduction or cancellation of the liability insurance. The total and the aggregate of the insurer for all claims shall be limited to the face amount of the liability insurance policy. The Board may accept a liability insurance policy with a deductible clause in an amount not exceeding ~~$1,000~~ $5,000 for all applicators. If the applicant has not satisfied the requirement of the deductible amount in any prior legal claim, the deductible clause shall not be accepted by the Board unless the applicant has furnished the Board with additional liability insurance which satisfies the amount of the deductible.

(c) If the furnished liability insurance becomes unsatisfactory, the applicant shall upon notice immediately provide a new liability insurance. Upon failure to do so, the Board shall cancel the license and give notice. It shall be unlawful to engage in the business of applying pesticides until the insurance is brought into compliance and the license is reinstated by the Board.

35:30-17-11. Application for license required

(a) Prior to issuance of any license, an applicant shall properly complete ~~and~~ a license application.

(b) An application for license shall be considered properly filed when the Board has received the following:

(1) An application completed and signed prior to January 1 of the license year.

(2) Cash, check, or money order in the proper amount.

(3) Certificate of insurance.

(c) A commercial pesticide applicator operating under more than one business identity or name ~~(name)~~ from ~~one~~ a single business location ~~will~~ shall be licensed separately for each business identity or name ~~(name)~~.

(d) A commercial pesticide applicator with ~~one~~ a single business identity or name ~~(name)~~ but operating from more than one business location ~~will~~ shall be licensed at each separate business location.

(e) Each business location licensed ~~will~~ shall have a minimum of one certified applicator at that location who is certified in each licensed category for which application is made.

(f) A franchised business ~~will~~ shall have a separate license and separate certified applicator at each business location.

(g) Established time periods for the issuance, renewal ~~and/or~~ or denial of all certifications and licenses required by law~~,~~ shall be as follows:

(1) The Department shall review a new application within ~~ten (10)~~ fifteen (15) working days from the date received.

(2) Any renewal application for certification or license received prior to the renewal date established by the Board shall be considered valid until a final determination is made.

(3) Following review, if it is determined that the requirements have been met, the appropriate certification or license shall be issued within ten (10) working days of the determination date.

(4) Following review, if it is determined that the requirements have not been met, the appropriate certification or license shall be denied. Notification of the denial shall be made in writing to applicant within ten (10) working days of the determination. The notification shall state the reason(s) for the denial and identify steps necessary to meet the requirements for issuance.

PART 8. EXPIRATION OF REGISTRATIONS AND PERMITS

35:30-17-17. Pesticide registrations

(a) Pesticide registrations shall be issued for a period of one (1) year and shall expire annually as follows:

(1) Companies whose names begins with the letters A, B, C, D, E, & F shall expire on March 31st of each year (group 1).

(2) Companies whose names begins with the letters G, H, I, J, K, L, & M shall expire on June 30th of each year (group 2).

(3) Companies whose names begins with the letters N, O, P, Q, R, & S shall expire on September 30th of each year (group 3).

(4) Companies whose names begins with the letters T, U, V, W, X, Y, & Z shall expire on December 31st of each year (group 4).

(b) ~~Current registrations expire on December 31st of each calendar year. During the first year of the implementation of this~~

~~rule, companies registering pesticide products shall be charged a registration at the following percentages:~~ Pesticide registration applications must be received no later than the fifteenth day of the month following the date of expiration.

~~(1) Group 1 shall pay a registration in the amount of 125% of the yearly fee. 25% will apply through March 31st and 100% through the following twelve (12) month period.~~

~~(2) Group 2 shall pay a registration in the amount of 150% of the yearly fee. 50% will apply through June 30th and 100% through the following twelve (12) month period.~~

~~(3) Group 3 shall pay a registration in the amount of 75% of the yearly fee. 75% will apply through September 30th at which time they shall be charged 100% for the following twelve (12) month period.~~

~~(4) Group 4 will have no change to the registration process. They shall pay a registration in the amount of 100% of the yearly fee.~~

35:30-17-18. Dealer permits

(a) Dealer permits shall be issued for a period of one (1) year and shall expire annually as follows:

(1) Companies whose name begins with the letters A, B, C, D, E, & F shall expire on March 31st of each year (group 1).

(2) Companies whose name begins with the letters G, H, I, J, K, L, & M shall expire on June 30th of each year (group 2).

(3) Companies whose name begins with the letters N, O, P, Q, R, & S shall expire on September 30th of each year (group 3).

(4) Companies whose name begins with the letters T, U, V, W, X, Y, & Z shall expire on December 31st of each year (group 4).

(b) ~~Current permits expire on June 30th of each calendar year. During the first year of the implementation of this rule companies renewing permits shall be charged a fee at the following percentages:~~ Dealer permit applications must be received no later than the fifteenth day of the month following the date of expiration.

~~(1) Group 1 shall pay a renewal in the amount of 75% of the yearly fee. 75% will apply through March 31st at which time they shall be charged 100% for the following twelve (12) month period.~~

~~(2) Group 2 will have no change to the permit process. They shall pay a renewal in the amount of 100% of the yearly fee.~~

~~(3) Group 3 shall pay a renewal in the amount of 125% of the yearly fee. 25% through September 30th and 100% through the following twelve (12) month period.~~

~~(4) Group 4 shall pay a renewal in the amount of 150% of the yearly fee. 50% will apply through December 31st and 100% through the following twelve (12) month period.~~

PART 9. MINIMUM STANDARDS FOR CONTRACTS AND KEEPING OF RECORDS

35:30-17-21. Records required for pesticide applications and restricted use pesticide sales

(a) Commercial and non-commercial applicators shall keep an accurate record pertaining to pesticide activities, which, at a minimum show:

(1) Time of application.

(2) Place of each application.

(3) Name and address of the applicator.

(4) Name and address of person for whom applied.

(5) Legal description of the land where applied~~:~~. The description may

~~(A)~~ ~~May~~ be a street address when properly marked~~.~~, but shall

~~(B)~~ ~~Shall~~ not be a Post Office Box address.

(6) Date of application.

(7) Pesticide tank mix concentration.

(8) Dilution rate for mixing.

(9) Total quantity of pesticide used~~:~~, including the total

~~(A)~~ ~~Total~~ amount of pesticide concentrate and tank mix used.

~~(B)~~ ~~Total amount of pesticide tank mix used.~~

(10) Complete trade name of pesticide product used.

(11) EPA registration number of pesticide product used.

(12) EPA establishment number of pesticide product used.

(13) Any lot or batch number appearing on the pesticide product used.

(14) Target pest for the application.

(15) Site where the pesticide was applied.

(16) Restricted Entry Interval as stated on the product label.

(17) A copy of the pesticide product label as it appears on the container.

(18) Copies of any contracts issued.

(19) Other information as required by the Board.

(b) Restricted use pesticide dealers shall keep an accurate record of restricted use pesticide sales, which, at a minimum show:

(1) Complete brand name of the pesticide.

(2) EPA registration number of the pesticide.

(3) EPA establishment number of the pesticide.

(4) Any batch or lot number appearing on the pesticide ~~label~~ product.

(5) Date the pesticide was sold.

(6) Total amount of restricted use pesticide sold.

(7) Name of the person to whom sold.

(8) Name and license or certification number of the certified or private applicator ~~if different from the purchaser~~.

(9) ~~Name of the person who will use or supervise the use of each restricted pesticide sold.~~

~~(10)~~ Other information as required by the Board.

(c) ~~Failing~~ Failure to allow inspection of these records by the Board, ~~or failing~~ to provide copies to the Board when requested in person, or ~~failing~~ to provide a summary of these records within seven (7) working days when requested by mail or in person shall be a violation of this section.

PART 10. MINIMUM STANDARDS FOR PESTICIDES

35:30-17-22.4. Time periods for application review

(a) The registrant shall file with the Board a statement including:

(1) The name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant.

(2) The name of the pesticide or device.

(3) A complete copy of the labeling accompanying the pesticide or device and a statement of all claims made including directions for use.

(4) Upon Board request, a full description of the tests made and the results used to verify the claims. In the case of renewal registration, a statement shall be required only with respect to information, which is different from that furnished when the pesticide or device was last registered.

(b) Time periods shall be allocated for review of applications for pesticide product registration and restricted use pesticide dealers permits as follows:

(1) The Department shall review a new application within ~~ten (10)~~ fifteen (15) working days from the date received.

(2) Any renewal application for registration or permit received prior to the renewal date established by the Board shall be considered valid until a final determination is made.

(3) Following review, if it is determined that the requirements have been met, the appropriate registration or permit will be issued within ten (10) working days of the determination date.

(4) Following review, if it is determined that the requirements have not been met, the application for registration or permit shall be denied. Notification of the denial shall be made in writing to the applicant within ten (10) working days of the determination. The notification shall state the ~~reason(s)~~ reason for the denial and identify steps necessary to meet the requirements for issuance.

PART 13. RESTRICTED AREAS FOR THE APPLICATION OF HORMONE TYPE PESTICIDES

35:30-17-33. Special permit restrictions

(a) ~~Special permit.~~ No hormone type pesticide may be applied in defined localities within a restricted area unless the commercial applicator holds a "Special Permit" for each application location issued by the Board ~~except for those areas which have not considered these restrictions~~.

(b) ~~Request for special permit.~~ A request for a "Special Permit" must show the specific use, and include the type and formulation of hormone type pesticide to be used, anticipated date of spraying, signature of the commercial applicator, and the occupant of the land to be sprayed. In addition, ~~and other information as the Board may request.~~ the commercial applicator identified on the request shall provide to the Board documentation that demonstrates the applicator shall use satellite tracking showing flight patterns and time of applications and other information as the Board may request.

(c) ~~Denial of request. Request~~ A request for a "Special Permit" may be denied by the Board if~~, in it's the determination,~~ the Board determines that the application of hormone type pesticides could ~~constitute undue~~ result in harmful effects to health, property, or the environment. The Board may consider in its determination any significant or reoccurring violations by the commercial applicator identified on the request during the preceding thirty-six (36) month period.

(d) ~~Hormone type pesticide special permit.~~ Applications for hormone type pesticide "Special Permit" must be received by the Department a minimum of forty-five (45) working days prior to the anticipated date of use. The Department has thirty (30) working days to investigate, evaluate, and review the application.

(e) The commercial applicator shall provide to the Board, within fourteen (14) business days after completion of the application, satellite tracking records that show flight records and time of applications for each application made under a special permit.

[OAR Docket #03-525; filed 3-28-03]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. PLANT INDUSTRY

[OAR Docket #03-526]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 37. Nursery Stock Sales
35:30-37-10. [NEW]
AUTHORITY:
Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2) and 3-32.1 et seq.
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INCORPORATIONS BY REFERENCE:
N/A

ANALYSIS:
The purpose of the proposed rule is to include specific noxious aquatic plants as plant pests under the Oklahoma Horticulture Law. This rule is needed to prevent the release of aquatic plant pests that cause damage to farm ponds, streams, lake, reservoirs, and lagoons and that may harm the agricultural, recreational, and commercial industries in Oklahoma that are dependent upon these waters.
CONTACT PERSON:
Jeanetta Cooper, (405) 522-5971

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2003:

SUBCHAPTER 37. NURSERY STOCK SALES

35:30-37-10. Prohibited sales of aquatic plants

A person shall not knowingly propagate, sell, or offer for sale any aquatic plant pest. "Aquatic plant pest" shall include, but not be limited to, any aquatic plant species listed as a noxious aquatic plant in OAC 800:20-3-2 (a) and (b).

[OAR Docket #03-526; filed 3-28-03]

TITLE 87. OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #03-501]

RULEMAKING ACTION:
PERMANENT final adoption.
RULES:
Subchapter 3. Organization and Administration
87:1-3-1. [AMENDED]
87:1-3-6. [REVOKED]
87:1-3-7. [REVOKED]
87:1-3-14. [NEW]
Subchapter 5. Formal and Informal Procedures
87:1-5-9. [AMENDED]
87:1-5-15. [AMENDED]
87:1-5-19. [AMENDED]
AUTHORITY:
Oklahoma State Employees Benefits Council; Employees Benefits Act, 74 O.S. §1361 et seq.
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INCORPORATIONS BY REFERENCE:
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ANALYSIS:
The adopted changes to Chapter 1 provide clarification to 74 O.S. §1361 et seq. The revisions to Subchapter 3 delete obsolete and redundant text as well as add text memorializing the role of Benefits Coordinators and establishing their responsibilities. The proposed revisions to Subchapter 5 eliminate typographical errors.
CONTACT PERSON:
Russell Nash, (405) 232-1190 ext. 105

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2003:

SUBCHAPTER 3. ORGANIZATION AND ADMINISTRATION

87:1-3-1. Organization and meetings

(a) The Council consists of five (5) members. Section 1364 of Title 74 of the Oklahoma Statutes provides for their appointment and service.

(b) The officers of the Council are the Chairperson, the Vice-Chairperson and the Secretary. The Council shall elect officers each year at its January regular meeting. An officer shall serve until replaced.

(c) The Chairperson shall preside over meetings and perform other duties as required by the Council. In the Chairperson's absence, the Vice-Chairperson shall assume the Chairperson's duties. In the absence of the Chairperson and the Vice-Chairperson, the Secretary shall assume the Chairperson's duties.

~~(d) *The Council shall hold regular meetings at least once each month in Oklahoma City.*[74:1364(H)]~~

(~~e~~d) Upon written notice by the Chairperson or by agreement of three members, a special meeting may be called. Notice of special meetings shall be delivered to all members not less than seven days prior to the date of the meeting. Lack of this notice may be waived by each member.

(~~f~~e) A quorum of the Council is three members. A quorum must be present for the Council to conduct any business. Any action or decision of the Council requires an affirmative vote by at least three members of the Council.

(~~g~~f) All meetings of the Council shall be conducted in accordance with the Open Meetings Act, Sections 301 through 314 of Title 25 of the Oklahoma Statutes.

(~~h~~g) The Executive Director shall preserve all records of the Council.

87:1-3-6. Location for information and for filing [REVOKED]

~~(a) Any person may obtain information from, make submission to, or make a request of the Employees Benefits Council by writing to the State Employees Benefits Council, 301 N.W. 63rd, Suite 610, Oklahoma City, Oklahoma 73116.~~

~~(b) Written Submissions and requests may be submitted in person between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The telephone number is (405) 843-8502.~~

~~(c) The date on which papers are actually received at the Council will be recorded as the date of filing.~~

87:1-3-7. Documents and records [REVOKED]

~~(a) The Council shall retain all filed or presented documents in the files of the Council for the length of time required by state laws. Documents will be disposed of in a manner consistent with the Records Management Act, Section 201 through 216 of Title 67 of the Oklahoma Statutes, and Sections 564 through 576 of Title 74 of the Oklahoma Statutes. The records disposition schedule for Council will be available for public inspection.~~

~~(b) Except for the records described in this section and records required by law to be kept confidential, all records of the Council are available for public inspection in accordance with the Oklahoma Open Records Act, Title 51, Sections 24A.1 through 24A.18 of the Oklahoma Statutes.~~

~~(c) Records available for public inspection may be copied and fees charged as authorized in Title 51, Section 24.A of the Oklahoma Statutes.~~

~~(d) The Council considers the disclosure of personal enrollment information provided by an employee and payroll deductions for benefits under the Flexible Benefits Plan to be an invasion of personal privacy and shall keep such records confidential.~~

~~(e) All records of the Council required by state or federal law to be kept confidential shall be kept confidential. The Council delegates to the Director the authority to determine the confidentiality of a record for which a permissive privilege of confidentiality exists. Any person making a request for a permissible confidential record shall do so in writing to the Director at the address provided in OAC 871-3-6(a). The Director will make a determination in accordance with the Oklahoma Open Records Act.~~

87:1-3-14. Benefits Coordinators

(a) Each participating employer shall designate at least one person as a Benefits Coordinator to serve as a representative between the Council and the participating employer. Each participating employer shall communicate its Benefits Coordinator designation to the Council in writing.

(b) A Benefits Coordinator shall be responsible for assisting the Council in handling employee enrollment and changes in the flexible benefits plans offered by the Council. A Benefits Coordinator shall be responsible for ensuring that each participant is notified of and has an opportunity to receive flexible benefit plan enrollment materials and other notifications from the Council.

(c) A Benefits Coordinator shall keep participant enrollment information confidential.

SUBCHAPTER 5. FORMAL AND INFORMAL PROCEDURES

87:1-5-9. Forms

The Council shall create forms as necessary to implement the provisions of this subchapter. The Council shall accept written requests for ~~hearing~~hearings that are in substantial compliance with the forms.

87:1-5-15. Prehearing conference

A pre-hearing conference shall be held two (2) weeks prior to the hearing date. At the ~~pre-conference~~pre-hearing ~~hearing~~conference each party shall:

(1) Exchange witness and exhibit lists;
(2) Agree to a date for discovery cut-off;
(3) Submit a short written statement of facts; and
(4) Agree as to the issues to be tried at the hearing.

87:1-5-19. Rehearings

(a) A final order of the agency shall be subject to rehearing, reopening or reconsideration by the Council. Any application or request for such rehearing, reopening or reconsideration shall be made by any party aggrieved by the final order of the agency within ten (10) days from the date of entry of the order. The aggrieved party shall set forth clearly in writing all grounds for rehearing, reopening or reconsideration. The grounds for such action shall include only:

(1) Newly discovered or newly available evidence relevant to the issues;
(2) Need for additional evidence to adequately ~~to~~ develop the facts essential to proper decision;
(3) Probable error committed by the agency in the proceeding or in its decision such as would be ground for reversal on judicial review of the final agency order;
(4) Need for further consideration of the issues and the evidence in the public interest; or
(5) A showing that the issues not previously considered ought to be examined in order to properly ~~to~~ dispose of the matter.

(b) The order of the Council granting rehearing, reconsideration or review, or the petition of a party ~~therefor~~therefore, shall set forth the grounds which justify such action.

(c) On reconsideration, reopening, or rehearing, the matter may be heard by the Council or it may be referred to a hearing examiner. The hearing shall be confined to those: grounds upon which the reconsideration, reopening, or rehearing was ordered.

[OAR Docket #03-501; filed 3-27-03]

TITLE 87. OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL CHAPTER 10. FLEXIBLE BENEFITS PLAN

[OAR Docket #03-502]

RULEMAKING ACTION:
PERMANENT final adoption.
RULES:
Subchapter 1. General Provisions
87:10-1-2. [AMENDED]
Subchapter 17. Benefit Plan Election
87:10-17-3. [AMENDED]
87:10-17-4. [AMENDED]
Subchapter 25. Dependent Care Reimbursement Account Option
87:10-25-7. [AMENDED]
87:10-25-13. [AMENDED]
Subchapter 27. Health Care Reimbursement Account Option
87:10-27-12. [AMENDED]
Subchapter 33. COBRA Coverage
87:10-33-3. [AMENDED]
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87:10-17-4 [AMENDED]
Subchapter 25. Dependent Care Reimbursement Account Option
87:10-25-13 [AMENDED]
Subchapter 27. Health Care Reimbursement Account Option
87:10-27-12 [AMENDED]
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02-1402
INCORPORATIONS BY REFERENCE:
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ANALYSIS:
The adopted changes to Chapter 10 add clarification to 74 O.S. §1361 et seq. The changes to Subchapter 10 reinstate previously omitted text defining the Oklahoma State & Education Group Insurance Board. Changes to Subchapters 17, 25, and 27 codify previously approved emergency rules that allow state employees who participate in the Dependent Care Reimbursement Account (DCRA) program, administered by the Employees Benefits Council, to alter their initial elections in the event they experience midyear changes in cost or coverage. Changes to 87:10-17-4 memorialize a long-standing practice relating to electing insurance coverage for eligible dependents. Changes to 87:10-25-7 and Subchapter 33 correct typographical errors.

CONTACT PERSON:
Russell Nash, (405) 232-1190 ext. 105

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2003:

SUBCHAPTER 1. GENERAL PROVISIONS

87:10-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise, and wherever appropriate, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall include the other gender.

"Account" means a record keeping account established on the books of the Plan Administrator.

"Act" means the Oklahoma State Employees Benefits Act, 74 O.S. Supp 1992, Section 1361 et seq.

"Authorized Submission Procedure" means an acceptable method of submitting enrollment and/or change documents which may include submission via electronic transmissions to the Plan Administrator.

"Board" means the Oklahoma State and Education Employees Group Insurance Board.

"Cafeteria plan" means an employer-maintained benefit plan under which participants are employees and the participants may choose between cash and nontaxable benefits, as defined in Internal Revenue Code Section 125(d) and regulations promulgated thereunder.

"Change in Status" means a change that a participant may be allowed to make during a Plan Year provided that the change is based on prevailing IRS guidance, is allowed by the Plan Administrator, and complies with all eligibility rules and consistency requirements.

"COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985 as it applies to an employees right to continue certain coverage under the Flexible Benefits Plan.

"Effective date of the plan" means January 1, 1990 or as restated.

"Employer" or **"Employing agency"** has the same meaning as "Participating employer" as defined in Section 1363(14) of Title 74.

"Enrollment period" means the period of time, as determined and announced by the Plan Administrator each Plan Year during which eligible employees shall make an election of benefits. The period of time shall end no later than thirty (30) days before the beginning of the Plan Year for which the elections are to be effective.

"Entry date" means the first day of the Plan Year except for an employee who first satisfies the requirements for eligibility during the Plan Year (including rehired employees), in which case the entry date shall be the first day of the month next following the satisfaction of the application requirements for eligibility, in accordance with 87:10-3-1.

" FMLA " means the Family and Medical Leave Act of 1993.

"Flexible Benefits Plan" means the Flexible Benefits Plan authorized pursuant to the State Employees Flexible Benefits Act as modified by the provisions under the State Employees Benefits Act.

"Flexible Benefits Plan Rules" means the rules promulgated by the Plan Administrator to implement and administer the State Employees Flexible Benefits Plan.

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996.

"Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States, 26 USC, I et seq. as amended from time to time.

"Irrevocability Rule" means the rule that requires an enrollment election in any Plan benefit to remain in force throughout the entire Plan Year.

"Period of coverage" means the Plan Year during which coverage of benefits under the Flexible Benefits Plan is available to a participant. An employee who becomes eligible to participate during a Plan Year may participate for a period lasting until the end of that Plan Year. In this case, the interval commencing on the employee's entry date and ending as of the last day of eligibility for that Plan Year.

"Permitted Exception" means an exception allowed to the Irrevocability Rule by the Plan. Any changes based on these exceptions must be on account of and correspond with the underlying event.

"Plan Administrator" means the Oklahoma State Employees Benefits Council.

"QMCSO" means a Qualified Medical Child Support Order.

"SoonerChoices" means the trade name adopted by the Plan Administrator to refer to the State Employees Flexible Benefits Plan.

"Statutory nontaxable benefit" means a benefit provided to a participant under the Flexible Benefits Plan, the value of which is not included in the participant's gross income by a specific provision in the Internal Revenue Code and is permissible under the Flexible Benefits Plan in accordance with Section 125 of the Internal Revenue Code.

"USERRA" refers to the Uniformed Services Employment and Reemployment Rights Act of 1994.

SUBCHAPTER 17. BENEFIT PLAN ELECTION

87:10-17-3. Employee election of benefit plans

(a) Choices of benefit plans shall be made by a new eligible employee within thirty (30) days after date of employment. This thirty (30) day period shall be known as the employee's enrollment period. Each new employee failing to make such a valid election will be deemed to have elected employee-only coverage under the basic State health plan, basic State dental plan, basic State life plan, and basic State disability plan.

(b) Choices of benefit plans shall be made on a Plan Year basis by the eligible employees during the enrollment period as set by the Plan Administrator. The Plan Administrator will establish eligibility requirements for all benefit plan options each year.

(c) Eligible employees are required to elect medical, dental, life and disability plans. Employees who fail to make a valid election during each designated enrollment period will be deemed to have elected the same plans elected during the most recent enrollment period during which a valid election was made.

(d) Each employee who meets the eligibility requirements but fails to make a proper election under the Flexible Benefits Plan shall be deemed a participant in the Flexible Benefits Plan.

(e) Coverage shall be effective for a new participant beginning on the first day of the month following the participant's first day in an active pay status.

(f) Primary participants electing coverage for eligible dependents cannot enroll the dependents in a benefit plan or a coverage that differs from the benefit plan or coverage chosen by the primary participant.

87:10-17-4. Changes to benefit elections

(a) A participant may change an election only in accordance with the provisions of this Plan. This Section does not remove the requirement that every employee must enroll in at least the basic plan of coverage.

(b) All requests for changes submitted to the Plan Administrator must be in a format as determined by the Plan Administrator.

(c) Provided that all other eligibility requirements are met, and written or electronic notice is provided to the Plan Administrator within thirty (30) days of a qualifying event, including receipt of a Qualified Medical Child Support Order, the effective date of such change of benefits coverage will be the first of the month following receipt of acceptable notice as determined by the Plan Administrator as long as the correct premium is paid. All enrollments and elections are for the entire Plan Year and are irrevocable during same Plan Year unless a change is requested based on one of the following permitted exceptions to the irrevocability rule. Only the permitted exceptions provided for in this chapter shall be allowed as changes to benefits elections unless those changes are prohibited under the Premium Conversion Option, the Dependent Care Reimbursement Account Option or the Health Care Reimbursement Account Option as provided for in subchapters 23, 25, and 27 respectively. All changes shall become effective on a prospective basis and not earlier than the first day of the month following receipt of acceptable notice of the requested change which must be on account of and corresponding with the event. Permitted exceptions to the irrevocability rule as allowed within Plan guidelines are as follows:

(1) HIPAA Special Enrollment Rights (marriage, birth, adoption or placement for adoption, loss of other coverage including exhaustion of COBRA coverage)

(2) Change in Employee's Legal Marital Status

(3) Change in the Number of Employee's Dependents

(4) Change in Employment Status of Employee, Spouse or Dependent that affects eligibility

(5) Event Causing Employee's Dependent to satisfy or cease to satisfy Eligibility Requirements

(6) Change in Place of Residence of Employee, Spouse or Dependent

(7) Commencement or Termination of Adoption Proceedings

(8) Judgments, Decrees or Orders (changes allowed only to Health, Health Care Reimbursement Account and Dental)

(9) Medicare or Medicaid (changes allowed only to Health and Health Care Reimbursement Account)

(10) Significant Change in Cost ~~Increase~~ or a Change in Coverage (changes allowed only to Dependent Care Reimbursement Account)

(11) Changes in Coverage of Spouse or Dependent under Other Employer's Plan

(12) FMLA Leave

(13) Such other events, which may permit such modification or election under the IRS consistency rule as found in Treasury Regulations 1.125-4 and in accordance with other applicable and prevailing Internal Revenue Code regulations promulgated thereunder, and in accordance with this chapter.

(d) The following are the only permitted exceptions that may become effective on a retroactive basis beginning the first day of the event month. Such events require receipt of acceptable notice by the Plan Administrator or its designee within thirty (30) days of the event:

(1) Newborn children who may be covered from the first of the birth month provided the proper documentation is submitted within thirty (30) days of the birth event and provided that the full monthly premium is paid.

(2) Adopted eligible dependent children, those placed for adoption, and eligible children for whom guardianship has been newly granted to the insured or to the insured's spouse and for whom coverage may begin from the first day of physical custody even though a full month's premium must be paid; or at the insured's option may be covered beginning the first of the month following placement.

(e) Termination of coverage for a spouse and/or dependents who have ceased to satisfy eligibility as a result of divorce, death or attaining a specified age shall become effective on the first of the month following the date of the event.

(f) The Plan Administrator reserves the right to make any corrections necessary if an error was made regarding the effective date.

SUBCHAPTER 25. DEPENDENT CARE REIMBUSEMENT ACCOUNT OPTION

87:10-25-7. Dependent care reimbursement account option

The Plan Administrator shall establish for each participant a dependent care reimbursement account for each Plan Year. Each dependent care reimbursement account shall initially contain zero dollars ~~(0.00)~~($0.00). A participant's dependent care reimbursement account for a period of coverage shall be credited with the portion of the participant's flexible reimbursement account dollars that may be accrued from month to month for that Plan Year that he or she has elected to apply toward such account. A participant's dependent care reimbursement account for a Plan Year shall be reduced by the amount of any dependent care expenses paid to a participant.

87:10-25-13. Benefit election irrevocable unless a permitted exception exists

(a) A participant's election of benefits described in this Chapter, made in accordance with subchapter 17 of this Chapter, shall be irrevocable during the Plan Year with regard to any benefit or portion of benefit elected for the period of coverage to which the election pertains except in those situations which qualify as permitted exceptions to the irrevocability rule and are not prohibited as changes by the Plan Administrator. Conversion from one type of benefit to another or modification of the salary adjustment agreement shall not be permitted during the applicable period of coverage.

(b) A participant shall be entitled to modify a benefit election after a period of coverage has commenced for which the election applies or make a new election, subject to acceptance by the Plan Administrator, with respect to the remainder of the current period of coverage, if the modification or new election is on account of and corresponds with a permitted exception to the irrevocability rule as provided for in 87: 10-17-4 and is not a prohibited change as indicated in this subchapter. THE FOLLOWING ARE PROHIBITED CHANGES UNDER THE DEPENDENT CARE REIMBURSEMENT ACCOUNT OPTION:

(1) Significant Changes in Cost ~~Increases~~ will not be allowed to effect any change to the Dependent Care Reimbursement Account Option if that increase is imposed by a dependent care provider who is a relative of the employee. Otherwise the exception is permitted.

(2) HIPAA Special Enrollment Rights will not be allowed to effect any change to the Dependent Care Reimbursement Account (See subchapter 17-4 for Permitted Exceptions)

(3) COBRA events will not be allowed to effect any change to the Dependent Care Reimbursement Account

(4) Judgments, Decrees, or Orders will not be allowed to effect any change to the Dependent Care Reimbursement Account Option (See subchapter 17-4 for Permitted Exceptions)

(5) Neither Medicare nor Medicaid eligibility or loss thereof will be allowed to effect any change to the Dependent Care Reimbursement Account

(c) The participant shall furnish the Plan Administrator with information and documentation relative to arequest for an exception to the irrevocability rule. The Plan Administrator shall determine whether a change in benefit election meets the criteria thereunder and is permitted by the Internal Revenue Code and regulations promulgated there under and is allowed by the Plan.

(d) The employee must provide a request for an exception in a timely manner that is compliant with the authorized submission procedure established by the Plan Administrator.

(e) Any request to make a change must be submitted to the Plan Administrator or its designee within 30 days of the event which provides the basis for an exception to the irrevocability rule as provided for in 87:10-17-4 and this subchapter. If the request is not submitted via an authorized submission procedure as determined by the Plan Administrator within thirty (30) days of the event, the participant shall waive the option to make changes under this section.

SUBCHAPTER 27. HEALTH CARE REIMBURSEMENT ACCOUNT OPTION

87:10-27-12. Benefit election irrevocable unless a permitted exception exists

(a) Except as otherwise provided in this Section, a participant's election of benefits described in this Chapter, made in accordance with subchapter 17 of this Chapter, shall be irrevocable during the Plan Year with regard to any benefit or portion of benefit elected for the period of coverage to which the election pertains. Conversion from one type of benefit to another or modification of the salary adjustment agreement shall not be permitted during the applicable period of coverage.

(b) A participant shall be entitled to modify a benefit election after a period of coverage has commenced for which the election applies or make a new election, subject to acceptance by the Plan Administrator, with respect to the remainder of the current period of coverage, if the modification or new election is on account of and corresponds with a permitted exception to the irrevocability rule as provided for in 87:10-17-4 and is not a prohibited change as indicated in this subchapter. THE FOLLOWING ARE PROHIBITED CHANGES UNDER THE HEALTH CARE REIMBURSEMENT ACCOUNT OPTION:

(1) HIPAA Special Enrollment Rights will not be allowed to effect any change to the Health Care Reimbursement Account. (See subchapter 17-4 for Permitted Exceptions)

(2) COBRA events

(3) Significant Changes in Cost ~~Increases~~or a Change in Coverage

(4) Change in coverage of spouse or dependent under Other Employer's plan (See subchapter 17-4 for Permitted Exceptions)

(c) The participant shall furnish the Plan Administrator with information and documentation relative to a request for an exception to the irrevocability rule. The Plan Administrator shall determine whether a change in benefit election meets the criteria thereunder and is permitted by the Internal Revenue Code and regulations promulgated there under and is allowed by the Plan.

(d) The employee must provide a request to make a change via the authorized submission procedure as defined by the Plan Administrator.

(e) Any request to make a change must be signed by the employee and submitted to the Plan Administrator within thirty (30) days of the event described in subsection17-4 of this document. If the request is not submitted under an authorized procedure and submitted to the Plan Administrator within thirty (30) days of the event, the participant shall waive the option to make changes under this section.

SUBCHAPTER 33. COBRA COVERAGE

87:10-33-3. COBRA administration

(a) COBRA continuation is only available to those employees and/or dependents who were covered under the plans offered by the Plan Administrator that are eligible for COBRA continuation on the date of the qualifying event or as otherwise defined in section (c) below. A leave under FMLA is not a COBRA qualifying event.

(b) New dependents may be added to coverage, including newborns, provided the employee had all eligible dependents covered at the time of the qualifying event. New dependents must be added within thirty (30) days of acquiring eligibility.

(c) A qualified beneficiary is defined as any individual who, on the day before a qualifying event, is covered under a group health plan by virtue of being on that day either a covered employee, the spouse of a covered employee, or a dependent child of a covered employee. A qualified beneficiary is also any child who is born to a covered employee or placed for adoption with a covered employee during a period of COBRA continuation coverage. A child born to or adopted by a qualified beneficiary other than the former employee is not considered a qualified beneficiary under COBRA law.

(d) If the qualifying event is termination of employment, whether voluntary or involuntary, the employing agency shall make the determination whether or not the termination was due to gross misconduct. The Plan Administrator will not make that decision, nor will it question a decision by the employing agency on this issue. If a decision is made by the agency that the employee was terminated due to gross misconduct, the COBRA form should clearly specify that fact.

(e) Once election to continue coverage has been made, coverage will terminate in eighteen (18) months if the qualifying event is termination or reduction in hours, or thirty-six (36) months if the qualifying event is death, divorce or legal separation, or ceasing to be a dependent child. Coverage may also terminate if the Plan Administrator ceases to offer any plans eligible for COBRA continuation, or if the beneficiary fails to make timely payments of any premiums required, or if the beneficiary becomes covered under any other group plan unless the new group plan contains an exclusion or limitation with respect to any pre-existing condition of the participant.

(1) The maximum eligibility period may be extended to twenty-nine (29) months if the Social Security Administration determines that the qualified beneficiary was totally disabled under Title 11 or XVI of the Social Security Act on or before the ~~Cobra~~COBRA event date or within the first sixty (60) days following the start of continuation coverage. The qualified beneficiary must provide the employer or designated COBRA administrator with a copy of the Social Security determination notice within 60 days after the determination is issued and before the end of the initial eighteen (18) months of COBRA.

(2) If the Social Security Administration reevaluates the participant's case and determines that the participant is no longer disabled, the participant must provide the agency or the designated COBRA administrator with a copy of the determination notice. This copy must be sent within thirty (30) days. Coverage will end at the end of the month that begins more that thirty (30) days after the date of the final determination. For example, if a final determination notice date is May 15, coverage would end June 30.

(3) If an employee is receiving Medicare prior to retirement or another COBRA event, he/she can continue COBRA coverage for eighteen months (18) after the retirement or other qualifying COBRA event. However, the spouse and or other qualified beneficiaries shall be allowed to have COBRA for thirty-six (36) months after the Medicare entitlement date.

(f) No evidence of insurability shall be required for continuation of coverage.

(g) The coverage elected shall be identical to the coverage provided at the date of the qualifying event, unless a beneficiary moves outside an HMO's service area. In that event, coverage is continued under the plan offered by the Board.

(h) Each covered beneficiary has the same rights and benefits as any similarly situated person to whom a qualifying event has not occurred. There are the same limitations and exclusions, except to the extent to which it would conflict with federal law.

(i) Any election of a qualified beneficiary shall be deemed to include an election of continuation on behalf of all other qualified beneficiaries residing together, unless specified in the election.

(j) Applicable premiums shall be determined on an actuarial basis for a twelve (12) month period, on or before the start of the Plan Year each year. The premiums shall remain the same during the Plan Year.

(k) All back premiums from the termination of coverage to the election and approval of continuation must be paid before coverage is effective. Coverage will then be retroactive to provide continuous coverage. All time limits are mandatory and cannot be waived under any circumstances.

(l) If a qualified beneficiary waives continuation of coverage, he/she may revoke that waiver anytime within the 60 day election period, but no claims are payable nor will any coverage be applied to the period prior to the revocation of the waiver.

(m) It is the responsibility of the qualified beneficiary to notify the Plan Administrator if he or she is not eligible for any reason. Failure to do so will result in cancellation of COBRA insurance coverage retroactive to the time of ineligibility.

(n) The date of the qualifying event shall be the same date as the actual loss of coverage under the previous plan. The period of continuation coverage and the applicable notification periods shall begin on the date of the actual loss of other coverage. The Plan Administrator shall have the right to make a final determination as to when the actual date of termination occurred.

[OAR Docket #03-502; filed 3-27-03]

TITLE 87. OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL CHAPTER 15. COMPETITIVE BIDDING CRITERIA AND PROCEDURES FOR CONTRACTS AWARDED FOR FLEXIBLE BENEFITS PLANS

[OAR Docket #03-503]

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87:15-1-1. [AMENDED]
87:15-1-2. [AMENDED]
87:15-1-3. [AMENDED]
87:15-1-4. [AMENDED]
87:15-1-5. [AMENDED]
87:15-1-8. [AMENDED]
87:15-1-10. [AMENDED]
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ANALYSIS:
The adopted changes to Chapter 15 provide clarification to 74 O.S. §1361 et seq. and the competitive bidding process as defined by Chapter 15 of Title 87 of the Oklahoma Administrative Code. The changes add financial and regulatory disclosure requirements to bidder registration as well as add a global exception to the registration requirements. The changes also replace specific references to "Health Maintenance Organizations" and "HMO" with the more general "benefits plan" language.
CONTACT PERSON:
Russell Nash, (405) 232-1190 ext. 105

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S.,

SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2003:

87:15-1-1. Purpose

The purpose of this Chapter is to describe the rules governing the procurement requirements of the Oklahoma State Employees Benefits Council (Council) for contracts to provide flexible benefits plan choices for active State employees and their eligible dependents. Flexible benefit plans are purchased under guidelines approved by the Oklahoma State Employees Benefits Council in compliance with all applicable State statutes. This Chapter does not apply to any products or services required by the Council outside the scope of flexible benefits plans as defined in the Oklahoma State Employees Flexible Benefits Act (74 O.S. §1341 et seq.)~~, which~~. ~~other~~Other products or services shall be procured in accordance with the Central Purchasing Act (74 O.S. §85.1 et seq.).

87:15-1-2. Definitions

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

"Audit Clause" means in accepting any contract with the Oklahoma State Employees Benefits Council, the Bidder must agree to an audit clause which provides that books, records, documents, accounting procedures, practices or any other items of the service provider relevant to the contract are subject to examination by the Council, State Auditor and Inspector, or other designated entities.

"Award" or "Contract award" means when the Council votes to approve the acceptance of a proposal from a qualified Bidder meeting all requirements of the procurement as determined by the Council.

"Bidder" means any entity submitting a competitive proposal in response to a solicitation for flexible benefits plans issued under this Chapter.

"Bidder's List" means the list maintained by the Contracts Administrator setting out the names and addresses of qualified suppliers of flexible benefits plans from whom proposals can be solicited.

"Business Day" means any day except Saturday, Sunday, or a legal holiday for State employees as proclaimed by the Governor.

"Competitive Negotiation" means the method by which the Council may contract with qualified ~~Health Maintenance Organization (HMO)~~ Bidders for ~~health~~ flexible benefits plans through best and final offer (BFO) process.

"Confidential Information" means information clearly designated in the RFP as being proprietary information and which shall be retained as confidential. All information included in or with a Bidder's proposal lacking such a designation shall be subject to the Oklahoma Open Records Act (51 O.S. §24A.1 et seq.).

"Contract" means when a Bidder submits a proposal, the proposal is submitted as a legal offer and any proposal, when accepted by the Council constitutes a contract (See Award).

"Contracts Administrator" means the Contracts Administrator employed by the Council.

"Council" means the Oklahoma State Employees Benefits Council.

"EEOC" means Equal Employment Opportunity Commission.

"Executive Director" means the Executive Director employed by the Council.

"Formal Proposal" means a proposal which must be submitted in a sealed envelope or container and in conformance with a prescribed format, to be opened at a specified time and specified place. (See also, Proposal.)

"HEDIS" means Health Plan Employer Data and Information Set.

"Ineligible Bidder" means a prospective service provider who, by reason of financial instability, unsatisfactory performance as documented by the Council or other deficiency, does not meet the qualifications for placement on the bidder list.

"Late Bid" or **"Late Proposal"** means a bid or proposal received at the place specified in the RFP after the date and time designated for all proposals to be received.

"Proposal" means the executed document submitted by a Bidder in response to a Request for Proposal (RFP) issued by the Council.

"Readiness Reviews" means the process by which the contracting authority makes scheduled on-site visits to the service provider for purposes of testing the readiness of the provider.

"Request for Proposal" or **"RFP"** means the solicitation document used for competitive sealed bidding.

"State" means the State of Oklahoma, acting by and through the Council or its/their designee.

87:15-1-3. General purchasing provisions

(a) The Council has the statutory authority to purchase flexible benefit plans for participants as defined by the Oklahoma State Employees Benefits Act. The Council reserves the right to cancel any given procurement of flexible benefit plans at any time for any reason.

(b) Except as otherwise specifically provided by this Chapter, all flexible benefit plan contracts required by the Council shall be acquired by competitive bidding pursuant to the terms of this Chapter. Contracts with qualified ~~HMO(s) for health~~flexible benefits plans may be awarded on the basis of best and final offer (BFO) through competitive negotiation. The Council, at its own discretion, shall have the option of bidding and contracting any flexible benefit plan through the Department of Central Services, Central Purchasing Division.

87:15-1-4. Bidder registration

(a) Any Bidder which seeks to contract to provide flexible benefit plans to the Council must be on the Bidder's list. A Bidder desiring to be on the Bidder List must register with the Contracts Administrator to receive copies of RFP solicitations. Only those Bidders qualified under Oklahoma law to perform the services requested by the Council and who meet the Bidder

registration requirements contained herein will be added to the Bidder's List.

(b) A Bidder has the burden of demonstrating that it has the capability to responsibly do business with the State of Oklahoma. In the interest of providing the highest level of quality to statewide active State employees and their eligible dependents for flexible benefit choices, Bidders seeking Bidder registration with the Council to provide flexible benefit choices in response to a benefit choice RFP solicitation must provide:

(1) ~~proof~~ Proof that the benefit provider has been operational (licensed where applicable) and enrolling members within the State of Oklahoma for a period of not less than eighteen (18) months prior to the date proposals are due.

(2) Audited financial statements for the most recent two (2) full years, and

(3) Disclosure of all State and Federal regulatory actions taken against Bidder in the preceding eighteen (18) months. The Council can make exception to any of the aforementioned requirements in this subparagraph at its discretion when the Council determines doing so is in the best interest of the State and members. ~~An exception to the 18-month rule (as it pertains to enrolling members only) may be exercised by the Council when benefit provider(s) which meet the requirements of the 18-month rule is merged with or acquired by a company which does not meet the 18-month rule. Prior to the Council's exercise of an exception to the 18-month rule for the purpose specified herein, the acquiring company shall provide any and all requested information regarding the merger or acquisition within the time frame required by the Council to ensure the merger or acquisition shall not cause interruption in the services being provided to members currently enrolled in the benefit plan being acquired through a merger or acquisition. In the event the Council has reason to believe the merger or acquisition may be disruptive and/or not in the best interest of the employees currently enrolled in the benefit provider(s) plan merged with or acquired by another company, the Council may decline to recognize the merger or acquisition and may not exercise the 18-month rule exception. If the Council has reason to believe the merger or acquisition may be disruptive to employees, the Council may petition the Oklahoma State Department of Health to protest the merger or acquisition.~~

(c) Bidders wishing to be added to the Bidder List must request in writing to receive a Bidder registration packet. Written requests must be addressed to: Oklahoma State Employees Benefits Council, Park Harvey Center, 200 North Harvey, Suite 1200, Oklahoma City, Oklahoma 73102-4003, Attention Contracts Administrator. Bidders shall be provided a packet with registration information and submission forms. All Bidders must renew registrations annually on a plan year basis.

(d) The Bidder shall complete the information requested in the Bidder registration packet and return the forms to the Contracts Administrator. The Bidder registration forms must be received by the Contracts Administrator not less than seven (7) business days before the issuance of the RFP. Upon receipt, Council shall review the Bidder registration forms for completeness and qualification. The Council shall return the Bidder registration forms in the event the forms have not been properly completed, and shall deny the registration where the form is incomplete and/or the applicant Bidder is not qualified to perform the flexible benefit~~s~~ plan requested in the RFP. Entities not registered as a bidder may receive copies of RFPs pursuant to the Open Records Act.

(e) The Oklahoma State and Education Employees Group Insurance Board is exempt from the Bidder registration requirement herein.

87:15-1-5. Bidder retention and removal from bidder list

(a) To ensure Bidders perform in the best interest of the State, it is necessary to address problems in a swift and equitable manner for all concerned. The Council has determined that Bidder misconduct can cause irreparable harm to the Council and its eligible participants. It is therefore recognized that penalties for poor Bidder performance and/or violation of State and Federal statutes must be addressed.

(b) The Council may remove any Bidder for any material infraction(s) as determined by the Council to be in the best interest of the State and members, including but not limited to the following. The amount of time a Bidder is removed from the Bidder's List shall be determined by the Council:

(1) A Bidder which has contracted with the Council to provide flexible benefit plan(s) and which terminates its contract with the Council prior to the contract expiration date.

(2) Financial insolvency.

(3) A conviction or plea of guilty to a felony involving fraud, bribery or corruption to the State or to any of its political subdivisions.

(4) Giving false or misleading information in an application for inclusion on the Bidder's List.

(5) Certification by the Oklahoma Human Rights Commission that the Bidder is engaging in a discriminatory practice as defined in 25 O.S. §§ 1505 and 1604.

(6) Failure on the part of the Bidder to meet EEOC and other requirements mandated by public legislation or EBC.

~~(c) If the contracting authority believes a Bidder has committed any act constituting grounds for removal from the Bidder's List, the Contracts Administrator shall promptly notify the Bidder in writing of a date and time to appear and show cause why the Bidder should not be removed from the Bidder's List. In addition, the Contracts Administrator shall notify the Executive Director. The notice shall state the allegations or facts which serve as the basis for such removal. The Contracts Administrator shall select a date not less than seven (7) business days from the date the notice is mailed, at which time the Bidder may appear or provide a written response to the Executive Director to rebut the allegations. The Contracts Administrator or Executive Director may extend this date for good cause. After the Bidder has been given the opportunity to respond, the Executive Director shall decide either that grounds do not exist for removal, or shall decide to remove the Bidder from the Bidder List. The Executive Director may remove a~~

~~Bidder from the Bidder List for up to two (2) years, depending on the severity of the Bidder's infractions. If the grounds for removal are for a felony or other conviction under (b)(3) of this Section, the removal shall be for an indefinite duration. Any Bidder may petition the Executive Director for reinstatement. Such a Bidder has the burden of demonstrating that it has the capability to responsibly do business with the State, and that the conditions leading to its removal have been remedied. In the case of removals based on criminal convictions, a Bidder may only be placed back on the Bidder's List if it can show the Bidder has disassociated itself from the individuals responsible for the acts giving rise to the conviction.~~

87:15-1-8. Award of contract

(a) Contracts for health plans provided by qualified ~~HMO~~ Bidder(s) may be awarded based on best and final offer BFO through competitive negotiation. In the sole discretion of the Council, a BFO process shall be conducted with qualified ~~HMO~~ Bidders if it is considered by the Council to be in the best interest of the State. In the event the Council considers a BFO process to be in the best interest of the State, all qualified ~~HMO~~ Bidders meeting the minimum requirements of the RFP shall be afforded an opportunity to negotiate a BFO with the Council. The Council shall issue a written request to all qualified ~~HMO~~ Bidders for a BFO. Only qualified ~~HMO~~ Bidders who satisfy the minimum bid requirements specified in the ~~HMO~~ RFP shall be allowed to participate in any BFO negotiation process. The Council retains the right to accept or reject qualified ~~HMO~~ Bidder(s) BFO. The Council shall retain as confidential information contained in the initial proposals submitted by qualified ~~HMO~~ Bidder(s) as well as any subsequent bid offers made by qualified ~~HMO~~ Bidder(s) prior to final contract award as part of the BFO negotiation process. The BFO negotiation process shall allow for modification and alteration of Bidder(s) proposal content and Bidder(s) proposal price after proposals are submitted and during the evaluation process. Upon request for a public bid opening, only the name(s) of the qualified ~~HMO~~ Bidder(s) shall be revealed; neither price nor proposal content shall be revealed and made public until after the BFO process is complete and notice of intent to award is announced by the Council. Only the final, agreed-upon price and final, agreed-upon proposal content shall be made public after the BFO process is complete and notice of intent to award is announced by the Council. Information clearly designated in the RFP as proprietary shall be held confidential pursuant to the Employees Benefits Act, 74 Okl.St.Ann. § 1365 A.11. After an initial proposal is received and opened by the Council following the bid closing date and time, the initial proposal offered by qualified ~~HMO~~ Bidder(s) may be discussed for clarification and/or modification if the Council deems it advantageous to do so. In this context, "discussion" shall mean clarification, modification, and negotiation, or any of these. Discussion(s) with a qualified ~~HMO~~ Bidder(s) during negotiation and/or clarification shall be conducted individually and privately with qualified ~~HMO~~ Bidder(s) and may be tape recorded by the Council. The Council shall hold all tape recordings, transcripts and notes of discussion(s) confidential. Changes shall not be allowed in qualified ~~HMO~~ Bidder(s) proposal or price after BFOs are received, unless the Council determines, in its sole discretion, that re-submission would be in the best interest of the State. The specific criteria of the BFO shall be specified in the ~~HMO~~ RFP issued by the Council.

(b) All proposals shall be forwarded to the Contracts Administrator upon completion of the evaluation. The Contracts Administrator shall review the information to determine compliance with the RFP requirements and compliance with all Council rules, policies and procedures. The Council shall be the sole judge in reviewing proposals and awarding contracts.

(c) The Council shall identify and apply criteria within the RFP and the proposals for final selection and award of contracts. The evaluation process may allow for the selection of less than all of the responsive or qualifying proposals, as allowed by law and as determined to be in the best interest of the State.

(d) The Contracts Administrator has the right to waive minor deficiencies or informalities in a proposal provided that the best interest of the State would be served without prejudice to the rights of the other Bidders.

(e) The Council reserves the right to bid and award contracts on an all or none basis, by item or groups of items, whichever is in the best interest of the State.

(f) All awards shall be made under the terms and conditions as outlined in OAC 87:15-1-9 and any additional terms and conditions as described in the RFP.

(g) All ethics rules and laws related to conflicts of interest and doing business with public officials apply to any contract with the Council.

87:15-1-10. Excessive Price

(a) The Council shall have the authority to reject the bid, or to restrict enrollment in any ~~health maintenance organization~~ benefits plan, for which the Council determines the benefit price to be excessive. The Council shall have the authority to reject any plan that does not meet the bid requirements. One way to restrict enrollment is to freeze enrollment in the plan's membership as determined to be in the best interests of the State and the members.

(b) Factors considered by the Council in determining excessive price may include, but are not limited to utilization data and loss ratios on the State group business, a comparison to other carriers proposed prices and/or other employers' plans and prices, actuarial analyses or underwriting principles. The Council may at its discretion, solicit a multi-part RFP which shall be designated as such. As a condition to be eligible to bid on Part II of the RFP, the Council shall require Bidders to provide information requested in Part I of the RFP. In the event a Bidder fails to provide the information in Part I of the RFP, the Council shall not consider the Bidder's response to the Part II of the RFP. The Council shall retain as confidential, any proprietary information submitted by a Bidder pursuant to this paragraph.

(c) Each year, the Council shall specify in the RFP issued by the Council all excessive price factors that shall be considered by the Council for that year's selection of benefit plan options. ~~Health maintenance organizations~~ Benefits plans that bid on

the RFP are deemed by the Council to have read and accepted all excessive price factors contained in the RFP.

(d) Although the Council shall have the authority to reject the bid, or to restrict enrollment in any ~~HMO~~ benefits plan, for which the Council determines the benefit price to be excessive, the Council shall have no duty to do so. Despite the fact that the Council may determine the benefit price to be excessive, the Council nevertheless may choose not to reject the bid or restrict enrollment for reasons the Council determines at that time to be in the best interests of the State and the members. The determining reasons will include, coverage areas where the number of other ~~HMOs~~ benefits plans are limited; total number of ~~HMOs~~ benefits plans offered; provider networks; employee participation displacement; uniformity of choices for all eligible employee groups; and premiums charged by competing plans.

(e) The particular factors that are specified in the RFP issued by the Council for determining excessive price may vary from year to year. The specification of particular factors in prior year(s) shall serve as no precedent of the factors that may be specified in subsequent year(s). Similarly, the failure of the Council in prior year(s) to reject a bid or restrict enrollment in any ~~HMO~~ benefits plan for which the Council determines the benefit price to be excessive, shall serve as no precedent as to the action the Council may take in subsequent year(s).

[OAR Docket #03-503; filed 3-27-03]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES

[OAR Docket #03-561]

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210:10-13-4. [AMENDED]
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n/a
ANALYSIS:
The rule changes are needed to align rules with requirements as stated above and to also align with requirements of the federal Individuals with Disabilities Act Amendments of 1997 which requires alternate assessments.
CONTACT PERSON:
Valerie Payne, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 301.(A) WITH AN EFFECTIVE DATE OF MAY 15, 2003:

SUBCHAPTER 13. STUDENT ASSESSMENT

210:10-13-2. Oklahoma school testing program scope and general administration

(a) All public school districts shall administer the state mandated tests to all students in the designated grades. The series of tests shall be field-tested/implemented by the amended schedule in Title 70 O.S., Section 1210.508~~.~~, or federal law.

(1) Students with Individualized Education Programs (IEPs) shall have an appropriate statement on the IEP requiring administration of the Oklahoma School Testing Program (OSTP) or alternate assessment. Any accommodations normally employed and needed must exist on the IEP. All documentation for each student shall be on file in the local school before tests are administered.

~~(2) Students who have been determined to be limited English proficient (LEP) as identified in Public Law 103-382 may be exempted during their first full academic year of enrollment in Oklahoma schools. The LEP exemptions apply specifically to those students who have been appropriately identified, through criteria established by the local school districts, as requiring specialized instructional services designed to increase their English proficiency and academic performance. At the discretion of the local district, a student will be exempt from participating in the Oklahoma School Testing Program provided the following conditions have been met:~~

~~(A) LEP students may only be exempted during their first full academic year of enrollment in Oklahoma schools.~~

~~(B) For every LEP student exempted, the local district shall have on file verification that the student is receiving special instruction designed for the specific purpose of improving the LEP student's English proficiency. Oklahoma Attorney General's Opinion #75-231 (October 2, 1975) states that "all federally assisted school districts in Oklahoma are under an affirmative duty to make remedial efforts by providing bilingual classes or otherwise as necessary to meet the linguistic needs of pupils who enter school unable to speak and understand the English language." This duty has been determined under a Supreme Court decision (Lau vs. Nichols 414 U.S. 563.39L.Ed. 2d1, 94 S.Ct. 786, 1974) and is required by federal law (Paragraph 2, Article VI, U.S. Constitution).~~

~~(C) The local district shall have on file a record of having notified the LEP students' parents or legal guardians of the Oklahoma School Testing Program and giving the parents or legal guardians the option of requesting that their child be exempted from participating.~~

~~(D) For every LEP student exempted the local district shall have on file written permission for the exemption from the parents or legal guardians; and~~

~~(E) The total number of LEP students exempted by a local school district must not exceed the number of LEP students reported on the district's Accreditation Application for the current school year.~~

~~(F) Students identified as LEP may be provided acceptable accommodations, the need for which to be determined by the local school district.~~

~~(G) Students identified as LEP shall participate in the OSTP or a locally determined alternate assessment provided by the local school district. For guidance in determining when an alternate assessment is appropriate, according to PL 103-382, LEP students ... "shall be assessed, to the extent practicable, in the language and form most likely to yield accurate and reliable information on what such students know and can do, to determine such students' mastery of skills in subjects other than English."~~

(2) Students who have been determined to be limited English proficient (LEP), also known as English language learners (ELL), as identified in Public Law H.R.1 will be included in the state-mandated tests. ELL students are those who have been appropriately identified, through English proficiency screening by the local school districts, as requiring specialized instructional services designed to increase their English proficiency and academic performance. For every student identified as ELL, the local district shall have on file verification that the student is receiving special instruction designed for the specific purpose of improving the ELL student's English proficiency. Students identified as ELL will be included in the state-mandated testing in the following ways:

(A) ELL students will be administered an annual assessment of English proficiency (measuring students' oral language, reading and writing skills in English) by the local school district, beginning with their first year of enrollment, according to federal legislation.

(B) ELL students shall be administered the state-mandated academic achievement tests in reading and language (written in English) after they have attended school in the United States (not including Puerto Rico) for three (3) or more consecutive school years, except that if the local school district determines on a case-by-case individual basis, that a student has not yet reached a level of English language proficiency that will allow valid and reliable information to be obtained, even with testing accommodations, in which case individual waivers will be allowed for up to two additional consecutive years.

(C) The achievement of ELL students in content areas other than reading and language arts shall be assessed in a valid and reliable manner, with acceptable accommodations as necessary to be determined by the local school district. These assessments will include the state achievement tests administered with accommodations as necessary and, to the extent practicable, assessments provided by the local school district in the language and form most likely to yield accurate data on what such students know and can do in these content areas and will continue until such students have achieved English language proficiency as determined under paragraph (A).

(b) On an annual basis, school superintendents or their designees shall provide a copy of the State Board of Education Rules, OAC 210:10-13, for all school personnel responsible for receipt, inventory, distribution, or return of tests documents, and/or for administration of tests within the Oklahoma School Testing Program.

(c) Districts may request special reports beyond those provided by state contract with the testing company at their own cost (i.e., individual student records on CD or disk, District Title I Report, District Alpha Order Report, etc.).

(d) Test results of all students not enrolled in schools in the district for a full academic year will be disaggregated and will not be used to determine the progress of the district.

210:10-13-4. Test security and validity

(a) School administrators or their designees shall maintain security on tests administered under the auspices of the Oklahoma School Testing Program through following the procedures listed below:

(1) School superintendents shall designate both district and building test coordinators before October 1 of each school year. Names and telephone numbers of district test coordinators shall be recorded on the OSTP Questionnaire conducted in the fall semester of each school year. This questionnaire is the order form for the large print and Braille test forms.

(2) The State Department of Education shall provide student/parent pretest information materials to schools for designated grade levels before testing.

(3) The State Department of Education shall require the contracting test publisher to place an embargo on the sale, sampling, and/or distribution of test materials utilized in the OSTP to any person or organization in Oklahoma (other than the official distribution of such materials purchased for the OSTP by the State Department of Education). This embargo is to be enforced from the first day of contract with the State Department of Education throughout use of this test for the OSTP and until the Department has given notice that the test series is no longer going to be used in the OSTP. The State Department of Education may enter into a Memorandum of Understanding with publicly funded schools to meet the requirements of federal programs. Violation of this agreement by a contracting test publisher can result in automatic and immediate forfeiture of the contract and reimbursement to the State Department of Education (by the contracting company) of any funds expended in the conduct of the OSTP.

(4) No person nor organization--either private or public--shall obtain copies of any test materials utilized in the OSTP other than through the official distribution of test materials to public schools immediately prior to administration of the annual OSTP. Any person or organization attempting to order such materials from the contracting test publisher (or from other scoring companies handling OSTP or "off-grade" scoring and reporting) shall be reported by the contractor to the State Superintendent of Public Instruction.

(5) All student test materials (i.e., test booklets, prompts for writing assessment, and answer documents) shall be bound by the test publisher in packages of designated lot sizes. Test booklets shall be individually sealed prohibiting them from being opened. Seals shall remain intact until tests are distributed to students at the beginning of the test administration session. Each test booklet seal shall be broken only by the student who is administered the test except where special education or Section 504 accommodations allow the opening of the test by someone other than the student. Unused tests are to remain sealed.

(6) All test materials shall be inventoried upon receipt from the test publisher/contractor. Any discrepancies representing shortages in the quantity of materials supplied and the quantity needed for tests administered shall be reported immediately to the contracting company by the district test coordinator. Immediately upon receipt and inventory of materials, all tests, and other materials shall be locked in a secure place by the district test coordinator or school administrator. The site level distribution of test documents and materials may occur beginning one school day prior to testing. Exceptions to the test materials distribution time limit needed by the largest districts in the state shall be registered with and approved by the Student Assessment Section of the State Department of Education at least six weeks prior to the first designated testing window of each year. During the days in which tests are being administered in each school district, all test administrators are responsible for locking all test materials in a secure place when the tests are not being utilized in the official test administration with students. This includes the time period between completion of the test administration and delivery of the answer documents and other test materials to the district test coordinator. Further, the building test coordinator is responsible for ensuring that materials are properly locked in a secure place at the times specified above. Test booklets are not to leave school buildings at any time (i.e., students' test booklets are not to be taken home by an employee or the community member/test monitor before, during, or after test administration has been completed).

(7) An accounting is to be conducted on all test booklets. Unused test booklets are to remain in "shrink-wrap" (or otherwise packaged) when possible. All unused tests are to be returned to the test publisher. Failure to return test booklets to the appropriate companies (1) will result in a school or district being reported to the State Superintendent and (2) may result in invalidation of the school's and/or district's scores.

(8) The contracting test publisher shall print electronically read identification codes on all documents containing secured test items prior to distribution of these materials to the public schools. Within all test program components of the OSTP, the contracting test publisher shall record the specific series of numbers (represented by the "bar codes") assigned to each school district and building site within a district. Inventory lists of test document bar codes by school site shall be provided for each district test coordinator.

(9) On the first available school day following the test administration in each school district, the district test coordinator shall ship all answer documents and specified identification forms to the designated scoring/reporting company and all other test materials to the contracting test publisher~~.~~ in accordance with the schedule for return of materials provided in the Test Preparation Manual. If a district fails to return materials and answer documents in a timely fashion, the district may be penalized with additional costs. If a district fails to complete or incorrectly complete answer documents and/or demographic pages or other required testing-related materials, the district may be penalized with additional costs.

(10) The contracting test publisher shall submit an inventory of test materials to the State Department of Education each year. This inventory shall document the quantity of materials distributed to each school district and received from each school district--recorded by school site as indicated by the numbers represented by the "bar codes" printed on test materials. Quantities of writing assessment materials distributed to and retrieved from schools will be reported to the State Department of Education by the contracting test publisher.

(11) School superintendents from whom incomplete quantities of materials have been received shall be notified of this discrepancy and shall be provided a date by which the remaining materials must be returned to the test publisher. The test publisher shall notify the Department of Education of all school districts from which test materials have not been received after this date. Names of these school districts shall be reported to the State Superintendent.

(12) Reproduction in any form of any copyrighted test materials--including test documents, teachers' test administration manuals, and student pretest materials--is strictly prohibited. Photocopying of these materials constitutes a violation of federal copyright laws. To ensure that all school employees and community members are aware of this regulation and the laws in support of same, the district or building test coordinator shall post a sign to this effect over each copy machine. The Federal Copyright Law--as it applies to the Writing Assessment Component of the OSTP--prohibits the photocopying of any part of the student Test Booklet. This includes the lined writing pages, the writing prompt, and the student's written response. This portion of the set of test documents is considered protected under the copyright guidelines [as is the writing prompt].

(13) Every test administered within the OSTP shall be administered by an education-certified professional person employed by the school district.

(14) No person shall teach test items to students, change students' answers, or in any manner provide answers to test questions for students before, during, or after test administration has been completed. Violation of this regulation may result in revocation of the person's teaching, counseling, administrative, and/or other certificate(s).

(15) All of the following actions are prohibited in that such actions represent violations of test security:

(A) Using secured test items as instructional tools or for student "practice"--either verbatim as written or in reworded form. Note: Secured test items are those provided to measure student knowledge and/or skills on OSTP tests. Said items are to be differentiated from sample test items that are provided at the beginning of each subtest and used, according to official test administration procedures, solely for the purpose of understanding directions and marking answers.

(B) Reading secured test items orally to students at any time before, after, or during test administration unless it is an IEP, ~~or~~ Section 504, or ELL accommodation~~.~~, in which case an affidavit shall be signed, prior to reading items, by the test administrator/reader stating they shall not reveal any test items, writing prompts, or other secured information to any person.

(C) Deviating from any instruction provided in the official test administration manual.

(D) Allowing students to view and/or read the writing assessment prompts before test administration or discussing or exposing the theme or topic of the prompt.

(E) Providing answers to secured test items. This includes provision of cues, clues, hints, and/or actual answers in any form--written, printed, verbal (oral), or nonverbal. In regard to the writing assessment component of the OSTP, prohibited actions include the provision of "hints" or any form of clues in regard to the manner in which students respond to the prompt (e.g., "brainstorming" about the topic of the prompt; offering suggestions regarding how to respond; assisting the student or class in organizing the response; and all other such deviations from the printed instructions for administering the test).

(F) Changing students' responses to secured test items and/or influencing or encouraging students to change their answers to test items at any time.

(16) Test Security Forms provided by the State Department of Education's test contractor(s) shall be distributed by the district test coordinator with test materials to the persons designated on each form.

(A) OSTP Test Security Forms shall be provided for the following:

(i) Form 1: Superintendent and District Test Coordinator

(ii) Form 2: Building Principal and Building Test Coordinator

(iii) Form 3: Test Administrators and Test Monitors.

(B) After completing the test administration, these forms shall be signed by the designated persons and returned to the district test coordinator. The district test coordinator shall return all signed forms to the respective scoring company. Failure to sign and return the appropriate forms may result in:

(i) a school or district being reported to the State Superintendent; and

(ii) invalidation of a school's and/or district's test scores.

(17) The contracting test companies shall provide the State Department of Education the signed OSTP Test Security Forms or a report of names of educators who signed SDE/OSTP Test Security Forms and an accounting of the number of tests and manuals:

(A) distributed to, and

(B) returned from each school district.

(18) All test administration sessions shall be conducted according to the standardized procedures described in the test administrators' manuals. This includes reading the directions to students verbatim; timing each subtest according to the time delineated in the official administration manual; refraining from allowing students to read test items before test timing begins and/or beyond the completion of time specified for each test; and assuring that only the materials designated for student test use are on the student's desk during test sessions. Any violation of security provisions in Section 210:10-13-4 constitutes invalidation of the test and test results. Such violations shall be reported to the State Superintendent and may

result in a school's and/or school district's test scores being declared as invalid.

(19) All test administration sessions shall be monitored by an adult other than the test administrator. All test monitors shall be approved by the superintendent or school principal. Superintendents and principals may designate school employees or noncertified members of the community to serve as test monitors. All test administration procedures including time specifications, State Board of Education Rules 210:10-13, and the Instructions for Test Monitors shall be distributed to test monitor(s) before test administration.

(b) School administrators or their designee(s) shall assure that all test administration procedures replicate standardized testing conditions to preserve test validity. Such procedures are stated in the manuals for administering the test.

210:10-13-6. Test inservice

Each district shall send a District Test Coordinator (DTC) and all building coordinators to the Oklahoma School Testing Program ~~Pretest~~Test Preparation Inservice sessions. In addition, the District Test Coordinator ~~must~~should attend the ~~Posttest~~Test Interpretation Inservice sessions provided by the State Department of Education. School representatives attending such ~~Pretest~~Test Preparation and/or ~~Posttest~~Test Interpretation sessions shall report to the school administration after the inservice sessions, providing all inservice materials and information gained. School principals shall assure that every OSTP test administrator is provided a copy of the State Board of Education Rules OAC 210:10-13.

210:10-13-7. Return of documentation to testing company; completion of ~~Pretest~~Test Preparation Enrollment Survey

(a) Answer~~-~~/demographic documents from ALL students ~~tested~~enrolled shall be returned to the respective scoring services after completion of the test administration.

(b) School administrators or their designee(s) shall complete and return the Oklahoma School Testing Program ~~Pretest~~Test Preparation Enrollment Survey as designated in the survey instructions~~.~~ on or before the deadline for return.

~~(c) On a form provided by the testing company, the superintendent or designee shall record for each grade level tested the current total student enrollment, number of students tested, number of regular and alternative students tested, number of IEP students tested, and number of LEP students exempted.~~

210:10-13-14. Policy for working with schools identified as "high challenge"

(a) **Identification and notification of "high challenge" schools.** The State Department of Education shall identify targeted schools and notify school superintendents of this status by August 15. Results of this process will be presented to the State Board of Education.

(b) **Required attendance at a meeting for administrators of "high challenge" and "low-performing" school sites.** Administrators of schools identified as "high challenge" will be required to attend a meeting in September. The purpose of this meeting is threefold:

(1) To provide information regarding the local development and implementation of school improvement plans;

(2) To assist local efforts to document school improvement to meet the mandates issued by the State Board of Education; and

(3) To inform local administrators of the evaluation process to be used.

(c) **Required written progress reports.** Personnel in each site identified as "high challenge" will be required to submit to the Department a plan for school improvement by November 1 and a written progress report by April 15. These reports shall describe the action taken to achieve school improvement and shall document any results which indicate progress toward meeting improvement goals and objectives.

(d) **Monitoring the progress accomplished by "high challenge" schools.** The Department of Education shall monitor the progress being accomplished by the targeted schools. On-site visits to all schools will be conducted during the fall or winter to determine the following in regard to each school's Plan for School Improvement"

(1) the degree to which school improvement plans are being implemented

(2) the needs for additional resources

(3) the progress made by schools.

(e) **Conducting an on-site evaluation.** Upon receipt of Oklahoma School Testing Program results, an on-site evaluation visit will be conducted to determine the progress made by local school personnel. Each evaluation team shall be individualized and may include staff from the Student Assessment, Research and Planning, Accreditation, Curriculum, or other sections based upon need at each site. During this evaluation, such items as academic achievement progress and success levels attained along locally-determined indicators will be examined. Results of this visit will yield recommendations as to the disposition of each school for the coming year, based on the following guidelines:

(1) The first such on-site evaluation will accomplish the establishment of recommendations and timelines to allow for further specification of the school's Plan for School Improvement and additional progress to be achieved by the local faculty.

(2) During the second annual on-site evaluation, more stringent recommendations such as those listed in 70 O.S. § 1210.541 will be made if the Evaluation Team determines that insufficient progress has taken place.

~~(f) **Reporting to the State Board of Education and the Oklahoma Legislature.** By November 1 each year, the State Department of Education personnel shall report to the State Board of Education and to the Oklahoma Legislature a list of the previous year's "high challenge" schools, their respective student average test scores, and recommendations for improvement or disposition. Recommendations included in this report shall be developed through the collaborative efforts of local school personnel and the State Department of Education. Further, the State Department of Education shall report on~~

~~progress of formerly identified "high challenge" schools each year. This progress report will document the findings of the on-site evaluation and will include recommendations for further assistance or action to be taken by the Department and/or the local school.~~

[OAR Docket #03-561; filed 4-3-03]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 15. CURRICULUM AND INSTRUCTION

[OAR Docket #03-566]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. ~~Curriculum Standards~~ Priority Academic Student Skills [AMENDED]
Subchapter 5. Priority Academic Student Skills [REVOKED]
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70 O.S. § 3-104, State Board of Education
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SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 3. Curriculum StandardsPriority Academic Student Skills [AMENDED]
Subchapter 5. Priority Academic Student Skills [REVOKED]
Gubernatorial approval:
October 10, 2002
Register publication:
20 Ok Reg 159
Docket number:
02-1441
INCORPORATIONS BY REFERENCE:
n/a
FINDING OF EMERGENCY:
The rule is of compelling public interest because rule changes must comply with legislation, 70 O.S. § 11-103.6(a), to provide clear academic curriculum standards to ensure all students are prepared for employment and/or postsecondary education.
ANALYSIS:
The need for the changes to rules are set forth in 70 O.S. § 11-103.6(a), which states the State Board of Education must review the Priority Academic Student Skills (PASS), Oklahoma's core curriculum, every three (3) years. The rule changes will add clarity and detail to the PASS and will also align with current national curriculum standards.
CONTACT PERSON:
Valerie Payne, 405-521-3308

DUE TO EXCESSIVE LENGTH OF THESE RULES (AS DEFINED IN OAC 655:10-7-12), THE FULL TEXT OF THESE RULES WILL NOT BE PUBLISHED. THE RULES ARE AVAILABLE FOR PUBLIC INSPECTION AT THE STATE DEPARTMENT OF EDUCATION, 2500 N. LINCOLN BOULEVARD, ROOM 1-18, OKLAHOMA CITY, OKLAHOMA, AND AT THE SECRETARY OF STATE'S OFFICE OF ADMINISTRATIVE RULES. THE FOLLOWING SUMMARY HAS BEEN PREPARED PURSUANT TO 70 O.S., SECTION 144(B):

SUMMARY:
The amended rules for *Priority Academic Student Skills*, Oklahoma's core curriculum standards, were made to comply with current legislation and a full text of the rule may be obtained at the State Department of Education, Room 1-18, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, by interested parties.

[OAR Docket #03-566; filed 4-3-03]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #03-562]

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RULES:
Subchapter 9. Professional Standards: Teacher Education and Certification
Part 9. Teacher Certification
210:20-9-101. [NEW]
210:20-9-102. [NEW]
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Part 9. Teacher Certification
210:20-9-101. [NEW]
210:20-9-102. [NEW]
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19 Ok Reg 1248

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02-776
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The rules are needed to support and develop early childhood education and paraprofessional programs mandated by law (70 O.S. § 6-127A and 70 O.S. § 11-103.7.) The proposed additions support Title I paraprofessional requirements in the No Child Left Behind Act (January 2002). The rule is of compelling public interest so that proposed additions/changes can be implemented in time for the 2002-2003 school year.
CONTACT PERSON:
Valerie Payne, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 15, 2003:

SUBCHAPTER 9. PROFESSIONAL STANDARDS: TEACHER EDUCATION AND CERTIFICATION

PART 9. TEACHER CERTIFICATION

210:20-9-101. Early Childhood/Child Development Associate (CDA) Certificate limited to four-year-olds and younger in Oklahoma

(a) The applicant shall have been an early childhood educator with the Head Start Program and have been employed in such experience for a period of at least five (5) years.
(b) The applicant shall have a Child Development Associate Certificate.
(c) The applicant shall pass the state general education competency examination and early childhood education subject area competency examination.
(d) The applicant shall have on file with the Board a current Oklahoma criminal history record from the Oklahoma State Bureau of Investigation as well as a national fingerprint-based criminal history record provided by the Federal Bureau of Investigation. Upon receipt of the Oklahoma criminal history record, the Board may issue a temporary certificate which shall be effective until receipt of the national fingerprint-based criminal history record. The person applying for a certificate shall be responsible for the cost of the criminal history records.
(e) If the individual is employed by the public schools and does not have at least a bachelor's degree from a college recognized by the State Board of Education the teacher shall be reported on the support personnel report and shall be considered as any other support employee. The state-mandated minimum salary schedule is based on degree and years of teaching experience; therefore, it does not apply to this group of individuals.
(f) If the individual is employed by the public schools as a teacher and has at least a bachelor's degree from a college recognized by the State Board of Education the individual shall be reported on the certified personnel report and shall be considered as any other certified employee.
(g) The initial State Department of Education credential, valid for five (5) years, is verification of eligibility for employment. Standard renewal requirements shall be required, including having been recertified in child development by the Council for Early Childhood Professional Recognition within the five (5) years prior to the expiration date of the State Department of Education Early Childhood/CDA certificate.
(h) The residency program will not be required.
(i) Professional development requirements shall be fulfilled.

210:20-9-102. Career development program for paraprofessionals

The State Department of Education shall issue a paraprofessional credential to an applicant who meets the following requirements:
(1) has a high school diploma or a General Educational Development (GED) Diploma,
(2) has met a career development paraprofessional program approved by the State Board of Education, and
(3) has on file with the Board a current Oklahoma criminal history record from the Oklahoma State Bureau of Investigation as well as a national fingerprint-based criminal history record provided by the Federal Bureau of Investigation. Upon receipt of the Oklahoma criminal history record, the Board may issue a temporary credential which shall be effective until receipt of the national fingerprint-based criminal history record. The person applying for a credential shall be responsible for the cost of the criminal history records.

[OAR Docket #03-562; filed 4-3-03]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 25. FINANCE

[OAR Docket #03-563]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Funding Criteria
210:25-3-7. [AMENDED]
Subchapter 5. Budgeting and Business Management
Part 1. Implementation
210:25-5-4. [AMENDED]
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ANALYSIS:
Current and future state and federal funding is based on accurate and timely reporting; therefore, the establishment of adequate timelines to meet reporting requirements is necessary. Increased availability of investment programs for school districts has tightened the accountability of funds.
CONTACT PERSON:
Valerie Payne, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 15, 2003:

SUBCHAPTER 3. FUNDING CRITERIA

210:25-3-7. Financial information processing

These regulations apply to data processing service centers planning to provide services to schools, as well as to schools providing their own computer services (hereafter both referred to as Center), implementing Oklahoma Cost Accounting System (OCAS).

(1) The Center shall have available adequate data equipment to process the information.

(2) Personnel of the Center shall have an adequate understanding of the school finance laws and regulations implementing OCAS in the State of Oklahoma.

(3) No warrant/check shall be issued in excess of the properly approved appropriations or cash on hand for non appropriated funds.

(4) The Center will provide forms and/or means of transmitting proper information to and from the Center.

(5) The Center shall provide a complete audit trail of transactions in the form of a fiscal year-to-date (or monthly) detailed Budget Analysis, listing all encumbrances and payments by date.

(6) All financial transactions must be computer program generated for transfer of information to State Department of Education, coding to the bold or ability to roll to the bold codes if detailed coding is desired at district level, as printed in the OCAS manual.

(7) The Center must have the ability to transfer financial information, for all funds, on one magnetic tape or diskette for expenditures and one for revenue to the State Department of Education, when requested.

(8) The Center must have ability to provide adequate audit trail for all entries.

(9) The Center is required to provide a computer generated program with detail and summary expenditure reports on 8 1/2" X 11", unlined paper, in SDE approved format for claiming of federal fund reimbursements based on warrants issued. No expenditures will be processed on any report that has any manual changes on it.

(10) The Center must have ability to roll to the third digit of Function, first digit of Object in OCAS for federal programs report summary page.

(11) The Center must have ability to meet minimum criteria for software implementing OCAS as developed by the State Department of Education.

(12) Facsimile signatures on any warrants processed may not be processed by a computer.

(13) Computer generated Record and Report of School District Expenditure forms requesting reimbursement against any federal program section of the State Department of Education must be received or postmarked on or before the first (1st) Monday in ~~October~~September. Unclaimed funds in the federal program areas will become carry-over funds into the new school year and be spent and claimed for reimbursement.

(14) The Center will provide all necessary pertinent information requested by the school district and promptly make all required monthly, quarterly, and annual reports.

(15) The Center shall process budgetary changes provided that said budgetary changes conform with Statutes pertaining to School Finance.

(16) The Center shall not process a supplemental allocation unless said allocation is accompanied by a Supplemental Estimate (Form 150), or a Request for Approval of State Aid and/or Federal Aid (Form 307) or Cash Fund Estimate of Needs and Request for Appropriation of Funds for Schools (Form 308), properly signed, authorizing the allocation of an additional appropriation of funds.

(17) The Center is required to continuously report the condition of all prior fiscal year funds with active balances.

(18) The Center shall furnish all necessary instructions to the school personnel necessary to initiate and maintain the program.

(19) The Center, and software vendor providing services for a school district during a fiscal year shall be required to process and incorporate all pertinent information of each of the affected current year's funds from the beginning of the fiscal year. They shall also be required to process all payroll information for the calendar year of initiation.

(20) The Center and software vendor may be required to continue services to a school district until all transactions for the current fiscal year are completed even though the school district does not contract for the ensuing fiscal year.

(21) The Center is subject to review by the State Board of Education.

SUBCHAPTER 5. BUDGETING AND BUSINESS MANAGEMENT

PART 1. IMPLEMENTATION

210:25-5-4. Accounting

(a) The financial structure of an Oklahoma public school district consists of various classifications as referenced in Oklahoma Administrative Code (OAC) 210:25-7-1, (Oklahoma Cost Accounting System). School District accounting systems shall be organized and operated on a basis that assures legal compliance by the recording and summarizing of financial transactions within funds, each of which is completely independent of any other. Each fund shall account for and continually maintain the identity of its revenues and expenditures. Financial transactions for purposes of this regulation and as referenced in 70 O.S. ~~1991~~Supp. 2001, ~~Section~~§ 5-135.2 shall be defined as a detailed reporting of revenue within the Source of Revenue dimension. Revenue shall be reported to the bold codes within each of the following broad categories: District Source of Revenue, Intermediate Source of Revenue, State Source of Revenue and Federal Source of Revenue. Expenditures shall be reported by the bold codes within the Function dimension as follows: Instruction, Support Services-Students, Support Services-Instructional Staff, Support Services-General Administration, Support Services-School Administration, Support Services-Business, Operation and Maintenance of Plant Services, Student Transportation Services, Support Services-Central, Other Support Services, Child Nutrition Programs Operations, Community Services Operations and Facilities Acquisition and Construction Services. Additional dimensions for Revenue and Expenditures are coded to provide classification by Fiscal Year, Fund, Project Reporting, Object, Program, Subject, Job Classification, and Operational Unit, where applicable.

(b) The finalized, signed year-end financial report recording and summarizing all revenue and expenditure financial transactions prepared by the State Department of Education as provided via magnetic media by each individual district, shall be returned to the State Department of Education, postmarked or delivered, no later than September 15 of each year.

(c) The school district must inform the Financial Accounting Section of the State Department of Education of any changes made at the district level to any of the financial transactions already submitted to the State Department of Education. Further, none of the data submitted by the September 15 deadline can be changed or altered by either the school district or the Financial Accounting Section after November 15 of each year.

(~~c~~d) As referenced in 70 O.S. ~~1991~~Supp. 2001, § 5-135.2 (B), the State Department of Education shall reduce the monthly payment of a district's State Aid funds if the district is not operating pursuant to said system. Not operating pursuant to said system shall be defined as a district not:

(1) accurately recording and reporting all revenue and expenditures by applicable OCAS bold code dimensions;

(2) submitting processable, readable magnetic media of all recorded and reported revenue and expenditures by applicable OCAS bold code dimensions to the State Department of Education;

(3) ascertaining that current and accurate applicable OCAS codes are being utilized as updated and maintained by the State Department of Education;

(4) complying with regulations as outlined in OAC 210:25-3-7 (Financial information processing), OAC 210:25-5-10 (The encumbrance clerk), OAC 210:25-5-11 (The school district treasurer), OAC 210:25-5-12 (Purchase order procedures for schools), or OAC 210:25-5-13 (School activity fund);

(5) reconciling all recorded and reported revenue and expenditures by applicable OCAS bold code dimensions by balancing data with bank receipts and statements, purchase orders, warrant registers, investment ledgers, and all balance sheet accounts; and

(6) submitting finalized, signed year-end revenue and expenditures reports by September 15 of each year.

(~~d~~e) For appropriated funds, all indebtedness should be encumbered (have a purchase order issued and be recorded) on the day the obligation is incurred, rather than when it becomes due, and supporting documentation should be provided for all indebtedness.

(~~e~~f) Upon the approval of the State Board of Education, school districts may make capital expenditures up to a maximum amount of $50,000 (fifty thousand dollars) during the current fiscal year within the General Fund pursuant to 70 O.S. Supp. ~~1992~~2001, § 1-117, if the school district meets the established criteria as outlined in the Statutes. School districts shall be voting the maximum five (5) building fund mills. General Fund monies authorized by the State Board of Education for expenditures must be expended within the current fiscal year. Any such funds encumbered as of June 30th of the current fiscal year, but not expended by November 15th of the subsequent fiscal year, shall lapse and return to the original purpose of such funds.

(~~f~~g) A school district shall be authorized to utilize general fund monies for capital expenditures, in addition to the amount specified in subsection (c), pursuant to the provisions of 70 O.S.~~,~~ Supp. ~~1995~~2001, ~~Section~~§ 1-117.

(~~g~~h) Expenditures from all appropriated funds shall be made by properly issued warrants/checks. Expenditures from the School Activity Fund shall be made by countersigned checks.

(~~h~~i) Inventory cards or data processing records shall be kept on all equipment and removable fixtures, showing purchase order number when known, date of purchase (when known, if not known an estimated date shall be used), amount of purchase (if known, if not known present value must be estimated) a description of the item, the serial number (when applicable) and the location of the item. New purchases shall be included in the records on the same day in which they are physically received by the district. Disposed equipment must be removed from the records on the disposal date and a detailed description of the circumstances which results in the disposal recorded. Disposed equipment should not be included in the records of future years.

[OAR Docket #03-563; filed 4-3-03]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 30. SCHOOL FACILITIES AND TRANSPORTATION

[OAR Docket #03-565]

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The rules are mandated by Senate Bill 595 (July, 2001). The individuals who will be affected by the rule are teachers offering and/or conducting online courses, school board members charged with local policies, vendors providing these courses for a fee, colleges and universities, and consortia offering such courses. There are no fees associated with these rules.
CONTACT PERSON:
Valerie Payne, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 15, 2003:

SUBCHAPTER 5. TRANSPORTATION

210:30-5-1. District operation and management

(a) **Definitions.** The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise.

(1) **"Transportation equipment"** means any vehicle or conveyance used for transportation of pupils when the cost of rent, lease, purchase, maintenance, or operation of the equipment is paid for in whole or part from public school funds.

(2) **"Type A school bus"** means a conversion or body constructed upon a van-type compact truck or a front-section vehicle, and has a gross weight rating of 10,000 pounds or less, designed for carrying more than ten (10) persons.

(3) **"Type B school bus"** means a conversion or body constructed and installed upon a van or front-section vehicle chassis, and has a vehicle weight rating of more than 10,000 pounds, designed for carrying more than ten (10) persons. Most of the engine is beneath and/or behind the windshield and beside the driver's seat. The entrance door is behind the front wheels.

(4) **"Type C school bus"** means a body installed upon a flat back cowl chassis and has a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than ten (10) persons. All of the engine is in front of the windshield and the entrance door is behind the front wheels.

(5) **"Type D school bus"** means a body installed upon a chassis, with the engine mounted in the front, midship, or rear, and has a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than ten (10) persons. The engine may be behind the windshield and beside the driver's seat; it may be at the rear of the bus, behind the rear wheels; or midship between front and rear axles.

(b) **Administration.** The local superintendent and board of education shall be held responsible for applying these regulations to all pupil transportation under their administration and supervision. In keeping with this responsibility, each local board of education shall examine and periodically review the school district's bus fleet liability insurance coverage and its tort liability insurance coverage to assure such coverages are coordinated to protect the interest of the students, general public, and school district. Any school district maintaining a school may provide transportation with the approval of the State Board of Education.

(c) **Students.**

(1) **Legally transported.**

(A) A student must live in a school district authorized by law to furnish transportation.

(B) A student must live one and one-half (1 1/2) miles or more by commonly traveled road from the school attended. Students living less than one and one-half (1 1/2) miles from school may be transported, but shall not be counted in determining state aid.

(C) A normal school day consists of not less than six (6) hours, exclusive of lunch period, with

the exception of the first and kindergarten grades. Transportation may be provided for kindergarten age students to and from school during the normally scheduled morning and evening bus operation. Districts desiring to provide additional transportation for kindergarten students at midday may do so at local district expense but it is not required.

(D) The local school district is responsible for providing transportation for an eligible special education student when transportation has been identified as "related service" necessary to enable the student to receive the educational services outlined in his/her Individualized Education Program (IEP).

(2) **Transfers.** Out-of-District transfers are governed by the following:

(A) Students living in a school district not offering the grade which they are entitled to pursue are entitled to transportation to a school authorized by law to provide transportation to and from school provided they have been legally transferred and reside in the transportation area.

(B) Students may be transferred from one district to another when their grade is taught in the home school if such transfer has the approval of the boards of education of the sending and receiving districts, provided, however, if the grade is not offered the transfer must be approved.

(C) A legally transferred or tuition student residing outside a transporting district's approved area may be transported to and attend the transporting school, provided she/he meets and boards the bus of the transporting school within the area approved for that school by the State Board of Education. When a bus stop is located in an area that may be considered hazardous, the boards of education of the school districts involved may concur and request the State Board of Education to approve an area outside the transporting district's area for the current school year.

(D) Tuition students may not be counted for the transportation reimbursement.

(E) School District "A" may provide transportation for its resident or transferred children outside its transportation area into School District "B" transportation area for tuition children attending School District "B's" Area Vocational Technical School or Center if requested by School District "A's" Board of Education and approved by the State Board of Education. School District "A" will not receive state aid funds for transporting tuition pupils.

(F) Provided further, School District "A" may provide transportation for a neighboring school district's tuition pupils who attend School District "B's" Area Vocational Technical School or Center on a cooperative basis.

(d) **Activities.**

(1) **Purpose.** The use of school buses for purposes other than the transportation of children to and from school should be strictly limited. Nevertheless, there are some purposes which necessitate transporting pupils some distance from schools that justify the use of a school bus. A school bus used for auxiliary purposes should be driven by its regular operator, who should be cautioned against over-crowding and speeding. The bus should be accompanied by an appropriately designated school official. School buses whether privately or publicly owned shall not be used to haul livestock, commodities, or anything that will render them unsuitable for student use.

(2) **Uses.** A district-owned bus (or a school bus with district-owned body) may be used:

(A) For group movements within the State, for participants to and from contests, athletic games, or other school functions under the direct auspices of the board of education.

(B) The following uses of school buses are approved by State Board of Education:

(i) Activity trips for children participating in regularly scheduled school activities within the State.

(ii) Activity trips for children participating in educational contests and activities with neighboring out-of-state schools for normally scheduled inter-school functions.

(iii) FFA and FHA trips in the State for children participating in regularly scheduled activities.

(iv) 4-H trips in the State, for children in regularly scheduled activities, if under the supervision of a member of the local school faculty.

(v) Transportation for school children participating in educational contests and activities outside the State of Oklahoma or outside the districts in which they reside upon request therefore by the State Director of Cooperative Extension Work in Agriculture and Home Economics (Service), or the State Director of Vocational Education, or the State Supervisor of Vocational Agriculture.

(vi) Trips, in State, for purposes connected with summer youth activities, upon approval of the school board governing said school district.

(vii) Transportation for adults enrolled in adult and community education class.

(viii) Other uses for adult community education activities as approved by the local board of education as defined in 70 O.S. § 1883. The local school district may charge a reasonable fee for the use of such transportation equipment.

(C) The following uses of school buses are prohibited:

(i) Out-of-state excursions.

(ii) Transportation for pupils to and from night programs, contests, athletic games, or other school functions at the local schools.

(iii) Transportation for adults to and from programs, contests, athletic games, or other non-supervised school functions.

(iv) Transportation for nonparticipating pupils to and from contests, athletic games, or other school functions.

(v) Any Oklahoma school district which transports pupils in a district-owned bus or a district-owned body on out-of-state excursions, or permits it to be done, shall be violating the transportation regulations of the State Board of Education and shall forfeit its State Aid for the time of noncompliance.

(e) **Routes and boundaries.**

(1) **Routes.**

(A) The beginning of the route shall be the place where the first student is picked up on the morning trip.

(B) The length of the route shall constitute the entire distance from where the first student is picked up to the school facility.

(C) Route numbers shall be assigned on the basis of the number of vehicles operated. If any vehicle operates two routes, the first trip in the morning shall be distinguished by the addition of the letter "A" and the second trip by the addition of the letter "B". Thus, vehicle number one (1) might operate route "1-A" and "1-B".

(D) Geographical barriers whose location in a school district would inhibit the school district from consolidation or annexation shall be defined as rivers, mountains, lakes, forests, wildlife refuges, turnpikes and federal reservations or plants.

(E) School districts having geographical barriers whose location in the school district would inhibit the district from consolidation or annexation may make application for additional square miles for the purpose of calculations used for the weighted district sparsity-isolation formula. A school district may make a written application to the State Aid Section of the State Department of Education. Such application shall state that consolidation or annexation has been considered and the geographical barriers inhibit action. Recommendation will be presented to the State Board of Education to determine if school district qualifies for additional square miles to be used for the purpose of calculating the weighted district sparsity-isolation factor.

(2) **Boundaries.**

(A) A change in transportation area made after July 1, will not become effective until the next July 1, unless all boards of education affected agree to the proposed change.

(B) An elementary area that has been assigned to a high school transportation area may be changed to another high school transportation area by mutual agreement, in writing, by the three (3) boards of education affected and the approval of the State Board of Education.

(C) A part or all of an elementary school district that is isolated from the remainder of the school district's transportation area because of topography or previous annexations to another high school district, may be changed from one high school district's transportation area to another high school district's transportation area if the State Board of Education determines the change should be made on the basis of good administration.

(D) When a dependent school district is surrounded by an independent school district, that district must be designated as the transportation area for the high school students.

(E) No independent school district's route may extend into another independent school district's territory.

(F) An independent school district's transportation route may extend into a dependent school district's territory to pick up students whose grade is not offered in the dependent district, if the area is within its transportation area.

(G) Upon mutual agreement of two (2) school districts, a school district may cross a portion of another district provided the doors of the school bus are kept closed.

(3) **Routes inside transportation area.**

(A) Insofar as possible, buses will be approved to go within one-half (1/2) mile of a pupil's home. School buses may operate nearer than one-half (1/2) mile of the home of any child whose residence is not within one and one-half (1 1/2) miles of the school attended by such child if the board of education of the school district in whose transportation area the child resides determines that the additional transportation operation should be provided.

(B) In districts where buses are owned by school district, the buses should be kept at the closest possible place to the beginning of the route.

(C) An elementary school district that has been authorized to provide transportation may transport transferred children in their district from one high school district's transportation area to another high school district's transportation area, if the transportation is approved by the State Board of Education.

(4) **Changes After Bus Routes Have Been Approved.**

(A) Further changes in school bus routes may be made only by:

(i) Submitting statement of request by the local board of education.

(ii) Submitting statement signed by the County Commissioner showing willingness to include the proposed change in the county road program.

(iii) Approval by the State Board of Education.

(B) Changing routes that do not require a request:

(i) Driver moves to a new home in the district's transportation area.

(ii) Change will shorten route.

(iii) Backtracking within the area to serve children living in the district's transportation area or to safeguard the health of a child.

(iv) School districts near federal-impact areas that are required to operate school buses over roads that carry an unusually heavy motoring traffic, shortly before the opening of school of a morning and shortly after school in the afternoon, may reverse a school bus route if, by so doing, it will greatly reduce the traffic hazards for a greater number of the children.

(5) **Petition for changing boundary lines.**

(A) Seventy percent (70%) of the legal voters residing in a district who have children eligible to attend a public school (grades K through 12) or who have children under the age of five (5) may petition the State Board of Education for an election to change any part or all of a district from one transportation area to another.

(B) The State Board of Education will approve a convenient date for an election, supply ballots, and send a representative to assist with the election.

(C) If fifty-one percent (51%) of all such legal voters in the district vote for the change, the election makes a good recommendation to the State Board of Education.

(6) **Changing areas, high school districts discontinued.** High school districts and/or elementary school districts that must be placed in one or more high school transportation area or areas because a high school has been discontinued may be placed in a transportation area or areas on the following basis:

(A) All or part of District "A" may be placed in the transportation area of high school District "B", whose transportation area is not adjacent to District "A", provided high school District "C", which has transportation area that separates District "A" from District "B" transportation area, appears to be in jeopardy of being discontinued itself, and provided the number of people in District "A", who want to be placed in the transportation area of District "B", justifies such an arrangement. People in District "A" requesting these arrangements to enable them to annex to District "B" will be given much more consideration than those desiring to transfer only.

(B) No portion of a school district that is adjacent to a high school district's transportation area, but is separated from the high school area by a natural barrier, will be placed in the high school district's transportation area unless or until there is a road connecting the two (2) areas that is maintained in a manner that will justify the operation of a school bus over the road across the barrier.

(f) **School bus.**

(1) **Equipment.**

(A) Transportation equipment used to transport ten (10) or more public school children at one time shall meet all the minimum standards required for Types A, B, C, and D buses.

(B) Vehicles having a seating capacity of fewer than (10) passengers, excluding the operator, are not required to meet the State minimum standards for school buses.

(2) **School bus inspections.**

(A) A driver shall perform a daily pre-trip safety inspection of the vehicle. The inspection shall include brakes, lights, tires, exhaust system, gauges, windshield wipers, steering and fuel. The driver shall make a daily written report describing the condition of the bus and listing any deficiencies. This report is to remain on file with the local Chief Administrative Officer or designee for a period of ninety (90) days.

(B) A school district shall have each school bus mechanically inspected annually by an ~~approved Department of Public Safety fleet inspector.~~ inspector approved by the Oklahoma State Department of Education.

(C) At least twice during each school year, each pupil who is transported in a school vehicle shall be instructed in safe riding practices, and participate in emergency evacuation drills. This instruction should be conducted during the first two weeks of each semester.

(3) **School bus inspector qualifications.**

(A) Any person licensed to inspect school buses by the Department of Public Safety under the Motor Vehicle Laws of Oklahoma prior to July 1, 2001, may be qualified to perform annual school bus inspections.

(B) Any person not meeting the qualifications as prescribed in (A) may be qualified to perform the annual school bus inspection by submitting proof to the Oklahoma State Department of Education that they meet the following qualifications:

(i) Two years experience as an automotive technician and certification by the Association for Automotive Service Excellence (ASE), or

(ii) Any person qualified to perform inspections under the Federal Motor Carrier Safety Act, appendix G.

(~~3~~4) **Standards and school bus specifications.**

(A) The NATIONAL MINIMUM STANDARDS FOR SCHOOL BUSES applies to school bus construction and equipment. The Oklahoma State Board of Education has accepted the various methods bus manufacturers use to meet the requirements of these standards and all requirements under the Federal Motor Vehicle Safety Standards. (P.L. 89-563) The responsibility for compliance with Federal and State bus specifications rests with dealers and manufacturers.

(B) State Standards in addition to Federal Requirements also apply as follows:

(i) The seller of any used or previously owned school bus shall certify to the local board of education that any such transportation equipment meets

all Oklahoma and National Standards required for the date of its manufacture.

(ii) School buses converted for purposes other than transporting pupils to or from school shall be painted a color other than national school bus yellow with loading lights disconnected.

(iii) A church bus transports persons including school-age children to and from religious services. The words "church bus" in letters not less than eight (8) inches in height shall be contained on the front and rear of the bus. Visual signals shall be used when the vehicle is stopped on the highway receiving or discharging passengers. Church buses used for the purpose of transporting children to and from school shall be painted national school bus yellow.

(iv) A copy of the invoice on all purchases of new chassis and/or bodies shall be submitted to the Transportation Officer of the State Department of Education.

(C) School districts that convert or have converted school buses to Liquefied Petroleum Gas (LPG) shall comply with safety standards prescribed by the National Fire Protection Association, Standard No. 58 (NFPA-58) and the Oklahoma Liquefied Petroleum Gas Administration. In order to insure safe installation and proper maintenance of equipment, all personnel must also meet the following existing requirements of the Oklahoma Liquefied Petroleum Gas Administration: "No person, firm, corporation, association, or other entity shall engage in the manufacturing, assembling, fabrication, installing, or selling of any system, container, or apparatus to be used in this State in or for the transportation, storing, dispensing, or utilization of LPG, nor shall any transporter, distributor, or retailer of LPG store, dispense and/or transport over the highways of this State any LPG for use in this State in any system, container, apparatus, or appliance without having first obtained a permit to do so as provided..."

(g) **Special education.**

(1) **Loading responsibility.** The local school district is responsible for the special education child from the time the student is loaded at the "home curb" until returned and unloaded at the "home curb". The parent or their designee is responsible for "door-to-curb", "curb-to-door", and "street crossing" of the child to the designated loading and unloading point.

(2) **Extended boundaries.** Based upon mutual agreement between two participating school districts, a school district offering special education classes may extend its transportation program to include the transportation of students qualifying for special education in an adjacent school district which does not offer special education classes.

(h) **School bus driver certification.**

(1) **General criteria.**

(A) No board of education shall have authority to enter into any written contract with a school bus driver who does not hold a valid certificate issued by the State Board of Education authorizing said bus driver to operate a school bus.

(B) The State Board of Education requires all public school bus drivers to complete a school bus drivers training course approved by the State Department of Education to obtain a standard certificate.

(C) All school bus drivers must have not less than 20-50 vision (Snellen) in each eye and not less than 20-30 vision (Snellen) with both eyes and a minimum field of vision of 70 degrees horizontal median vision in each eye.

(D) Any person with diabetes requiring insulin by injection shall not be eligible for a school bus certificate.

(E) The use of tobacco by a school bus driver is not permitted during the operation of the bus while hauling pupils. The use of any intoxicating or non-intoxicating alcoholic beverage by the driver eight (8) hours prior to or during the operation of a school bus is strictly prohibited. The use of any controlled dangerous substance seventy-two (72) hours prior to or during the operation of a school bus is strictly prohibited. The possession of any controlled dangerous substance on a school bus is strictly prohibited.

(F) All school bus drivers shall have an annual health certificate signed by a physician licensed by this state filed in the office of the local Chief Administrative Officer or designee attesting that such physician has examined the applicant and that the applicant has no sign or symptoms of ill health, and is otherwise, from the observation of such physician, physically and mentally capable of safely operating a school bus.

(G) Substitute and activity school bus drivers shall meet all the requirements prescribed for regular bus drivers.

(2) **Certificate requirements.**

(A) The Chief Administrative Officer or designee shall certify to the State Department of Education that each applicant submitted for Standard Five-Year Certification:

(i) Is at least 18 years of age.

(ii) Has successfully completed a twenty-five hour special school bus drivers' course approved by the State Department of Education.

(iii) Holds a valid Commercial Drivers license (CDL) appropriate for the type of vehicle driven with the proper endorsements required by the Department of Public Safety.

(iv) Has not been convicted, plead guilty, or nolo contendere to a felony during the last ten years.

(v) Has passed a driving record check, and no certificate shall be issued to any person who, within the preceding three years:

(I) Has had a license suspended or revoked, canceled or withdrawn pursuant to the Implied Consent Laws at 47 O.S. §751 et seq.

(II) Has a conviction for a violation of 47 O.S. §11-902 which includes driving, operating or being in actual physical control of a vehicle while under the influence of alcohol or any intoxicating drug.

(III) Has been convicted or plead guilty to a violation of 47 O.S. §761, operating a motor vehicle while impaired by consumption of alcohol.

(IV) Has been convicted of any municipal violation of driving under the influence of alcohol or drugs or operating a motor vehicle while impaired or being in actual physical control of a motor vehicle while impaired.

(V) Has had four or more traffic violations. (excluding parking violations)

(B) The Chief Administrative Officer or designee shall certify to the State Department of Education that the applicant for an Emergency One-Year School Bus Driver Certificate (Not Renewable).

(i) Is at least 18 years of age.

(ii) Holds a valid Commercial Drivers License with the proper endorsements required by the Department of Public Safety.

(C) Requirements for Renewal of the Standard Five-Year Certificate include:

(i) Every five years, each driver shall have successfully completed Session II of a school bus driver workshop (5 hour refresher course), and or completed 4 hours per year of inservice training approved by the State Department of Education.

(ii) The local Chief Administrative Officer or designee shall certify to the State Department of Education that the applicant meets all requirements for standard certification, [47 O.S. § 15-109]

(iii) Each applicant has a health certificate on file signed by a licensed physician and meets all vision requirements and is not dependent upon insulin by injection,

(iv) Each applicant has not been convicted or plead guilty of a felony in the last ten years, and

(v) A driving record has been checked and meets State Board of Education requirements for certification.

[OAR Docket #03-565; filed 4-3-03]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS

[OAR Docket #03-564]

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The rules are mandated by Senate Bill 595 (July, 2001). The individuals who will be affected by the rule are teachers offering and/or conducting online courses, school board members charged with local policies, vendors providing these courses for a fee, colleges and universities, and consortia offering such courses. There are no fees associated with these rules.
CONTACT PERSON:
Valerie Payne, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 15, 2003:

SUBCHAPTER 21. ALTERNATIVE INSTRUCTIONAL DELIVERY SYSTEMS

210:35-21-2. Alternative instructional delivery systems

(a) **Definitions.** The following words and terms, when used in this section, shall have the following meaning unless the context clearly indicates otherwise:

(1) **"Synchronous instruction"** means the instructor and student's primary interactions are in real time. Regular classroom instruction is synchronous instruction, as well as two-way interactive video. Web-based instruction that requires real-time interaction between student(s) and instructor as the primary format of instruction is also synchronous instruction.

(2) **"Asynchronous instruction"** means instructor and student interaction is not dependent on real time. Asynchronous instruction allows the student to engage in learning activities anywhere at anytime. For instruction to be considered asynchronous, the primary format of instruction does not depend on real-time interaction of the participants.

(3) **"Web-based instruction"** means the use of the World Wide Web as the primary medium of instruction, with a computer serving as the primary tool of instruction. Web-based instruction may be synchronous or asynchronous.

(4) **"Two-way interactive video instruction"** means real-time (synchronous) interaction between student(s) and instructor by means of an electronic medium that provides for both audio (sound) and video (sight) signal. Students and instructors participating in two-way interactive video instruction may both see and hear each other in an approximation of real-time.

(b) **Alternative Instructional Delivery System.** Internet-based instructional programs offered for instructional purposes and/or high school credit shall be approved by and under the supervision of the local board of education where the course is offered. The State Board of Education reserves the right to request information and materials sufficient to evaluate the proposed course(s).

(c) **Local board policy.** ~~Each~~All local school ~~board~~boards in the state of Oklahoma shall adopt policies ~~prior to offering~~regarding Internet-based instructional courses which shall comply with the following guidelines.

(1) Web-based and two-way interactive video instruction shall be viewed as methods by which the public schools within the state can expand their course offerings and access to instructional resources. These new technologies should not be viewed solely as substitutes for direct, face-to-face student and teacher interactions, but as a means of expanding the ability of the local district to bring the world of knowledge to their students.

(2) The local school board shall be the entity granting student credit for completion of courses offered by means of Internet-based instruction. The local school board will assume all responsibility for such course work.

(3) Only students who are regularly enrolled in the school district shall be allowed to enroll in alternative instructional delivery systems courses offered for credit through the local school district.

(4) A district board of education may authorize enrollment on a part-time basis utilizing Internet-based courses for students who have dropped out of school or have been suspended from school provided such student was enrolled at any time in a public school in this state during the previous three (3) school years.

(5) Students enrolled on a full-time basis shall be authorized to enroll in Internet-based courses.

(~~4~~6) The principal or designee of the local school shall evaluate and approve/disapprove all students' requests to participate in courses delivered by means of Internet-based instruction. Only those enrollments approved by such a process shall be eligible for credit granted by the local school district.

(~~5~~7) A certified staff member shall be identified by the local school principal to serve as the building level contact person to assist students enrolling in online courses and serve as a liaison to the online teachers and provider(s).

(~~6~~8) Students earning credit by means of Internet-based instruction shall participate in all assessments required by the Oklahoma School Testing Program. No student shall be allowed to participate in these assessments at a place other than the school site at which the student is enrolled.

(~~7~~9) Courses offered for credit by means of Internet-based instruction shall be aligned with the Priority Academic Student Skills (*PASS*). Districts may also establish additional criteria as a basis for course selection.

(~~8~~10) Oklahoma statute limiting the number of students public school teachers may supervise in each period of instruction and the total number of students allowed daily shall apply to synchronous web-based and two-way interactive video courses. The number of students each instructor may be required to supervise in asynchronous web-based courses shall be established by means of local school board policy.

(~~9~~11) Each teacher of two-way interactive video and web-based courses shall be provided inservice training pertaining to the methodology of instructional delivery and the technical aspects of distance learning.

(~~10~~12) The issues regarding the monitoring of student progress, graded assignments, and testing in Internet-based instruction courses shall be addressed by the local school board policy.

(~~11~~13) The security of individual student data and records shall be addressed by the local school board policy. No individual student data obtained through participation in Internet-based instruction courses shall be used for any purposes other than those that support the instruction of the individual student.

(~~12~~14) District level aggregated data obtained through participation in Internet-based instruction courses shall be addressed by the local school board policy.

(~~13~~15) All federal and state statutes pertaining to student privacy, the posting of images on the World Wide Web, copyright of materials, Federal Communications Commission rules pertaining to the public broadcasting of audio and video, and other such issues shall be addressed by the local school board policy.

(~~14~~16) Prior to the beginning of instruction, cooperating school districts sharing courses by means of two-way interactive video technology shall, by means of contractual agreement, address such issues as the instruction costs, bell schedules, school calendars, student behavior, teacher evaluation, textbooks, class periods, student grades and grading policies, teacher load and instructor employment.

(~~15~~17) Contractual agreements shall be established between the school district and parent(s), or legal guardian, of students participating in alternative instructional delivery system courses prior to the beginning of instruction. These contracts may address such issues as grading criteria, time allotted for course completion, student attendance, and the responsibility for course costs and equipment

(~~16~~18) Instructors of Internet-based courses shall be:

(A) certified in Oklahoma or another state to teach in the content area of the course offered, or;

(B) a faculty member at an accredited institution of higher education, possessing the specific content expertise necessary to teach the course.

(19) Districts shall establish criteria for determining the appropriateness of particular Internet-based courses for individual students prior to student enrollment in such courses.

[OAR Docket #03-564; filed 4-3-03]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION
CHAPTER 1. GENERAL PROVISIONS

[OAR Docket #03-471]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Local Project Funding [NEW]
240:1-5-1. Purpose [NEW]
240:1-5-2. Definitions [NEW]
240:1-5-3. Local Project funding announcement [NEW]
240:1-5-4. Evaluation of local project funding contract applications [NEW]
240:1-5-5. Affidavit of LPF officer [NEW]
240:1-5-6. Serial numbering of local project funding contracts [NEW]
240:1-5-7. Monitoring of local project funding contracts [NEW]
AUTHORITY:
40 O.S. §4-302, Executive Order 98-37, and the Oklahoma Employment Security Commission.
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ANALYSIS:
These new rules will allow for the Workforce Investment Act programs in Oklahoma to more easily and efficiently contract with necessary service providers in the local area where the programs are needed.
CONTACT PERSON:
Melissa Copenhaver, Rulemaking Liaison, or John E. Miley, Deputy General Counsel, 2401 N. Lincoln Boulevard, 5th Floor, Oklahoma City, Oklahoma 73152. Telephone number 405/557-7146, e-mail address Melissa.Copenhaver@oesc.state.ok.us.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. §308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2003:

SUBCHAPTER 5. LOCAL PROJECT FUNDING

240:1-5-1. Purpose

These rules set out the procedures and criteria that will be used to award local project funding contracts by the Oklahoma Employment Security Commission.

240:1-5-2. Definitions

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

"**Commission**" means the Oklahoma Employment Security Commission.

"**Local project funding contract**" means an agreement made pursuant to Executive Order 98-37, not subject to statutory competitive bidding requirements, between a state agency and a local governmental entity or a private entity, or both, in which the state agency agrees to provide funding to accomplish a public purpose. The direct benefits of a local project funding contract shall accrue primarily to a local population rather than the state as a whole.

"**Local Project Administrator**" means the person employed by an entity that is awarded a local project funding contract, or the person employed by an entity that will be the fiscal agent acting on behalf of a group of entities that have collaborated to obtain a local project funding contract. The local project administrator will:

(A) Serve as the point of contact with the Commission;

(B) Submit and attest to the accuracy of all reports; and

(C) Receive payment of all funds and manage the funds.

"**LPF Auditor**" means the employee of the Commission designated by the Executive Director to be responsible for monitoring all local project funding contracts after an award of the contract has been made.

"**LPF Officer**" means the employee of the Commission designated by the Executive Director to be responsible for reviewing all local project funding contract proposals, and who will award contracts to the successful applicants.

240:1-5-3. Local project funding announcement

Each local project funding contract will be announced by press release submitted to 25 newspapers in both metropolitan and rural areas. A paid advertisement will be placed in a newspaper that serves the geographic area where the local project will be located. An announcement will also be printed in the Oklahoma Register. All announcements will be submitted at least 20 days before the deadline for making application to obtain a local project funding contract. Each announcement submitted for publication shall contain the following information:

(1) The Oklahoma Employment Security Commission will be the contracting agency;

(2) A description of the type of projects eligible for local project funding contracts;

(3) A description of the type of persons or entities who are eligible or qualified for the local project funding contract;

(4) A total amount of money available from the agency for the local project funding contract;

(5) The closing date and time for receipt of applications; and

(6) The name, business address, telephone number, fax number, and e-mail address of the person who interested parties may contact for additional information and the name and business address of the person to whom applications must be submitted.

240:1-5-4. Evaluation of local project funding contract applications

(a) The LPF officer will be responsible for evaluating all local project funding contract applications and to award contracts to the successful applicants

(b) Each local project funding contract application will be evaluated on the following criteria, if relevant:

(1) The lowest unit price or overall cost;

(2) The best value;

(3) The experience of the person or entity applying for the contract;

(4) The licenses, certifications, or academic achievement possessed by the applicant;

(5) The past contractual experience between the Commission and the applicant;

(6) The number of employees and the amount of resources the applicant will devote to the project;

(7) The financial condition or capitalization of the person or entity applying for the contract;

(8) Demonstrated ability to complete the project and meet all reporting requirements; and

(9) That the applicant is an equal opportunity employer.

240:1-5-5. Affidavit of LPF officer

The LPF officer shall be responsible for submitting an affidavit to the Director of the Office of State Finance certifying that the award of the local project funding contract met all criteria set forth in these rules, as well as filing all other documentation required for the Office of State Finance to encumber the necessary funds and pay the local project funding contract.

240:1-5-6. Serial numbering of local project funding contracts

Each local project funding contract shall be identified by a serial number that will be cited in all correspondence to the contracting parties and the Office of State Finance concerning the local project funding contract. The number shall begin with the agency number for the Commission, followed by the last two digits of the year in which the contract is made, then followed by the number assigned to the contract. The agency number, year, and contract number will be separated by dashes.

240:1-5-7. Monitoring of local project funding contracts

The Commission will be responsible for monitoring all local project funding contracts awarded under these rules. The Commission will have the right to require the local project administrator to submit any reports deemed necessary for the award and administration of the contract, and the local project administrator will allow the LPF Auditor to audit any of its books and records that the auditor deems necessary in order to ensure that the purposes of the contract are being fulfilled and that all laws and rules are being adhered to. The LPF auditor will also have the right to conduct a physical inspection of any facilities or programs that are benefited or impacted by the local project funding contract.

[OAR Docket #03-471; filed 3-26-03]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION
CHAPTER 10. UNEMPLOYMENT INSURANCE PROGRAM

[OAR Docket #03-472]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Benefits

Part 12. Interest Waiver for Benefit Overpayments [NEW]

240:10-3-60. Definitions [NEW]

240:10-3-61. Filing a request for waiver [NEW]

240:10-3-62. Three year limitation, assessment of penalty and accrual of interest [NEW]

240:10-3-63. Request letter [NEW]

240:10-3-64. Initial determination [NEW]
240:10-3-65. Appeal of initial determination [NEW]
240:10-3-66. Jurisdiction and authority of Appeal Tribunal [NEW]
240:10-3-67. Appeal Tribunal hearing [NEW]
240:10-3-68. Appeal [NEW]
240:10-3-69. Waiver to be denied [NEW]
Subchapter 11. Assessment Board Procedure
Part 1. General Provisions
240:10-11-8. Judicial ethics [AMENDED]
Subchapter 13. Appeal Tribunal Procedure
Part 1. General Provisions
240:10-13-5. Jurisdiction [AMENDED]
240:10-13-9. Judicial ethics [AMENDED]

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40 O.S. §§2-615, 2-616, 2-618, and 4-302; and the Oklahoma Employment Security Commission.

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ANALYSIS:
Rules 10-3-60 through 10-3-69 will provide a procedure for claimants to request waivers of interest on benefit overpayment determinations. Rules 10-11-8 and 10-13-9 will change the Code of Judicial Conduct for appellate hearing officers from a general code for administrative law judges promulgated by the American Bar Association to a more specific code for unemployment insurance appeals that is promulgated by the National Association of Unemployment Insurance Appellate Boards. Rule 10-13-5 will modify the jurisdiction of the Appeal Tribunal by allowing for 20 days to appeal benefit overpayment determinations and adding claims for exemptions on wage levies to the items that can be considered by the Appeal Tribunal.

CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. §308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2003:

SUBCHAPTER 3. BENEFITS

PART 12. INTEREST WAIVER FOR BENEFIT OVERPAYMENTS

240:10-3-60. Definitions

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

"Interest" means the interest that accrues in a claimant's overpayment pursuant to 40 O.S. Section 2-613.

"Overpayment" means an unemployment benefit overpayment established pursuant to 40 O.S. Section 2-613.

240:10-3-61. Filing a request for waiver

(a) A claimant who wants a waiver of interest that has accrued in his or her overpayment, must make a request for waiver in writing and file it with the Oklahoma Employment Security Commission.

(b) Filing must be accomplished by mailing or delivering the request document to the Benefit Payment Control Unit of the Oklahoma Employment Security Commission at the following address: Oklahoma Employment Security Commission, Benefit Payment Control Unit, P. O. Box 52925, Oklahoma City, OK 73152-2925.

(c) A request for waiver is deemed filed on the date the request letter is received by the Oklahoma Employment Security Commission.

240:10-3-62. Three year limitation, assessment of penalty and accrual of interest

(a) No interest can be waived if it accrued at a time more than three years before the date of the filing of the request letter.

(b) On appeal, the Appeal Tribunal shall summarily dismiss any request for waiver to the extent that the request pertains to interest that accrued at a time more than three years before the date of the filing of the request letter.

(c) Interest accrues on the principle amount of the overpayment on the first day of each month.

240:10-3-63. Request letter

(a) The request letter prepared by the claimant must contain the following information:

(1) Claimant's name, address and telephone number

(2) Claimant's Social Security number

(3) The time period for which interest is requested to be waived or the amount of interest requested to be waived.

(4) A statement of all reasons the claimant will rely on to explain why interest should be waived

(b) The request letter must be signed by the claimant.

(c) If the claimant is represented by an attorney, the name, address, telephone number and Oklahoma Bar Association number of the attorney must also be included in the request letter.

(d) The claimant must attach to the request letter a copy of all notices, statements, determinations, correspondence, or any other documents relevant to the request for waiver.

240:10-3-64. Initial determination

(a) Upon receipt of the request letter, the Oklahoma Employment Security Commission will make the initial determination regarding whether or not a waiver should be allowed based on the information supplied by the claimant and the records of the Oklahoma Employment Security Commission on the overpayment in question.

(b) The Oklahoma Employment Security Commission will set forth its determination in writing and mail it to the claimant at the claimant's last known address.

240:10-3-65. Appeal of initial determination

(a) In order to appeal the determination of the Oklahoma Employment Security Commission, the claimant must file an appeal letter within 10 days of the date the determination letter was mailed to the claimant pursuant to 40 O.S. Section 2-603.

(b) The appeal letter must contain the following:

(1) The name, address and telephone number of the claimant.

(2) The claimant's Social Security number.

(3) The date of the determination letter issued by the Benefit Payment Control Unit.

(4) Signature of the claimant.

(c) The appeal must be filed by mailing or delivering the appeal letter to the Oklahoma Employment Security Commission at the address set forth in the determination letter.

(d) An appeal is deemed filed on the date the appeal letter is postmarked, or, if hand delivered, the date it is received by the Commission.

(e) If any claimant fails to file his or her appeal letter within the 10 days provided for in subsection (a) of this section, then the determination of the Oklahoma Employment Security Commission shall be final, and no appeal shall thereafter be allowed.

240:10-3-66. Jurisdiction and authority of Appeal Tribunal

(a) The Appeal Tribunal of the Oklahoma Employment Security Commission shall have jurisdiction to hear all cases involving the appeals of determinations regarding claimant's requests for waiver of interest.

(b) The Appeal Tribunal shall have complete authority and discretion to determine whether any part or all of the interest at issue should be waived.

240:10-3-67. Appeal Tribunal hearing

After the claimant's appeal has been filed, a hearing will be set before the Appeal Tribunal to allow the claimant and the Commission an opportunity to present their arguments for or against the waiver. The notice of the hearing and the procedure regarding the conduct of the hearing shall be in accordance with, and governed by, the Oklahoma Employment Security Commission rules concerning Appeal Tribunal procedure found in OAC 240:10-13.

240:10-3-68. Appeal

Appeal of the decision of the Appeal Tribunal shall be governed by the Oklahoma Employment Security Commission rules found in Part 11 of OAC 240:10-13 and by the appeal provisions of the Employment Security Act of 1980 found at 40 O.S. Sections 2-605 through 2-609.

240:10-3-69. Waiver to be denied

A waiver of interest will not be granted if it is determined that the claimant received an overpayment of benefits through fraud.

SUBCHAPTER 11. ASSESSMENT BOARD PROCEDURE

PART 1. GENERAL PROVISIONS

240:10-11-8. Judicial ethics

The hearing officers that conduct Assessment Board hearings shall be governed at all stages of the administrative decision making process by the canons of *The Model Code of Judicial Conduct for State* ~~*Administrative Law Judges*~~ *Unemployment Insurance Appeals Officers*, established by the ~~American Bar Association~~ National Association of Unemployment Insurance Appellate Boards.

SUBCHAPTER 13. APPEAL TRIBUNAL PROCEDURE

PART 1. GENERAL PROVISIONS

240:10-13-5. Jurisdiction

Pursuant to provisions of 40 O.S. Section 2-602, the Appeal Tribunal is empowered to decide an appeal from determinations of the Commission and/or its representatives. Pursuant to 40 O.S. Section 2-603, ~~An~~ an appeal from a determination by the Commission must be filed within ten (10) days from the date of mailing by the Commission. Pursuant to 40 O.S. Section 2-616, an appeal from a determination of the Commission that a benefit overpayment occurred under 40 O.S. Section 2-613(1) or (2), must be filed within twenty (20) days from the date of mailing by the Commission. If not timely filed, the Appeal Tribunal is without jurisdiction, unless good cause for late filing is found by the Appeal Tribunal. Claims for exemption and any other matters relating to an income levy issued pursuant to 40 O.S. Section 2-618 must be filed within ten (10) days of the service of the notice of levy on the debtor's employer or bank.

240:10-13-9. Judicial ethics

The hearing officers that conduct Appeal Tribunal hearings shall be governed at all stages of the administrative decision making process by the canons of *The Model Code*

of Judicial Conduct for State ~~Administrative Law Judges~~ Unemployment Insurance Appeals Officers, established by the ~~American Bar Association~~ National Association of Unemployment Insurance Appellate Boards.

[OAR Docket #03-472; filed 3-26-03]

TITLE 318. HIGHWAY CONSTRUCTION MATERIALS TECHNICIAN CERTIFICATION BOARD CHAPTER 10. EXAMINATION AND CERTIFICATION

[OAR Docket #03-568]

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RULES:
318:10-1-3. Areas of Certification [AMENDED]
318:10-1-4. Examination Criteria [AMENDED]
318:10-1-6. Re-certification [AMENDED]
318:10-1-7. Temporary Certification [AMENDED]
318:10-1-8. Continuing Training Requirements [AMENDED]
318:10-1-10. Grounds for Discipline [AMENDED]
318:10-1-11. Fees [AMENDED]
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ANALYSIS:
The Oklahoma Highway Construction Materials Technician Registration Act (69 O.S. Section 1953) effective on July 1, 1999 created a new board for the purpose of administering a training and certification program for technicians involved in sampling and/or testing highway construction materials. Rules covering these efforts were finally adopted on May 5, 2000. Experience gained during the first year of operation necessitated changes in the areas of Certification, Continuing Education and Fees. Rules covering these changes were finally adopted on April 11, 2001. They were minor in nature. Experience gained during the second year of operation necessitated additional changes in the Rules. Except for one, these changes are also minor in nature. The exception is in 318:10-1-10, Grounds for Discipline. This Rule now includes incompetence as grounds for discipline. In extreme cases, the discipline could include suspension or revocation of certification.

CONTACT PERSON:
Reynolds Toney or Scott Seiter, Materials Division, Oklahoma Department of Transportation, 200 N.E. 21st Street, Oklahoma City, Oklahoma 73105-3204, Phone 405-521-2677.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A) WITH AN EFFECTIVE DATE OF MAY 12, 2003:

318:10-1-3. Areas of Certification

(a) Applicants may apply for certification in various areas of construction material sampling and testing. Applicants may seek certification in one or more areas.
(b) The Board may offer training to applicants in the areas of certification. Applicants may attend the training in preparation for the certification examination(s).
(c) Prior to obtaining certification in concrete, soil, or asphalt, applicants shall achieve a passing score on a written ~~and/or~~ and practical examination in aggregates as prescribed by the Board.

318:10-1-4. Examination Criteria

(a) Applicants shall achieve passing scores on both written and practical examinations prescribed by the Board. On the written examination, a passing score shall consist of a minimum score of seventy percent (70%) on each section and a minimum average score of eighty percent (80%) on all sections combined. On the practical examination, a passing score shall consist of successful completion of a series of sampling and testing procedures.
(b) Examinations shall be administered by the Board or an evaluator approved by the Board. Evaluators shall be construction materials technicians or persons approved by the Board to administer examinations.
(c) Applicants failing to achieve a passing score on the written examination may retake the examinations one (1) time within thirty (30) days after notification of the failing score. Applicants failing to achieve a passing score on the subsequent written examination shall not be considered for certification until re-satisfying all certification requirements ~~at least sixty (60) days after notification of the subsequent failing score~~.
(d) Applicants failing to achieve a passing score on the practical examination shall not be considered for certification.

318:10-1-6. Re-Certification

(a) ~~Construction materials technicians seeking re-certification shall complete all continuing training requirements, achieve passing scores on all re-certification examinations, and pay all applicable fees prescribed by the Board.~~ Requirements for re-certification are the same as for original certification.
(b) Construction materials technicians may complete all re-certification requirements within one (1) year prior to the expiration of the current certification period. Recertification will become effective on the expiration date of the current certification period.

318:10-1-7. Temporary Certification

(a) The Program Director may grant temporary certification to ~~applicants seeking certification by reciprocity or~~ construction materials technicians failing to complete all applicable re-certification requirements prior to certification expiration.

(b) In order to receive a temporary certification, an applicant must (1) furnish adequate documented evidence of qualifying experience and/or education, (2) achieve a passing score on a written examination, and (3) enroll in and make full payment for the next available certification module.

(c) Temporary certifications shall expire ~~in ninety (90) days or after the Board's next regular meeting, whichever occurs last.~~ on the date of the next available certification module.

318:10-1-8. Continuing Training Requirements

(a) Construction materials technicians shall maintain sufficient levels of technical competency in their respective areas of certification. The Board may require construction materials technicians to successfully complete no more than ten (10) hours of continuing training per year in each certification area. Successful completion of continuing training shall be evidenced by achieving a passing score on a written and/or practical examination prescribed by the Board. Failure to successfully complete the continuing training may be deemed ~~gross negligence subject to~~ grounds for Board discipline.

(b) Continuing training shall be provided by the Board or providers approved by the Board.

(c) Construction materials technicians who fail to comply with the continuing training requirement may petition the Board for partial or complete relief upon showing of hardship. The hardship petition should be filed prior to the expiration of certification, but the Board, at its discretion, may accept petitions filed after the expiration of certification.

318:10-1-10. Grounds for Discipline

(a) The Board may revoke, suspend, reprimand, or otherwise sanction a construction materials technician upon clear and convincing evidence of the following:

~~(1) "Gross Negligence" which shall mean a construction materials technician's intentional failure to use due diligence in sampling or testing procedures, or to clearly, accurately, and completely sample or test in accordance with recognized professional codes or governmental regulations.~~

~~(2) "Misconduct" which shall mean a construction materials technician's false or misleading statements or claims contained in laboratory sampling or testing results, false or misleading statements or claims concerning professional qualifications or areas of certification, plea of guilty or nolo contendere to a felony or drug related offense, effort to bribe or improperly influence a prospective client, failure to cooperate with a Board investigation, failure to disclose a professional conflict of interest, or failure to comply with recognized professional codes or governmental regulations.~~

(1) "Gross negligence" which shall mean a construction materials technician's willful, intentional, or bad faith failure to use due diligence in the performance of the duties of a construction materials technician; or

(2) "Misconduct" which shall include a construction materials technician's following acts or omissions:

(A) Making false or misleading statements or claims contained in laboratory samplings or testing results;

(B) Making false or misleading statements or claims concerning professional qualifications or areas of certification;

(C) Conviction of or pleading guilty or nolo contendere to a felony or drug-related offense;

(D) Attempting to bribe or improperly influence an existing or prospective client;

(E) Failure to comply with recognized professional codes or governmental regulations;

(F) Acting in a negligent or incompetent manner in the performance of duties of a construction materials technician;

(G) Practice or other behavior that demonstrates a manifest incapacity or incompetence to hold certification;

(H) Aiding or abetting an uncertified person to act as a construction materials technician;

(I) Accepting an assignment when it is contingent upon reporting a predetermined analysis, opinion, or conclusion or where employment or the fee paid is contingent upon the analysis, opinion, or conclusion of the construction materials technician;

(J) Failure to disclose a professional conflict of interest;

(K) Use or abuse of alcohol or of a habit-forming drug or chemical which impairs the ability of the construction materials technician to act in that capacity in a diligent and competent manner;

(L) Failure to furnish the Board, its staff, or authorized agents information legally requested or failure to cooperate with a lawful investigation conducted by or on behalf of the Board; or

(M) Continued practice as a construction materials technician after expiration of certification.

(b) The Board may apply to the district court for any relief not otherwise provided for by the Administrative Procedures Act.

318:10-1-11. Fees

(a) Applicants shall pay the following training fees (when applicable):

(1) Five-Day Training in Soils, Aggregates, Asphalt Materials, Concrete Materials, Asphalt Construction, or Concrete Construction: $400.00 each

(2) Three-Day Training in Statistics: $450.00 each

(3) Fees for new or modified training modules will be based on a rate of $80.00 per day.

(b) Applicants shall pay the following certification fees (when applicable):

(1) ~~Original~~ Three-Day Certification Examinations in Sampling and Testing of-Asphalt: $975.00 each

(2) ~~Original~~ Two-Day Certification Examinations in Sampling and Testing of Soils ~~or Concrete~~: $650.00

(3) One-Day Certification Examinations in Sampling and Testing of Concrete: $325.00

(~~3~~4) ~~Original~~ One-Day Certification Examinations in Sampling and Testing of Aggregates: $325.00

(~~4~~5) ~~Original Two~~ One-Day Certification Examinations in Profilograph Operation: $375.00

(~~5~~6) ~~Original Two~~ One-Day Certification Examinations to Supplement American Concrete Institute Certification: $325.00 ~~650.00 (less American Concrete Institute Fee)~~

(~~6~~7) ~~Original Two~~ Three-Day Certification Examination in Field Testing of Concrete and Sampling of Soils, Aggregates, Asphalt, and Concrete: $975.00 ~~650.00.~~

(~~7~~8) ~~Original~~ One-Day Certification Examinations in Sampling Only of Asphalt: $325.00

(~~8~~9) Re-Certification Examination: Same as the Applicable ~~Original~~ Certification Fee

(~~9~~10) Temporary Certification: ~~$100.00~~ Same as applicable certification fee (to be applied toward full certification fee if applicant is certified ~~within ninety (90) days~~ at the next available certification module.)

(~~10~~11) Fees for applicants seeking certification through reciprocity shall be one-half ($\frac{1}{2}$) the applicable certification examination fee(s).

(~~11~~12) Fees for new or modified certifications will be based on a rate of $325.00 per day.

(c) Administrative Fee for returned checks: $25.00

(d) Duplicate certificate fee: $15.00

[OAR Docket #03-568; filed 4-3-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 1. FUNCTION AND STRUCTURE OF THE DEPARTMENT

[OAR Docket #03-488]

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RULES:
Subchapter 1. General Provisions
340:1-1-17. through 340:1-1-18. [AMENDED]
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Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Sections 250.1 - 323 of Title 75 of the Oklahoma Statutes.
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ANALYSIS:
The purpose of the proposed rule revisions is to update and streamline language to reflect current usage and eliminate unnecessary language. The rule revisions improve readability and correct scrivener's errors.
CONTACT PERSON:
Dena Thayer, Programs Manager, Rules and Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2003.

SUBCHAPTER 1. GENERAL PROVISIONS

340:1-1-17. Organizational structure

(a) **Commission for Human Services (Commission).** The Oklahoma Department of Human Services (~~DHS~~ OKDHS) is ~~under the control of~~ governed by a nine-member Commission ~~for Human Services~~. Each Commissioner is appointed by the Governor of Oklahoma to serve a nine-year term. The Commission selects a Director of Human Services (Director) who is responsible for oversight of ~~the Agency~~ OKDHS.

(b) **Organizational chart.** ~~The Department~~ OKDHS is organized as the Director and Commission deem desirable to carry out the ~~Agency's~~ OKDHS mission. Organizational charts are available upon request to the Office of ~~Administration~~ Administrative Services.

(c) **Offices and ~~Divisions~~ divisions within the ~~Department~~ OKDHS.** The functions of the ~~Offices~~ offices and ~~Divisions~~ divisions within ~~the Department~~ OKDHS are outlined in this subsection.

(1) **Office of ~~Administration~~ Administrative Services.** The ~~Chief Administrative Officer~~ chief administrative officer serves as coordinator of the ~~Administrative Divisions~~ administrative divisions within ~~DHS~~ OKDHS and provides oversight of ~~certain functions~~ divisions that report directly to the ~~director~~ Director. Administrative ~~Divisions~~ divisions under the Office of ~~Administration~~ Administrative Services are:

(A) Human Resources Management Division (HRMD);

(B) Office Support Services Division (OSSD);

(C) Office of Communications;

(D) Office of Planning, Policy, and Research (OPPR);

(E) Office of Volunteerism;

(F) Office of Information and Referral;

(G) Office of Legislative Relations and Special Projects; and

(H) ~~The~~ the divisions responsible for the functions that report directly to the ~~director~~ Director, which are:

(i) Office of Client Advocacy;

(ii) Office of Inspector General; and

(iii) Office for Civil ~~rights~~ Rights.

(2) **Legal Division.** The ~~General Counsel~~ general counsel serves as the coordinator of the Legal Division and as chief legal counsel to the Commission ~~for Human Services~~ and the Director ~~of Human Services~~.

(3) **Human Services Centers.** The ~~Chief Operating Officer~~ chief operating officer serves as coordinator of services delivered through ~~DHS' 84 local~~ offices in each county. Divisions within the Human Services ~~Center~~ Centers are:

(A) Family Support Services Division (FSSD);

(B) Children and Family Services Division (CFSD); and

(C) Field Operations Division (FOD).

(4) **Information ~~Technology~~ technology.** The ~~Chief Information Officer~~ chief information officer serves as coordinator of the Data Services Division and is responsible for coordination of ~~DHS~~ OKDHS information technology.

(5) **Financial ~~Services~~ services.** The ~~Chief Financial Officer~~ chief financial officer serves as coordinator of the Finance Division and is responsible for the coordination of ~~DHS~~ OKDHS financial services.

(6) **Vertically ~~Integrated Services~~ integrated services.** The ~~Chief Coordinating Officer~~ chief coordinating officer serves as coordinator of program divisions, which have vertically integrated administrations~~,~~. ~~for~~ For example, field staff and programs are under the same administrative structure. Divisions ~~which are~~ included in the vertically integrated services are:

(A) Aging Services Division (ASD);

(B) Division of Child Care (DCC);

(C) Child Support Enforcement Division (CSED); and

(D) Development Disabilities Services Division (DDSD).

340:1-1-18. Strategic planning system

(a) **Strategic planning system.** The ~~DHS~~ Oklahoma Department of Human Services (OKDHS) strategic planning system assists the Director of Human Services (Director) in managing the activities of ~~the Agency~~ OKDHS, particularly in regard to ensuring that the ~~Agency's~~ OKDHS mission is ~~being~~ adequately pursued within the resources available.

(b) **The ~~DHS~~ OKDHS mission describes the purpose of the ~~Agency~~ agency.** The ~~DHS~~ OKDHS mission is to help individuals and families in need help themselves lead safer, healthier, more independent and productive lives. The Commission for Human Services (Commission) approved the mission June 13, 2000.

(c) **The ~~DHS~~ OKDHS values describe the manner in which staff ~~strives~~ strive to work.** The ~~DHS~~ OKDHS values and guiding principles, approved by the Commission ~~for Human Services~~ on June 13, 2000, are ~~included~~ described in (1) ~~-~~ through (3) of this ~~paragraph~~ subsection.

(1) Respect.

(A) We believe in the human dignity of every person and that each person has a purpose for living.

(B) We will treat all people with dignity, promote mutual respect, and maximize the personal potential of each person we serve.

(2) Family.

(A) We believe the family unit is the basic foundation of our society.

(B) We will strengthen each family we serve.

(3) Accountability.

(A) We believe responsible actions enhance all relationships.

(B) We will be fiscally responsible in the administration of public resources.

(d) **The ~~DHS~~ OKDHS vision describes the business direction of the ~~Agency~~ agency.** The ~~DHS~~ OKDHS vision is that by the year 2005, ~~the Department of Human Services~~ OKDHS will have:

(1) an engaged and informed community. DHS will tell the story of improved lives. An informed community will create more productive partnerships. We will promote community values in order to get at root causes, bring public awareness to problems, and change the image of human services. We will change the way the community sees our agency and the way the agency sees itself;

(2) creative solutions to complex challenges. "The way we've always done it" will not suffice in today's world. We will stretch ourselves and our agency to find creative solutions for the challenging issues facing individuals and families. We will demonstrate service, not only to our external clients, but to our internal clients as well; and

(3) a technological advantage. DHS will operate with greater knowledge, efficiency and effectiveness because we have maximized decision-making and communications technology. Relationships will be enhanced - client to agency, agency-to-agency, division-to-division, and person-to-person. We will narrow the digital divide, expanding capabilities and providing clients better service.

(e) **Goals.** Goals are established by the Director ~~for Human Services~~ and approved by the Commission ~~for Human Services~~. ~~DHS~~ OKDHS goals are developed to focus all activities of the ~~Agency~~ agency toward attaining the ~~DHS~~ OKDHS mission, values, and vision. ~~While goals~~ Goals are projected for long-term outcomes~~, they are~~ and reviewed annually by the Director to ensure their continued appropriateness. ~~Indicated~~ Identified changes in the ~~DHS~~ OKDHS goals are submitted to the Commission ~~for Human Services~~ for approval. Outcome measures are identified for each goal and approved by the Director. Targets are set for ~~these~~ critical success measures, which are tracked on a monthly basis.

(f) **Business plan.** Annually, each division is responsible for developing and submitting, with its proposed budget, a

business plan from which the ~~Agency~~ OKDHS business plan is developed.

(g) **Office of Planning, Policy, and Research (OPPR).** Annually, ~~the Office of Planning, Policy and Research~~ OPPR is responsible for coordinating and updating the ~~Agency~~ OKDHS business plan.

(h) **Key indicators.** Key ~~Indicators~~ indicators are performance measures for each ~~DHS~~ OKDHS business function. Each ~~Division head~~ division administrator is responsible for establishing key indicators and setting targets ~~upon~~ against which performance is measured. The Director ~~for the Department of Human Services~~ conducts a quarterly review of key indicator performance.

[OAR Docket #03-488; filed 3-27-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 5. ADULT PROTECTIVE SERVICES

[OAR Docket #03-478]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions [NEW]
340:5-1-1. through 340:5-1-8. [NEW]
Subchapter 3. Reports of Maltreatment of Vulnerable Adults [NEW]
340:5-3-1. through 340:5-3-6. [NEW]
Subchapter 5. Investigation of Adult Protective Services Referrals [NEW]
340:5-5-1. through 340:5-5-7. [NEW]
Subchapter 7. Long Term Care Investigations Section [NEW]
340:5-7-1. [NEW]
(Reference APA WF # 02-39)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Sections 10-101 through 10-111 of Title 43A of the Oklahoma Statutes.
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N/A

ANALYSIS:
The purpose of the new rules is to issue Chapter 5 for the Adult Protective Services (APS) Program, to replace revoked 340:105-3-1 through 340:105-3-3 and 340:105-3-20 through 340:105-3-37. The responsibility for administering this program was transferred from the Aging Services Division to the Family Support Services Division in an organizational restructuring. In addition to moving APS rules to a new location in Chapter 5, revisions were made to existing rules. 340:5-1-1 is issued to describe APS program goals. 340:5-1-2 is issued to describe principles of APS. 340:5-1-3 is issued to describe APS program coordination. 340:5-1-4 is issued to describe ethical considerations. 340:5-1-5 is issued to describe confidentiality rules for the APS program. 340:5-1-6 is issued to provide definitions used in the APS program. 340:5-1-7 is issued to provide the APS legal base. 340:5-1-8 is issued to provide rules for handling complaints concerning the APS program. 340:5-3-1 is issued to describe rules associated with reporting a need for protective services. 340:5-3-2 is issued to describe the abuse hot line. 340:5-3-3 is issued to describe rules associated with reports received by the county office. 340:5-3-4 is issued to describe rules associated with reports under the jurisdiction of agencies other than local APS. 340:5-3-5 is issued to describe requirements for reports with multiple jurisdictions. 340:5-3-6 is issued to describe screening procedures for reports. 340:5-5-1 is issued to describe the statutory authority for APS. 340:5-5-2 is issued to describe rules for initiating investigations. 340:5-5-3 is issued to describe elements of an APS investigation. 340:5-5-4 is issued to describe special considerations during APS investigations. 340:5-5-5 is issued to describe rules for documentation of APS cases. 340:5-5-6 is issued to describe rules for the provision of protective services to APS clients. 340:5-5-7 is issued to describe rules for the termination of APS. 340:5-7-1 is issued to describe rules for handling APS reports submitted to the Long Term Care Investigations Section.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2003.

SUBCHAPTER 1. GENERAL PROVISIONS

340:5-1-1. Program goals

The Adult Protective Services program (APS) is for vulnerable adults who are reported to be unable to care for themselves and their needs and are reported to be suffering from abuse, neglect, self-neglect, exploitation, or verbal abuse. A protective services investigation is initiated when a referral is received. Whenever possible, protective service plans are developed with the knowledge and approval of the adult victim. When it is determined that provision of services without consent is necessary to protect the life and well-being of an adult, such action is taken only with careful consideration of the effect on the adult's sense of autonomy. The goals of the APS program are to:

(1) reestablish and maintain a stable level of functioning approaching the maximum potential of the vulnerable adult victim of abuse, neglect, self-neglect, exploitation, sexual exploitation, or verbal abuse;

(2) reestablish and maintain the vulnerable adult's family and community relationships;

(3) assist the vulnerable adult to remain in the community as long as possible;

(4) ensure that the adult who lacks the capacity to consent receives involuntary services that are ordered by the court; and

(5) assist the adult in obtaining appropriate institutional care if no less restrictive services are available.

340:5-1-2. Principles of APS

(a) The vulnerable adult alleged to need protective services is the client of the Oklahoma Department of Human Services. While outcomes desired by the person who reported the situation, family members, or other caretakers of the client will be considered during the investigative process, the focus of Adult Protective Services (APS) intervention is the client.

(b) The right to self-determination is primary to APS. Intervention is approached with sensitivity to the adult's perception of his or her situation and wishes. An objective assessment of the circumstances and need for continued involvement is made by the APS specialist.

(c) Service planning focuses on services which meet the needs of the vulnerable adult in the least intrusive and least restrictive manner.

340:5-1-3. Program coordination

Family Support Services Division, Adult Protective Services (APS) Unit, has responsibility for program planning, staff training, technical assistance, quality assurance, and policy development. Field Operations Division, APS field liaisons, assist in this process by providing local support for APS staff. The APS program is implemented in the field through APS specialists in local Oklahoma Department of Human Services offices.

340:5-1-4. Ethical considerations

The Adult Protective Services (APS) specialist has ethical responsibilities according to Section 10-109a of Title 43A of the Oklahoma Statutes. The APS specialist maintains professional objectivity when providing or arranging services for vulnerable adults, whether services are paid for by the vulnerable adult or from private or public funds.

(1) The APS specialist must not:

(A) handle the client's personal resources, such as bank accounts, cash, checks, notes, mortgages, trusts, deeds, sales contracts, stocks, bonds, certificates, or other liquid assets without prior approval of the supervisor;

(B) obtain or initiate repairs, personal services, and other necessary actions to provide health care, food, or shelter to or on behalf of a vulnerable adult without prior supervisory approval. Prior written approval is not required in emergency situations where immediate action is required to protect the vulnerable adult from imminent harm or significant loss of property but all plans of this nature, along with approval, must be documented in writing in the case record as soon as possible after approval;

(C) solicit, charge, request, or accept a fee, gift, reward, or payment of any kind from individuals or staff for services rendered as a volunteer, intern, or employee;

(D) use contact with the client or any member of the client's support system for personal gain or personal relationships;

(E) after termination of any assignment, make personal contact with a former client or any member of the client's support system or use former contact with a client for personal gain;

(F) buy items from a client;

(G) engage in any employment or business interest that would constitute a conflict of interest or impair the APS specialist's ability to carry out duties in an impartial manner;

(H) give diagnostic medical or legal opinions;

(I) have sexual contact with clients, their relatives, next of kin, or members of their support system; and

(J) make after hours home visits, other than those specifically approved by the supervisor.

(2) The APS specialist contacts the supervisor immediately when the client or the APS specialist is threatened or injured in the course of the investigation.

340:5-1-5. Confidentiality

(a) All records, working papers, and reports related to an Adult Protective Services (APS) investigation are confidential under Section 10-110 of Title 43A of the Oklahoma Statutes, and may be disclosed only by order of the court except under the circumstances described in (b) through (e) of this Section. Representatives of the general public, news media, or agencies not meeting one of the exceptions in (c) of this Section who request details on a specific case may be referred to the county director, area director, Family Support Services Division (FSSD), APS Unit staff, or the Oklahoma Department of Human Services (OKDHS) Public Information Office for a detailed explanation of OKDHS confidentiality rules.

(b) When consulting persons knowledgeable of the circumstances of an alleged victim of abuse, neglect, or exploitation, or when making other contacts as part of the investigation or service planning process, the APS specialist may disclose information necessary to ensure that the client is protected and the client's needs are met.

(c) Certain persons acting in an official capacity with regard to the APS client may review or receive information from the entire case record, including:

(1) a district attorney or employees of the district attorney's office;

(2) the attorney representing the person who is the subject of an involuntary services action;

(3) the attorney for the Oklahoma Disability Law Center, when involved in representing an APS client;

(4) staff of an Oklahoma law enforcement agency or a law enforcement agency of another state, including a state or local Medical Examiner's Office;

(5) staff of another state's APS program;

(6) physical or mental health care professionals involved in the evaluation or treatment of the vulnerable adult; and

(7) OKDHS staff who use the information in carrying out their own responsibilities.

(d) Any agency or person authorized by OKDHS to provide services to a vulnerable adult client may receive a summary of information necessary to secure or provide appropriate care for the client.

(e) The client's caretaker, guardian, and next of kin may receive summaries of information from an APS case record. The information provided is that which is needed based on the purpose for the request for information.

(f) Some information from APS records may be released to employees or contractors of the State for research purposes, upon application to and approval by OKDHS, FSSD, APS Unit. While local OKDHS offices may release statistical information, no specific case information is released for research purposes unless approval is received from FSSD, APS Unit.

340:5-1-6. Definitions

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

"Abuse" means causing or permitting the:

(A) infliction of physical pain, injury, sexual abuse, sexual exploitation, unreasonable restraint or confinement, or mental anguish; or

(B) deprivation of nutrition, clothing, shelter, health care, or other care or services without which serious physical or mental injury is likely to occur to a vulnerable adult by a caretaker or other person providing services to a vulnerable adult;

"Activities of daily living (ADLs)" means basic self-care activities such as toileting, transfer, feeding, bathing, and dressing.

"Adult" means a person aged 18 years of age or older.

"APS specialist" means an Oklahoma Department of Human Services (OKDHS) worker who has successfully completed APS New Worker Academy or is working under the oversight of a more experienced APS specialist.

"Caretaker" means a person who is responsible for the care of or financial management for a vulnerable adult as a result of family relationship or has assumed responsibility for care of a vulnerable adult voluntarily, by contract or by friendship; or who serves as a legally appointed guardian, limited guardian, or conservator.

"Emergency" means a situation in which a vulnerable adult is likely to suffer death or serious physical harm without immediate intervention.

"Evidence" means all documentation, photographs, interviews, observations, objects, and other information collected, observed, or otherwise obtained during the course of an investigation.

"Exploitation" means an unjust or improper use of the person or resources of a vulnerable adult for the profit or advantage of another person through undue influence, coercion, harassment, duress, deception, false representation, or false pretense.

"Guardian" means one of the types of guardianship specified in the Oklahoma Guardianship and Conservatorship Act, Title 30 of the Oklahoma Statutes.

(A) **General guardian.** A general guardian is a person appointed by the court to serve as the guardian of an incapacitated person to ensure that the essential requirements for the health and safety of the person are met, to manage the estate of the person, or both.

(B) **Limited guardian.** A limited guardian is a person appointed by the court to serve as the guardian of a partially incapacitated person and is authorized by the court to exercise only certain powers of a guardian over the person, or estate or financial resources of the person, or both.

(C) **Special guardian.** A special guardian is a person appointed by the court to exercise certain specified powers to alleviate a situation in which there is a threat of serious impairment to the health or safety of an incapacitated or partially incapacitated person, or a situation in which the financial resources of the person will be seriously damaged or dissipated unless immediate action is taken.

"Incapacitated adult" means a vulnerable adult whose ability to receive and evaluate information effectively or to make and to communicate responsible decisions is impaired to such an extent that the person lacks the capacity to manage his or her financial resources or to meet essential requirements for the person's mental or physical health or safety without assistance.

"Indecent exposure" means forcing or requiring a vulnerable adult to:

(A) look upon the body or private parts of another person or upon sexual acts performed in the presence of the vulnerable adult; or

(B) touch or feel the body or private parts of another person.

"Instrumental activities of daily living (IADLs)" means abilities necessary for an adult to function independently in the community, such as preparing meals, using the telephone, driving or arranging for transportation, shopping, and handling finances.

"Maltreatment" means abuse, neglect, self neglect, exploitation, sexual exploitation or verbal abuse.

"Neglect" means:

(A) failure to provide protection for a vulnerable adult who is unable to protect his or her own interest;

(B) failure to provide adequate shelter, nutrition, health care, or clothing; or

(C) causing or permitting harm or the risk of harm to a vulnerable adult through action or inaction, or lack of supervision by a caretaker providing direct services.

"Power of attorney" means authority granted by a legal document authorizing a person or other entity to act for the principal, subject to the extent of the power authorized. The power is revoked upon:

(A) written revocation of the principal;

(B) incapacity of the principal unless it is a durable power of attorney;
(C) death of the principal;
(D) a termination date if specified in the document;
(E) order of the court; and
(F) the appointment of a guardian, in most cases.

"Self neglect" means neglect brought about by a vulnerable adult's own actions or inactions which causes the vulnerable adult to fail to meet the essential requirements for physical or mental health and safety due to the vulnerable adult's lack of awareness, incompetence, or incapacity.

"Services which are necessary to aid an individual to meet essential requirements for mental or physical health and safety" means services which include, but are not limited to the:

(A) identification of adults in need of protective services;
(B) provision of medical care for physical or mental health needs; and
(C) provision of assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards, protection from physical maltreatment, guardianship referral, outreach, and transportation necessary to secure any of such needs. This excludes taking the adult into physical custody without the adult's consent except through proper procedures for the provision of involuntary services.

"Sexual abuse" means:

(A) oral, anal, or vaginal penetration of a vulnerable adult by or through the union with the sexual organ of a caretaker or other person providing services to the vulnerable adult, or the anal or vaginal penetration of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult with any other object;
(B) for the purpose of sexual gratification, the touching, feeling, or observation of the body or private parts of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult; or
(C) indecent exposure by a caretaker or other person providing services to the vulnerable adult.

"Sexual exploitation" means and includes, but is not limited to, a caretaker causing, allowing, permitting, or encouraging a vulnerable adult to engage in prostitution or in lewd, obscene, or pornographic photographing, filming, or depiction of the vulnerable adult as those acts are defined by Oklahoma law.

"Substantiated" means more than 50% of the evidence collected during an APS investigation suggests that maltreatment occurred.

"Temporary guardian" means a person or other entity appointed by the court under Title 43A of the Oklahoma Statutes with authority only to consent on behalf of an incapacitated adult to the provision of protective services determined necessary to remove conditions creating an emergency need and other services approved by the court. A temporary guardian serves in that capacity only until the expiration of the order appointing him or her.

"Unsubstantiated" means evidence found during an APS investigation was insufficient to determine maltreatment occurred.

"Verbal abuse" means the use of words, sounds, or other communication including, but not limited to, gestures, actions, or behaviors, by a caretaker or other person providing services to a vulnerable adult that are likely to cause a reasonable person to experience humiliation, intimidation, fear, shame, or degradation.

"Vulnerable adult" means an adult who, because of physical or mental disability or other impairment, may be subject to maltreatment and is substantially impaired in his or her ability to independently:

(A) provide adequately for his or her own care or custody;
(B) manage his or her property and financial affairs effectively;
(C) meet essential requirements for mental or physical health or safety; or
(D) protect himself or herself from maltreatment without assistance. This determination is not made based on a person's eligibility for disability benefits from any source or on the impairment being permanent, but solely on the adult's reported physical or mental condition at the time an APS referral is made and the APS specialist's assessment of that condition during investigation.

340:5-1-7. Legal base

Sections 10-101 through 10-111 of Title 43A of the Oklahoma Statutes, known as "The Protective Services for Vulnerable Adults Act," requires that the Oklahoma Department of Human Services perform certain activities for the protection of vulnerable adults who are alleged to be abused, neglected, exploited, or verbally abused.

340:5-1-8. Complaints concerning the APS program

Complaints regarding an investigation or the provision of services may be submitted to the Oklahoma Department of Human Services (OKDHS) by telephone or in written form, including email.

(1) For complaints regarding the Adult Protective Services (APS) policy and procedure, a case review is performed by the area APS field liaison. A written response is provided to the complainant within 45 days stating the general findings of the review. No confidential information is included in the letter. A copy of the letter is also sent to the Family Support Services Division (FSSD), APS Unit.
(2) Complaints regarding possible inappropriate treatment by an APS specialist or supervisor are referred to the appropriate county director for appropriate action. The FSSD, APS Unit is available to assist in any case reviews necessary to resolve the complaint.

(3) Complaints regarding involuntary services are handled through the appropriate judicial system. The OKDHS Office of General Counsel may be consulted when these complaints are received.

SUBCHAPTER 3. REPORTS OF MALTREATMENT OF VULNERABLE ADULTS

340:5-3-1. Reporting a need for protective services

(a) **Mandatory requirement to report.** Any person having reasonable cause to believe that a vulnerable adult is suffering from abuse, neglect, or exploitation is mandated by law [Section 10-104.A of Title 43A of Oklahoma Statutes] to make a report to the Oklahoma Department of Human Services (OKDHS), the office of the district attorney in the county in which the suspected incident occurred, or local law enforcement.

(1) State law provides that any person who knowingly and willfully fails to promptly report any abuse, neglect, or exploitation is, upon conviction, guilty of a misdemeanor.

(2) Any person who willfully or recklessly makes a false report or a report without a reasonable basis is liable in a civil suit for any actual damages suffered by any person named in the report and any punitive damages set by the court or jury.

(3) Any person exercising good faith and due care in making a report of alleged abuse, neglect, or exploitation has immunity from any civil or criminal liability that might otherwise be incurred.

(4) Every person in Oklahoma is a mandatory reporter, and select groups who routinely have contact with vulnerable adults are specifically named in Oklahoma statutes, including social workers, physicians, operators of emergency response vehicles, mental health professionals, law enforcement, staff of domestic violence programs, long-term care facility personnel, and other medical professionals.

(b) **Content of the report.** The law requires that the report of alleged abuse, neglect, or exploitation of vulnerable adults include the information in (1) through (3) of this subsection. Additional information which is useful in investigating a report is included on Form APS-1, Adult Protective Services Referral. The minimum information required by law is:

(1) the name and address of the vulnerable adult;

(2) the name and address of the caretaker, if any; and

(3) a description of the situation of the vulnerable adult.

(c) **Obtaining the name of the reporter.** Although the person making the report is not required by law to provide a name, address, or telephone number, such information is helpful in the event the APS specialist has further questions or needs to clarify any points of the complaint.

340:5-3-2. Abuse hotline 1-800-522-3511

The Oklahoma Department of Human Services maintains a statewide, toll free hotline for the purpose of receiving reports of abuse, neglect, or exploitation of children and adults. The hotline operates 24 hours a day, seven days a week. The hotline is staffed by Children and Family Services Division personnel who are trained in Adult Protective Services reporting procedures.

340:5-3-3. Reports received by the county office

The local Oklahoma Department of Human Services office is required to accept all reports alleging maltreatment of a vulnerable adult, including anonymous reports and reports made about an adult residing in a different county.

340:5-3-4. Reports under the jurisdiction of agencies other than local APS

Some reports of alleged maltreatment of vulnerable adults are not investigated by local Adult Protective Services (APS) staff.

(1) **Reports of alleged victims who are residents of Northern Oklahoma Resource Center of Enid (NORCE), the Greer Center, or Southern Oklahoma Resource Center (SORC) of Pauls Valley, or former residents of the Hissom Memorial Center.** Reports which allege a resident of NORCE or SORC has suffered maltreatment by an employee of the facility, as well as reports which allege maltreatment of a former resident of the Hissom Memorial Center by a current caretaker, are referred to the Oklahoma Department of Human Services (OKDHS) Office of Client Advocacy (OCA).

(2) **Alleged victims of maltreatment in hospital settings.** Reports of alleged maltreatment of vulnerable adults who are receiving services in medical hospitals, rehabilitation facilities, or private psychiatric hospitals by staff of the facility are referred to the Oklahoma State Department of Health, Protective Health Services, Medical Facilities Service.

(3) **Alleged victims of maltreatment by staff of the Oklahoma Department of Mental Health and Substance Abuse Services (DMHSAS) and its contracted providers.** Reports of alleged maltreatment of a vulnerable adult by staff of a public or private community mental health agency are referred to the Advocacy Division of DMHSAS. If DMHSAS declines to conduct an investigation, the report may be referred back to the local APS office.

(4) **Reports alleging maltreatment of residents by staff of nursing facilities.** Reports of alleged maltreatment of nursing facility residents are sent to the Family Support Services Division, APS Unit, Long Term Care Investigations Section. These reports are also sent to the Oklahoma State Department of Health, Protective Health Services.

(5) **Reports involving local, state, or federal correctional facilities.** Reports of abuse, neglect, or exploitation of residents by staff of state or federal public hospitals, jails, prisons, or similar facilities are referred to the facility's regulatory department for investigation and to the local district attorney.

(6) **Reports involving deceased alleged victims.** Reports of maltreatment of persons who are already deceased at the time the report is made are not accepted by APS. Reporters are referred to the state or local Office of the Medical Examiner, local law enforcement, or, if the death occurred in a nursing facility, to the Medicaid Fraud Control unit in the Attorney General's office.

340:5-3-5. Multiple jurisdictions

Some reports which are appropriate for Adult Protective Services (APS) intervention are also required to be sent to other agencies.

(1) **Reports which are sent to Oklahoma State Department of Health (OSDH).** Reports alleging maltreatment of vulnerable adults are accepted and screened by APS but are also sent to OSDH, Protective Health Services, for residents of:

(A) residential care facilities;

(B) assisted living facilities; and

(C) nursing facilities when the report is of self-neglect or maltreatment by a person not employed by the facility.

(2) **Reports which are sent to law enforcement.** Reports alleging illegal activity or situations which may be dangerous for an APS specialist are referred to local law enforcement. A referral of this type does not relieve APS of responsibility for assessing the need for protective services in such situations.

(3) **Reports involving substance abusers and persons with a mental illness.** Reports regarding alleged substance abusers or persons with a mental illness are submitted to an APS supervisor for screening and may be appropriate for APS investigation. If upon investigation the APS specialist finds that the client's primary problem is that of substance abuse or dependency, or that the client is in need of mental health treatment, the APS specialist assists the client in obtaining appropriate mental health treatment. The APS specialist may assist law enforcement officers when requested by providing behavioral assessments necessary to obtain involuntary mental health treatment, such as third party affidavits. Oklahoma law gives the Oklahoma Department of Mental Health and Substance Abuse Services (DMHSAS) primary responsibility for the mentally ill and substance abusers. DMHSAS actively treats seriously mentally ill persons until their condition is stabilized. Community mental health centers administered by or under contract to DMHSAS provide recommended aftercare services to patients who are discharged from state mental hospitals.

340:5-3-6. Screening APS reports

(a) **Responsibility for screening reports.** Adult Protective Services (APS) supervisors are responsible for screening reports and either accepting them as APS referrals or classifying them as Information and Referral. When a request is accepted as an APS referral, the supervisor determines whether an emergency response is indicated, whether the referral is employee related, and which APS specialist is assigned the referral.

(b) **Reports involving domestic violence.** APS situations are often forms of domestic violence. Reports received alleging maltreatment of an adult by a spouse or other family or household member, are considered protective services requests if the alleged victim is vulnerable.

(c) **Reports involving OKDHS employees or their families.** Specific procedures are followed when a report of maltreatment is received which involves an employee of the Oklahoma Department of Human Services (OKDHS).

SUBCHAPTER 5. INVESTIGATION OF ADULT PROTECTIVE SERVICES REFERRALS

340:5-5-1. Statutory authority

Section 10-105.A of Title 43A of the Oklahoma Statutes mandates the Oklahoma Department of Human Services to complete a prompt and thorough investigation of Adult Protective Services referrals.

340:5-5-2. Initiating investigations

An Adult Protective Services (APS) investigation is initiated by a visit to the vulnerable adult who is the alleged victim at the adult's home or other place of residence.

(1) **Time frame for initiating investigations.**

(A) Investigations of referrals of maltreatment are initiated as soon as possible within 72 hours of receipt of the referral by the assigned APS specialist.

(B) In the case of an emergency situation when immediate action may be required, the investigation is initiated as soon as possible within four hours of receipt.

(2) **Denial of access to the alleged victim.** If the APS specialist is denied entry into the residence of the alleged victim, or is denied a private interview with the alleged victim, the Oklahoma Department of Human Services may petition the court for an order allowing entry or access.

340:5-5-3. Elements of an investigation

Although the investigation process may vary depending on the initial allegations and other factors, all Adult Protective Services (APS) investigations include paragraphs (1) through (9).

(1) **Notification of local law enforcement.** Local law enforcement is provided notification of all APS referrals assigned for investigation.

(2) **Efforts to locate and notify others.** APS specialists must make every reasonable effort to locate and notify the vulnerable adult's caretaker, guardian, and next of kin.

(3) **Visits to and interviews with the vulnerable adult.** Each APS investigation includes at least one visit and private interview with the vulnerable adult, and may

include as many as are necessary to reach a conclusion and determine what, if any, protective services are needed.

(4) **Consultation with others.** Other people who have or can reasonably be expected to have pertinent knowledge about the alleged victim's circumstances are interviewed during the investigation, including any alleged perpetrator of maltreatment.

(A) This consultation includes medical, psychiatric, or other evaluations as necessary to assist in the determination of a vulnerable adult's decision-making capacity and need for services.

(B) The alleged victim's permission is not required for these contacts.

(5) **Photographs.** The APS specialist may take still photographs or video recordings to document injuries to the vulnerable adult, or conditions in the adult's residential environment which have resulted or may result in an injury or serious harm to the adult.

(6) **Other relevant data.** The APS specialist collects any data relevant to the situation being investigated, including records, to arrive at a finding on the referral. If the APS specialist is denied access to pertinent records, documentation, or other information relevant to the investigation, the Oklahoma Department of Human Services (OKDHS) may petition the court for an order allowing access.

(7) **Determining the adult's decision-making capacity.** OKDHS is mandated by law [Section 10-106.C of Title 43A of Oklahoma Statutes] to determine a vulnerable adult's capacity to consent to receive services, especially with regard to the need for involuntary services. Each investigation includes an evaluation of the vulnerable adult's decision-making capacity.

(A) Information is obtained from medical or psychiatric sources, if available, to assist in the determination. In making this determination, the APS specialist assesses and considers:

(i) the client's short and long term memory;

(ii) the client's ability to plan and execute a plan;

(iii) the client's ability to recognize risk factors;

(iv) denial of problems by client or caretaker;

(v) the client's ability to understand and follow directions;

(vi) indicators of affective disorders such as depression or bipolar disorder; and

(vii) indicators of substance abuse, dementia, delirium, psychosis, traumatic brain injury, uncharacteristic socially inappropriate behaviors, impaired decision-making, and other factors.

(B) The APS specialist's assessment of a client's mental capacity to consent to protective services takes into account the client's awareness of:

(i) the limitations and deficiencies in the physical environment;

(ii) the client's own physical or mental limitations;

(iii) resources available to assist in meeting the client's needs; and

(iv) the consequences to the client if nothing is done to improve the situation.

(C) If a client is deficient in all or most of the areas in (B) of this paragraph, he or she may lack the capacity to consent to protective services and it may be appropriate to petition the district court for an order authorizing the provision of needed services.

(D) If a client expresses awareness of all four areas in (B) of this paragraph, it is likely that the present circumstances are the client's choice, though in some cases a client might express awareness in these areas and still lack the capacity to consent to provision of services.

(E) If a client appears unaware of the consequences of the present situation, and an emergency exists, legal intervention is appropriate.

(8) **Evaluation to determine the need for protective services.** The evaluation consists of the APS specialist's analysis and consultation with the supervisor of all evidence gathered during the initial phases of the investigation. The evaluation includes consideration of whether:

(A) the vulnerable adult needs protective services. If so, the need for protective services is documented in a statement that includes the least restrictive services that will meet the adult's needs;

(B) services that are identified as needed are available through OKDHS or in the community, and the sources and manner in which they can be provided, which will be explored with the vulnerable adult;

(C) whether the vulnerable adult is capable and willing to obtain services for himself or herself;

(D) the vulnerable adult can pay for needed services or is eligible for public assistance programs;

(E) a caretaker or guardian is willing to provide or agree to the provision of needed services; and

(F) the vulnerable adult desires the services.

(9) **Completion of investigation.** The APS specialist determines, within 30 days of receipt of the referral, whether the evidence indicates the referral is substantiated or unsubstantiated based on the definitions of terms in OAC 340:5-1-6.

(10) **Follow-up.** The APS specialist, in consultation with the APS supervisor, is responsible for determining what follow-up is needed in each case investigated.

(A) On unsubstantiated referrals and those which are substantiated but the client has refused services, no follow-up is required. The APS specialist and supervisor may determine whether follow-up is indicated. If follow-up is indicated, supervisory approval of the decision is documented in the case record.

(B) On substantiated referrals in which the client is receiving voluntary services, at least one follow-up visit is made within 60 days after the substantiation decision is reached and services are put in place. The client's circumstances at the time of the follow-up

visit are documented in the case record, including an assessment of risk of further maltreatment.

(i) After the initial follow-up visit, if the service plan is still in place and the client's situation is stable or improving, the case may be closed.

(ii) If the client's situation is deteriorating at any time during the follow-up period, the service plan is reassessed with the client and care providers and appropriate adjustments made. At least one additional follow-up visit is required.

(C) For referrals which resulted in a client receiving involuntary services, a follow-up visit is made at 30 days regardless of whether OKDHS continues to hold temporary guardianship.

(i) If the client's situation is stable or improving after 30 days and OKDHS no longer holds guardianship, the case is closed.

(ii) If OKDHS continues to hold guardianship after 30 days, follow-up visits to the client are required at 30-day intervals for the duration of the temporary guardianship.

(iii) If the client's situation is deteriorating at any time during the follow-up period, the service plan is reassessed and changed as needed with the concurrence of the court.

(iv) Follow-up visits to clients receiving involuntary services may be made as often as needed to comply with APS specialist guardianship responsibilities and to monitor the client's situation.

340:5-5-4. Special considerations during investigations

(a) **Referrals regarding members of Indian tribes.** Referrals are accepted for alleged victims who are tribal members, but as soon as tribal affiliation is known, the Adult Protective Services (APS) specialist determines whether that tribe has an APS program.

(1) If the tribe has an APS program, the referral is made to the tribal authorities, and Oklahoma Department of Human Services (OKDHS) APS staff do not become involved unless their assistance is requested.

(2) If there is no tribal APS program, local OKDHS APS investigates the referral. Voluntary services may be provided or arranged as indicated for a vulnerable adult whether or not the adult resides on tribal land.

(3) If involuntary services are required and the vulnerable adult resides on tribal land, OKDHS cannot petition the district court for an order to provide emergency protective services since the district court has no jurisdiction over tribal land.

(b) **Referrals involving two or more counties.** If a referral involves two or more counties, as when the alleged victim lives in one county and the alleged perpetrator in another, local APS staff in both counties are involved in the investigation.

(c) **Referrals involving Medicaid fraud.** If an APS investigation indicates fraud by a provider receiving Medicaid funds, the Medicaid Fraud Control Unit (MFCU) in the Office of the Attorney General is notified immediately. APS cooperates with any investigation by MFCU. If MFCU declines to investigate, APS completes the investigation and sends a summary report to MFCU upon completion of the investigation.

(d) **Referrals involving individuals and provider agency employees.** APS investigations of maltreatment of vulnerable adults can include all persons in a relationship of caretaker, regardless of organizational affiliation, except those noted in Subchapter 3 of this Chapter. Care providers who may be subject to adult protective services investigation include but are not limited to home health providers, community service workers for persons with developmental disabilities, personal care assistants, adult foster homes, adult day care centers, independent living centers, residential care facilities, and assisted living centers.

(1) These agency investigations include all the elements of an APS investigation, with special emphasis placed on:

(A) interviewing agency staff and other residents or participants who may have knowledge of the reported incident;

(B) obtaining copies of applicable charts and records;

(C) reviewing medication lists and schedules;

(D) taking photographs;

(E) examining habilitation or other care plans;

(F) examining financial records and other money management documentation;

(G) reviewing time schedules and time sheets; and

(H) requesting any other information needed to complete the investigation.

(2) If assistance is needed in assessing medical issues in these cases, involvement of the OKDHS long term care nurse may be requested.

(3) Findings of substantiated referrals of maltreatment by persons who are personal care assistants and community services workers subject to the requirements of the Community Services Worker (CSW) Registry maintained by DDSD pursuant to Section 1025.3 of Title 56 of the Oklahoma Statutes are submitted within three working days to the OKDHS Office of Client Advocacy for consideration of placement of the worker's name on the statewide CSW Registry.

(4) For agency employees who are not subject to the community services worker abuse registry requirements, the agency director or board is notified of any substantiated elements of the investigation. Any corrective action plan on the part of the agency becomes a part of the APS case record. If the agency fails to cooperate in addressing the substantiated elements of the investigation, the licensing agency, any appropriate governing board, and the district attorney's office are notified of the failure to cooperate.

(e) **Referrals alleging exploitation.** Referrals involving exploitation are complex. To assist in handling some of these referrals, the OKDHS Office of the Inspector General OIG) may accept for investigation referrals of exploitation involving large amounts of funds or the need to access complex records

regarding financial transactions. If OIG declines to investigate, the APS specialist completes the investigation Protective services that can be provided in cases of exploitation include:

(1) a change of representative payee;

(2) freezing all assets of the client; and

(3) petitioning the court for an order allowing access to records.

(f) **Persons remanded to OKDHS.** APS no longer receives new remands. APS staff continue to carry open cases on persons previously remanded to OKDHS under Section 1175.6.A.4.a of Title 22 of the Oklahoma Statutes as long as the court order stands.

(g) **Alleged victims receiving services from DDSD.** When a vulnerable adult is receiving or may be eligible for services from Developmental Disabilities Services Division (DDSD), the APS specialist contacts the appropriate DDSD case manager to coordinate activities to enhance the client's safety.

340:5-5-5. Documentation of APS cases

The Adult Protective Services (APS) specialist documents the referral, all interviews, record reviews, other evidence, and findings of all investigations in the APS case.

340:5-5-6. Provision of protective services to APS clients

(a) **Voluntary protective services.** Protective services may be provided on a voluntary basis when a vulnerable adult consents to provision of such services, requests such services, and is willing to allow the Adult Protective Services (APS) specialist to provide or arrange for such services as authorized by Section 10-106 of Title 43A of the Oklahoma Statutes.

(b) **Payment for protective services.** The cost of providing voluntary or involuntary protective services is borne by the client if the APS specialist determines that the person is financially able to make such payment or by any private or public programs for which the vulnerable adult is eligible. If a caretaker controls the person's funds and refuses to pay for necessary services, this may be construed as caretaker interference and is handled as described in OAC 340:5-5-6(d).

(1) **Payment for voluntary services.** If voluntary services are required to meet an emergency need and no other payment source is available, procedures described in OAC 340:5-5-7(c) are followed. In cases where the services are not to meet an emergency need, the APS specialist arranges for voluntary services if:

(A) services can be provided free of charge;

(B) the client has funds and agrees to pay for the services; or

(C) there is a public or private assistance program available to pay for the services.

(2) **Payment for involuntary services.** Payment for involuntary protective services is made from the client's funds only upon order of the court. If payment is required for involuntary services, procedures described in OAC 340:5-5-7(c) are followed if:

(A) no funds are available from the client's assets; and

(B) no private or public payment source is available.

(3) **Payment for emergency protective services.** The Oklahoma Department of Human Services (OKDHS) maintains a limited APS Emergency Fund to be accessed only if specific criteria are met. This fund is used as a short-term measure for crisis situations until other arrangements can be made.

(c) **Non-cooperation of caretaker.** When a vulnerable adult consents to receive protective services but the caretaker refuses to allow the provision of such services, OKDHS may petition the court for an injunction prohibiting the caretaker from interfering with the provision of protective services in accordance with OAC 340:5-5-6(d).

(d) **Petitioning the court - order enjoining caretaker.** When the client's caretaker refuses to allow the provision of protective services to which the client has consented or otherwise interferes in the provision of such services, OKDHS may petition the court for an Order to Enjoin Caretaker.

(e) **Refusal to consent to protective services.** If an vulnerable adult does not consent to the provision of needed services, or withdraws consent after it is given, the APS specialist documents the client's refusal in the case narrative or on Form APS-2, Report of Adult Protective Services Investigation. Services are terminated unless OKDHS determines that the person lacks capacity to consent. In that case, the APS specialist considers action as outlined in OAC 340:5-1-4.

(f) **Involuntary protective services.** Involuntary protective services are authorized by Section 10-107 of Title 43A of the Oklahoma Statutes. If a vulnerable adult is suffering from abuse, neglect, or exploitation which presents a substantial risk of death or immediate and serious physical harm to himself or herself, or significant and unexplained depletion of the adult's estate, but lacks the capacity to consent to receive protective services and no consent can be obtained from anyone acting as caretaker, the services may be ordered by the court on an involuntary basis. The court authorizes provision of specific services that the court finds least restrictive of the rights and liberty of the person involved.

(g) **Petitioning the court - emergency order for involuntary protective services.** OKDHS may petition the court for an order to provide emergency protective services. The petition is made in the county of the client's residence or in a county where any of the protective services are provided.

(1) If an emergency order to provide protective services is issued by the court, the order includes the appointment of a temporary guardian for the person in need of services. The temporary guardian may be either OKDHS or an interested person. The order gives the temporary guardian authority only to consent to the specified protective services on behalf of the person.

(2) The vulnerable adult, the temporary guardian, or any other interested person may petition the court to have the emergency order set aside or modified at any time.

(h) **Notice to recipient.** The court sets a date to hear the case. The hearing is scheduled within five days of the date the judge signs the notice to the recipient of protective services.

The incapacitated adult must receive notice 48 hours in advance of the hearing. Notice may be waived by the court in emergency cases, as described in OAC 340:5-5-6(h)(2).

(1) A court order is issued showing OKDHS has petitioned the court for an order to provide protective services, and giving the date, time, and place of the hearing. The order specifies who serves the notice to the client.

(2) When petitioning the court for an order for emergency protective services, OKDHS may file a motion to waive notice if there is a risk that immediate and reasonably foreseeable death or serious physical harm to the person will result from a delay. This action is authorized by Section 10-108.D of Title 43A of the Oklahoma Statutes. In response, the court may enter a 72-hour verbal order if not during regular court hours or issue a limited order during regular hours and order written notice be served on the client and attorney, if known, of a hearing to be held within that 72-hour period.

(3) If the hearing is declined, the court may either terminate the emergency temporary guardianship or enter a temporary 30-day order to provide involuntary protective services.

(i) **Emergency services - change of residence.** Only protective services that are necessary to remove the conditions immediately threatening the life and well-being of the person are ordered. Protective services which may be authorized by an emergency court order include a change of residence only if the court gives specific approval for such action and names the facility in its order. Emergency placements may be made to nursing homes, personal medical institutions, other home placements, or other appropriate facilities. Emergency placement is not made to facilities for the acutely mentally ill.

(j) **Time limits for providing involuntary emergency protective services.** Protective services under an emergency court order other than a 72-hour order can be provided for 30 days. If the APS specialist determines protective services are required past this 30-day period, a petition is filed for continuation of involuntary protective services in accordance with OAC 340:5-5-6(k).

(k) **Continuation of services.** Continuation of services is authorized by Section 10-108.L of Title 43A of the Oklahoma Statutes.

(1) If, upon expiration of the original 30-day order, the incapacitated adult continues to require protective services, OKDHS immediately files a motion for the court to order either or both:

(A) appointment of a guardian; and

(B) commitment of the incapacitated adult to a nursing home, personal medical institution, a home placement, or other appropriate facility other than a facility for the acutely mentally ill.

(2) Before the court enters a six-month order for continued protective services, the court directs that a comprehensive evaluation of the incapacitated adult is conducted and submitted to the court within 30 days at a review hearing. The evaluation includes at least:

(A) the address where the person is residing and the name of any persons or agencies presently providing care, treatment, or services;

(B) a summary of the professional treatment and services provided the person by OKDHS or other agency, if any, in connection with the problem creating the need for protective services; and

(C) a medical, psychological or psychiatric, and social evaluation and review, including recommendations for or against maintenance of partial legal rights and recommendations for placement consistent with the least restrictive environment required.

(3) The original order continues in effect until the evaluation is submitted and the hearing is held on the motion.

(4) Notice of this hearing is served as described in OAC 340:5-5-6(h).

(5) The APS specialist is responsible for assembling the required information and submitting it to the court of jurisdiction.

(6) When an investigation indicates that the incapacitated adult is likely to need assistance with his or her affairs for an extended period of time, consideration is given to identifying a relative, friend, or other person interested in the well-being of the client to serve as permanent guardian. Any person interested in the welfare of a person believed incapacitated or partially incapacitated may file a guardianship petition with the court. Procedures for filing the petition are given in Section 3-101 of Title 30 of the Oklahoma Statutes, the Oklahoma Guardianship Act. Interested persons are referred to the office of the district court clerk for further information and assistance.

(l) **Continuation of services for an additional period.** If after the hearing the incapacitated adult is found in need of continued protective services, the court issues an order to continue the temporary guardianship to provide specified protective services for an additional period not to exceed six months, as authorized by Section 10-108.L of Title 43A of the Oklahoma Statutes.

(m) **Responsibilities of the temporary guardian of the person or estate.** The APS specialist as temporary guardian is responsible for insuring, to the extent possible, protection of the client residence, resources, and belongings. This includes:

(1) securing the residence, checking and gathering the mail, and feeding or arranging for care for the client's domestic animals or livestock;

(2) inventorying the client's home and personal property, using a video camera where available.

(A) For enhanced accountability a minimum of two people must be present during the inventory, one of whom is a law enforcement representative or other non-OKDHS employee.

(B) All persons present during the inventory must sign a document attesting to the authenticity of the inventory and/or the video recording;

(3) establishing an account at a local financial institution and depositing any cash and uncashed checks; and

(4) securing other valuables located during the inventory. The APS specialist:

(A) arranges to have the locks changed or padlocks the residence to secure it from intrusion, if necessary; and

(B) advises all parties that no one is allowed to enter the residence unless accompanied by a representative of OKDHS, for as long as the temporary guardianship is in effect.

(n) **Additional responsibilities of temporary guardian of the estate.** The APS specialist responsible for the temporary guardianship of the estate:

(1) opens a guardianship account in a local financial institution and regularly collects and deposits monies due to the client;

(2) submits an accounting to the court as ordered by the court, no less than quarterly;

(3) works with the court, the client's attorney, the district attorney, and the OKDHS Legal Division to obtain a professional accountant to manage the estate; and

(4) absent the availability of professional financial management, is responsible for regular financial activities as dictated by the client's circumstances, which include but are not limited to the timely:

(A) payment and documentation of the client's expenses, and other bills as they occur. Cash transactions require documentation of APS supervisory approval and a signed and witnessed receipt from the recipient of the cash;

(B) deposit of funds received;

(C) redirection of incoming funds to the new account; and

(D) protection of existing accounts.

340:5-5-7. Termination of adult protective services

Adult protective services are terminated when the situation that prompted the referral has been remedied and the client's circumstances are stable. Cases for Adult Protective Services (APS) clients for whom the Oklahoma Department of Human Services has a current guardianship or remand are terminated only when the court case is terminated. These cases remain active and follow-up activities are documented as required by OAC 340:5-1-3(11) as long as the court order is in effect.

SUBCHAPTER 7. LONG TERM CARE INVESTIGATIONS SECTION

340:5-7-1. Reports submitted to the LTCI Section

Screening protocols detailed in OAC 340:5-3-5 are followed for reports submitted to the Long Term Care Investigations (LTCI) Section.

[OAR Docket #03-478; filed 3-27-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 10. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

[OAR Docket #03-490]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 2. Temporary Assistance for Needy Families (TANF) Work Program
340:10-2-1. [AMENDED]
340:10-2-3. [AMENDED]
340:10-2-6. through 340:10-2-8. [AMENDED]
Subchapter 3. Conditions Of Eligibility - Need
Part 1. Resources
340:10-3-5. [AMENDED]
340:10-3-10. [AMENDED]
Part 3. Income
340:10-3-26. [AMENDED]
340:10-3-32. [AMENDED]
340:10-3-40. [AMENDED]
Part 5. Assistance Payments
340:10-3-56. [AMENDED]
340:10-3-59. [AMENDED]
Part 7. Transitional Benefits
340:10-3-81. [AMENDED]
Subchapter 10. Conditions of Eligibility - Deprivation
340:10-10-4. through 340:10-10-7. [AMENDED]
Subchapter 14. Conditions of Eligibility - Immunizations
340:10-14-1. [AMENDED]
Subchapter 20. Diversion Assistance
340:10-20-1. [AMENDED]
(Reference APA WF # 02-22, 02-36)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; 56 O.S. 230.50, 56 O.S. 230.52, 56 O.S. 230-55, 56 O.S. 230-56, 56 O.S. 230-60, 56 O.S. 230-62, 56 O.S. 230-63, 56 O.S. 230-64, 56 O.S. 230-65, 56 O.S. 230-66, 56 O.S. 237, 56 O.S. 237-7, 56 O.S. 240-1; the Personal Responsibility and Work Opportunity Act of 1996, Section 234 of the Antiterrorism and Effective Death Penalty Act of 1996 amended Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) (Public Law 107-56 Section 622(a)-(e); and 68 O.S. 2357.43.
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Subchapter 2. Temporary Assistance for Needy Families (TANF) Work Program
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n/a
ANALYSIS:
The purpose of the proposed rules is to revise language which is out-of-date or duplicated elsewhere in 340:10, to change language to reflect current usage and improve readability, eliminate unnecessary language, and clarify existing rules. The proposed rules will facilitate the delivery of benefits and services to Temporary Assistance for Needy Families (TANF) applicants and recipients and prevent errors caused by the lack of clear and concise rules. 340:10-2-1 is revised amending the word recipient to parent(s) or needy caretaker. 340:10-2-3 is revised relocating statements for continuity and clarifying assessment tools utilized to develop feasible employability plans for TANF applicants and recipients. 340:10-2-6 is revised relocating statements for clarity and continuity and eliminating out-of-date and duplicated rules. 340:10-2-7 is revised changing language to reflect current usage. 340:10-2-8 is revised clarifying existing language regarding participation allowances and changing language to reflect current usage. 340:10-3-5 is revised changing language to reflect current usage, amending resource disregards to be consistent with existing rules. 340:10-3-10 is revised eliminating out-of-date rules. 340:10-3-26 is revised changing language to reflect current usage and clarity. 340:10-3-32 is revised clarifying language regarding allowable costs for producing self-employment income. 340:10-3-40 is revised changing language to reflect current usage and to be consistent with existing rules. 340:10-3-56 is revised changing language to reflect current usage and to improve readability. 340:10-3-59 is revised clarifying language to agree with existing rules. 340:10-3-81 is revised changing language to reflect current usage. 340:10-10-4, 340:10-10-5, 340:10-10-6, and 340:10-10-7 are revised eliminating unnecessary language to improve readability, clarifying language to agree with existing rules, and changing language to reflect current usage. 340:10-14-1 is revised amending language to agree with existing rules. 340:10-20-1 is revised amending language to clarify existing rules.
CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2003.

SUBCHAPTER 2. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) WORK PROGRAM

340:10-2-1. Work requirements

All parents or needy caretakers who apply for or receive cash assistance from the State of Oklahoma are required to be engaged in a work activity. The ~~recipient~~ parent(s) or needy caretaker must participate in work activities for the number of hours weekly that are necessary to move that individual into employment and self-sufficiency.

(1) **Minimum hours of work activities.** Minimum hours of work activities for federal reporting purposes differ for single-parent and two-parent families.

(A) All families, which include single parents with children, both adults with deprivation based on incapacity, and all Temporary Assistance for Needy Families (TANF) applicants, are required to participate the minimum hours of work activities:

(i) 20 hours per week for Federal Fiscal Year (FFY) 1997 and 1998;

(ii) 25 hours per week for FFY 1999; and

(iii) 30 hours per week for FFY 2000 and thereafter.

(B) In two-parent families one adult is required to be engaged in work activities at least 35 hours per week and the other adult must meet the all-family requirement listed in subparagraph (A) of this paragraph. If one parent is an ineligible alien the other parent must participate 35 hours a week.

(2) **Work activities.** Work activities are defined as, but are not limited to:

(A) unsubsidized employment;

(B) subsidized private sector employment;

(C) subsidized public sector employment;

(D) Work Experience Program participation if sufficient private sector employment is not available;

(E) on-the-job training;

(F) job search;

(G) job readiness assistance; and

(H) vocational training not to exceed 12 months with respect to any individual.

(3) **Limitations and special rules.** A single custodial parent:

(A) ~~A single custodial parent~~ who has not attained 20 years of age and has not completed high school is determined to be in a work activity for a month ~~in a fiscal year~~ if the recipient maintains satisfactory attendance at a secondary school or the equivalent during the month.

(B) ~~A single custodial parent~~ with a child under the age of three months is not required to participate in a work activity. The recipient can use this special rule for a lifetime period not to exceed 12 months.

340:10-2-3. Employability planning

(a) **Scope and applicability.** The employability planning process begins at intake and continues as long as there are employment barriers or family circumstances which interfere ~~in~~ with the ~~participant's~~ participant obtaining and retaining employment. The ~~social services specialist~~ worker and the participant initiate Form TW-2, TANF Work/Personal Responsibility Agreement. In the development of the employability plan, the ~~social services specialist must take~~ worker takes into consideration the need for English as a Second Language, basic education, literacy, learning disabilities, counseling~~,~~ or treatment for substance abuse or mental health issues, and crisis intervention for domestic violence. Substance abuse screening is required for every new Temporary Assistance for Needy Families (TANF) participant. Literacy screening is required for individuals who have not obtained a high school diploma or General Educational Development (GED) certificate and have demonstrated a lack of literacy skills.

(b) **Interest and ability assessments.** ~~Additional assessments may be~~ Assessments are required ~~when the participant~~

~~is undecided as to his or her vocational interests or when the social services specialist is unable~~ to determine the participant's skills, abilities, and barriers. ~~He or she is referred to Department of Rehabilitation Services (DRS), when eligible, Oklahoma Employment Security Commission (OESC), vocational technical schools, community colleges, Education Opportunity Center (EOC), or other resources for testing.~~ Assessment tools used are the Washington State Learning Disability Screen, the Test of Adult Basic Education (TABE) locator, the TABE battery, and the Career Occupation Preference System (COPS). These can be obtained through the statewide assessment contract or a community partner.

(1) ~~Additional assessments provide~~ The use of these assessments provides the ~~social services specialist~~ worker, ~~and the~~ participant, assessment specialist, and/or community partners with:

(A) an indication of possible learning disabilities;

(~~A~~B) a measurement of the participant's skills, abilities, interests, and aptitude; and

~~(B) a preliminary matching of work place opportunities and individual job demands; and~~

(C) meaningful information to create a valid employability plan.

(2) Participants referred for testing are informed of the use that is made of the test results. Test scores are kept confidential but may be shared with community partners. Referrals for testing are made by use of Form TW-3, Interagency Referral and Information. Participants in formal assessments are eligible for participant allowances and ~~day~~ child care.

(c) **Employability planning.** The ~~social services specialist~~ worker and the participant use the information from the assessment and other relevant information to develop a plan for securing employment. The employability plan includes establishing both short and long term goals, including specific occupational goals, activities, and services which are necessary to achieve the goals.

(1) The employability plan may include staffing with other community partners for assignment to specific work activities, collaboration with other agencies for services such as job placement, training, and education, and the provision of social services. [OAC 340:10-2-9] The plan must identify specific needs and activities required to reach the occupational goal and estimated dates for achievement. The plan may include more than one activity at a time based on the individual's specific needs and the hours available. The employability plan is a part of the social services plan for the entire family. It must be realistic and within the participant's ability to complete.

(2) The participant is informed that the employability plan is updated as necessary to account for situational changes. ~~[OAC 340:10-2-6]~~ The employability plan is reviewed with the participant and updated as changes occur~~, especially~~ and at the completion of any work activity. If no changes have occurred, the ~~social services specialist~~ worker reviews the employability plan within six months.

(3) Participants who are employed with income insufficient to close the case must have a plan designed to upgrade employment. These plans must not interfere with current employment.

(d) **Work activities.** Participants are assigned to one or more activities and scheduled the minimum number of hours as ~~indicated in OAC 340:10-2-1~~ required. The participant signs Form ~~TW-4, Assignment to TANF/Work Participant Agreement~~ TW-2, when any work activity other than the Work Experience Program or Work Supplementation Program is approved.

(1) Assignments must be within the scope of the individual's employability plan.

(2) The assignment must be related to the capability of the individual to perform the task on a regular basis.

(3) The daily commuting time to and from home to the assigned education, employment, or training site is normally less than two hours. Commuting time does not include the time required to transport a child to and from a child care facility. Where longer travel time is normal in the community, the round trip commuting time will not exceed the general community standards.

(4) When child care is required, it must be of the participant's choosing. It must be available during the hours the participant is engaged in any work activity, plus any additional commuting time.

(5) Assignments which are discriminatory in terms of age, sex, race, religion, ethnic origin, or physical or mental disability are not made.

(6) The site of the assignment must not be in violation of established and applicable health and safety standards.

(7) The participant is not referred for a work activity unless supportive services necessary for participation are available. The cessation or withdrawal of such services constitutes good cause for refusal to participate.

(8) When the agreed upon employability plan requires hours in excess of the minimum requirement, the participant must participate the agreed upon number of hours.

340:10-2-6. Job readiness

Job readiness activities help prepare participants for work by ensuring that participants are familiar with general workplace expectations and exhibit work behavior and attitudes necessary to compete successfully in the labor market.

(1) **Orientation.** Individuals are referred to orientation as the need is identified on Form TW-2, TANF Work/Personal Responsibility Agreement. Orientation consists of ~~a series of five, four hour~~ individual or group meetings which are designed to present information about:

(A) self-esteem building~~,~~;

(B) activities~~,~~ and services available through the Temporary Assistance for Needy Families (TANF) Program~~,~~;

(C) the Oklahoma Department of Human Service (OKDHS) ~~DHS~~ policies~~,~~; and

(D) the employment process, including job applications, interviewing, goal-setting, and managing home and work. ~~Individuals are referred to Orientation as the need is identified on Form TW-2, Mutual Agreement/Employability Plan. Placement may be made~~

~~prior to, during, or after assignment to other work activities.~~

~~(2) **The Choice Is Yours.** The Choice Is Yours is a video presentation which focuses on values, work attitudes, self-esteem, goal setting, job applications, resumes, interviewing, and job finding techniques. The ten day workshop includes classroom instruction and participant workbook activities.~~

(~~3~~2) **Counseling, treatment, or crisis intervention.** The ~~social services specialist~~ worker assists individuals who have barriers that prevent them from obtaining or retaining a job by meeting with the client and appropriate local partners to determine available resources to overcome barriers. Referrals may include counseling or treatment for:

(A) substance abuse, medical needs, or mental health problems;

(B) domestic violence; and

(C) other crisis intervention.

(~~4~~3) **Other activities.** TANF participants may be referred to other agencies and organizations for group activities. The worker, with input from the service provider, decides the appropriate number of hours the participant is capable of participating in other activities. Individual or group meetings may be held as necessary to address any other needs of the participants. Topics which can be successfully addressed include~~, but are not limited to,~~:

(A) training available from other agencies~~,~~;

(B) financial aid for education or training~~,~~;

(C) career planning for youth~~,~~;

(D) Work Experience Program participation requirements and benefits~~,~~; and

(E) local labor market information. ~~TANF participants may also be referred to other agencies and organizations for group activities. The social services specialist, with input from the service provider, decides the appropriate number of hours the individual is capable of participating in other activities.~~

(~~5~~4) **Educational services.** Educational services to enhance the ~~individual's~~ participant's potential for employment must be made available. Assignment is based on the criteria listed in (A) - through (E) of this paragraph.

(A) Custodial parent participants under 20 years of age without a high school diploma are required to participate in educational activities directed toward the attainment of a high school diploma or its equivalent. These individuals may be excused from high school attendance or courses designed to lead to a General Educational Development (GED) certificate if the employability plan includes an alternative, such as Basic Education or English as a Second Language (ESL).

(B) Participants age 20 or ~~over~~ older who have not completed high school can participate in a basic or remedial education program.

(C) Assignment to remedial education services is appropriate for individuals who read and write below high school level, even if they have a high school diploma or GED certificate. Basic and remedial education includes Adult Basic Education (ABE) classes, GED classes, Certificate of High School Equivalency literacy classes, tutoring, or remedial reading classes. ~~Literacy screening is required for individuals who have not obtained a high school diploma or GED certificate and have demonstrated a lack of literacy skills.~~

(D) Individuals lacking proficiency in understanding, speaking, reading, or writing the English language are assigned to ESL classes.

(E) Individuals already in attendance at an institution of higher education are considered appropriately assigned if ~~each~~ the individual cooperates in the assessment process and development of an appropriate employability plan. However, the individual is required to participate the minimum number of hours in an activity listed in OAC 340:10-2-1.

340:10-2-7. Training

(a) **Scope.** Job skills training includes vocational training and hands-on work experience to develop technical skills, knowledge, and abilities in specific occupational areas. All training programs must include qualitative measures such as competency gains or proficiency levels to evaluate a participant's progress and reasonable time limits for completion. Referrals are made to appropriate training facilities on Form TW-3, Interagency Referral and Information.

(b) **Assignments.** Any training to which the participant is assigned must meet the criteria in (1) -through (4) of this subsection.

(1) The hours of any training activity are governed by the training facility.

(2) The training is preparation for a job which meets the criteria for appropriate employment.

(3) The quality and type of training must meet local employers' requirements so participants are in a competitive position with the local labor market.

(4) Training is related to in-demand occupations which are likely to become available in the state.

(c) **Work Experience Program (WEP).** The purpose of WEP is to provide skill training and work enhancement to Temporary Assistance for Needy Families (TANF) participants while providing a useful public service that will enable them to move toward self-sufficiency and to obtain unsubsidized employment following completion of the placement. Facilities selected for WEP training must be capable of providing employment and have an apparent intent to hire, or be able to provide quality training. Care is given to avoid placement of trainees with facilities which consistently use WEP trainees without providing first option employment. Benefits of the program to participants include an opportunity to establish a work history and earn a recommendation from an employer. Participants also learn to balance the demands of home and work, gain confidence by performing in a job setting, brush-up skills already acquired, learn marketable skills on-the-job, and determine interest and aptitude for a particular type of work by doing the job.

(1) **Process.** To help prepare for employment, all participants must attend an orientation session ~~or "The Choice Is Yours," when available,~~ prior to entering WEP. Training is expected to be for no less than 20 nor more than 40 hours per week. WEP assignments are approved for an initial period of three months. No salary is paid. With respect to injuries incurred during working hours in WEP, federal law requires that medical coverage be offered under either state workers compensation law or by ~~DHS~~ the Oklahoma Department of Human Services (OKDHS). Oklahoma workers compensation law does not cover WEP participants. Medical coverage is provided by the Medicaid Program.

(2) **Referrals for WEP placements.** Participants are referred to WEP slots based on the ~~assessment and~~ employability plan. Assignment to a WEP position is coordinated between the participant and the ~~social services specialist~~ worker. Based upon the employability plan, the ~~social services specialist~~ worker determines which facility best meets the participant's needs, arranges for an interview between the facility and the participant, and notifies the participant of the place, time, and interviewer's name.

(3) **WEP training facilities.** Training sites are solicited keeping in mind local job market conditions, opportunities for employment following completion of WEP participation, willingness of the facility to employ participants, and the ability of the site to provide the necessary supervision and training. Training slots are developed which meet the employment needs of the participant as determined by the employability plan.

(4) **~~Private~~ WEP-private sector (WEP-PS) placements ~~(WEP-PS)~~.** Limitations of private sector placements include no extensions for work experience slots and no second placements for participants. Only one ~~private sector~~ WEP-PS work experience placement per 25 full-time employees in a single for-profit agency or organization is allowed at any one time. ~~Private sector~~ WEP-PS placements are made only if two or more of the situations described in (A)~~-~~ through (D) of this paragraph apply.

(A) No suitable WEP assignment is available. WEP assignments have priority over ~~private sector~~ WEP-PS assignments. Suitable placements are defined as those that match the employability plan and the participant's chosen education or career field that leads to full-time employment.

(B) The employer makes a commitment to hire the participant following the three month private sector work experience placement.

(C) The participant has completed job search and not obtained employment.

(D) The ~~social services specialist~~ worker determines ~~private sector~~ WEP-PS placement is the most suitable activity.

(5) **Public and non-profit, private-for-profit and not-for-profit agencies, organizations, or businesses.** Participation may be approved in public and non-profit, private-for-profit and not-for-profit agencies, organizations, or businesses.

(A) When facilities agree to participate in WEP, the representative of the facility is requested to provide a written description to the worker of the type of activities the participant will be involved in, the number of participants they can accept, the hours of participation, and any special requirements ~~to the social services specialist~~.

(B) Upon approval by the county director, the ~~social services specialist~~ worker contacts the facility and completes Form TW-15, Work Experience Program Training Agreement, or Form TW-15A, ~~Agreement for~~ Work Experience Program ~~-~~ Private Sector Training Agreement. No more than three participants are assigned to one type of position within a facility.

(~~A~~i) When a participant requires additional training, the ~~social services specialist~~ worker may grant 60-day extensions. Extensions are not granted when the request is for the primary purpose of providing additional help to the facility. The criteria listed in ~~(i)~~ (I) through ~~(viii)~~ (VIII) of this ~~subparagraph~~ unit are used as a guide in determining the appropriateness of requesting an extension beyond the initial three-month period.

(~~i~~I) The requested time is needed for the participant to develop additional skills.

(~~ii~~II) The facility has agreed to hire the participant, but will not have funds available or a job opening until a specific date.

(~~iii~~III) The facility has an opening in an area different from the one the participant was trained in and has agreed to hire the participant if additional time is granted for the additional training.

(~~iv~~IV) The participant demonstrates a willingness to learn, but needs additional training, including the development of new skills and tasks, to be competitive in the labor market.

(~~v~~V) The participant has shown improvement in all areas, but needs additional socialization skills and improved behavior patterns in a work setting.

(~~vi~~VI) The participant has missed more than two weeks of training due to illness or the illness of a household member.

(~~vii~~VII) There are extenuating circumstances which prevented the participant from receiving full benefit of the training.

(~~viii~~VIII) The participant needs the additional time on the job to meet minimum hiring requirements for the skills to be acquired.

(~~B~~ii) The ~~social services specialist~~ worker instructs the facility representative or the training supervisor regarding the purpose and use of ~~the~~ Form TW-13, Time and Progress Report.

(~~i~~I) It is the participant's responsibility to complete ~~the~~ Form TW-13, secure the approving signature of the facility director or

supervisor on Part III of Form TW-13, and return the form to the county office by the 5th day of each month.

(~~ii~~II) Approved training slots that have not been utilized within a six-month period are reviewed for appropriateness. If the position is no longer feasible, the county sends a letter to the facility stating the WEP slot is no longer active and may be re-evaluated at the facility's request.

(6) **Non-cooperation by WEP facility.** When information is obtained that the facility is violating the terms and conditions of Form TW-15, Form TW-15A, or that participants are being treated unfairly, the county director is informed immediately. The nature of the allegations guides the necessary action which may include:

(A) suspension of subsequent assignments at the facility;

(B) immediate removal of current participants; or

(C) termination of the agreement.

(7) **Notification to participant and facility.** Ten days prior to the anticipated WEP completion date, or at any time the participant becomes ineligible for WEP, the ~~social services specialist~~ worker notifies the participant by Form FSS-37, Notice Regarding Social Services. The ~~social services specialist~~ worker notifies the facility by letter or by phone five days prior to the termination. When a participant has been referred to WEP and an appropriate training slot cannot be provided, the ~~social services specialist~~ worker notifies the participant of this decision by Form FSS-37, stating the reason(s) for which the service cannot be provided.

(8) **Changes in placements and subsequent placements.** When the facility, ~~social services specialist~~ worker, and participant determine that placement in a different facility is more beneficial, the ~~social services specialist~~ worker locates a new facility and arranges an interview for the participant. When the participant fails to secure employment following successful completion of WEP training, a conference is held with the participant, ~~social services specialist~~ worker, and supervisor to determine whether a second training placement might be beneficial. The employability plan is reviewed prior to allowing a participant to re-enter WEP training. Consideration is given to reassignment to ~~orientation or "The Choice Is Yours,"~~ job search~~,~~ or another appropriate work activity. In making this decision, consideration must be given to the:

(A) participant's ability to secure and maintain full-time employment;

(B) opportunities for employment in the new field and in the area in which the participant received training;

(C) participant's efforts to secure employment; and

(D) length of time between training assignments.

(d) **Job Corps nonresident training program (Job Corps II).** Oklahoma's four Job Corps ~~Centers~~ centers provide a nonresident Job Corps program to TANF participants who can commute to their sites. Participants referred must be ages 16 through 24. Referrals are made by the ~~social services specialist~~ worker completing Form K-13, ~~Information Referral~~ Information/Referral - Social Services. It is the responsibility of the ~~social services specialist~~ worker to coordinate with the Job Corps ~~Center~~ center and arrange for child care.

(1) By special agreement with the Job Corps ~~Centers~~ centers, Job Corps II students are provided Job Corps participant training allowances designed to meet training costs not covered by the TANF cash assistance. These allowances are not considered as income.

(2) The ~~social services specialist~~ worker coordinates with the centers and other designated agencies, such as Oklahoma Employment Security Commission (OESC) and Workforce Investment Act (WIA), to ensure Job Corps II students leaving the center are placed in an appropriate work activity. When a Job Corps II student leaves the center the ~~social services specialist~~ worker meets with the Job Corps II student to make immediate plans for further implementation of the employability plan.

(e) **Vocational training.** Vocational training other than that described in special programs and demonstration efforts of this subsection include, but are not limited to, practicum placements, internships, or proprietary schools and are considered as work activities.

(f) **Special programs and demonstration efforts with other agencies.** ~~DHS~~ OKDHS may enter into special education, training, or employment efforts with federal, state, and local governments, and private for-profit, private not-for-profit organizations, and agencies. When this occurs, the counties involved are expected to comply with the terms of those agreements.

340:10-2-8. Temporary Assistance for Needy Families (TANF) Work support services

(a) **Scope.** The ~~social services specialist~~ worker provides or arranges payments and services for the participant to ensure successful completion of his or her employability plan to become self-supporting. Payments are authorized for items or services directly related to employment as an outcome. When support services are available and part of the employability plan, the participant's failure to cooperate in obtaining the support services constitutes a failure to participate in the TANF Work program. Items and services covered by the participant's medical card are not paid for by the support service funds. The only support services available to an applicant are the participant allowance and work activity payment.

(b) **Flexible fund accounts.** The intent of the flexible fund account is to provide a participant with the necessary support services needed to accomplish his or her employment goals. Flexible funds are not available to an applicant. To be eligible for flexible funds, the individual must either be otherwise ready to participate in a required work activity for the minimum number of hours, have a guaranteed offer of employment, or be employed. Payments for the services through flexible funds are not an automatic entitlement to the participant. Flexible funds are not used for fines including traffic fines or any cost related to a criminal offense such as legal fees or court costs.

The county staff has final authority to determine authorizations. One-time payments of specific services are allowed after the service is rendered. Ongoing maintenance payments are not allowed. The provider is paid no later than five days from the date of receipt of the properly completed invoice in the ~~Office of~~ Finance Division.

(c) **Other support services.**

(1) **Work activity payments.** To be eligible for the work activity payment, the individual must be ready to participate in or be in a required work activity and in need of a small amount of cash to purchase items such as a tank of gas, or health, beauty, or personal items. The maximum amount approved cannot exceed $30 per month.

(2) **Participant allowances.** Allowances are made to participants in assigned work activities~~,~~ which are scheduled, structured, and supervised up to a maximum of $~~6~~8 for each day. Lunch hours and travel time are not included as actual hours of attendance. For persons in Job Search, travel time between job interviews and job applications is included as actual hours of attendance. ~~Participant allowances are not paid when the participant is employed or participating through the Workforce Investment Act (WIA).~~ The participant makes appropriate daily entries on Form TW-13, Time and Progress Report, which documents actual hours in attendance. The daily allowance is determined in the manner given in (A) ~~-~~through (B) of this paragraph.

(A) An allowance of $~~3~~5 each day is paid when the work activity equals four hours or less.

(B) An allowance of $~~6~~8 each day is paid when the work activity equals more than four hours.

(3) **Oklahoma State Bureau of Investigations (OSBI) background checks.** OSBI background checks may be requested for a participant who is being placed in ~~a public or private sector work experience position~~ job skills training that requires an OSBI background check as a prerequisite for employment. The job skills training can include vocational training, hands-on work experience, or public or private sector work experience. The participant is advised of the requirement and ~~a~~ Form ~~Adm-60~~ ADM-60, Request for Release of Information, is completed. ~~When the OSBI report is received in the county office, it is forwarded to the requesting facility.~~

(4) **Child care.** Child care arrangements are made for each child in the home who is under age 13, mentally or physically incapable of self care, or under court supervision. The plans for child care are included ~~in the employability plan~~ on Form TW-2, TANF Work/Personal Responsibility Agreement. When the individual begins active participation in TANF Work activities, child care services are documented.

(5) **Transportation contracts.** Transportation contracts are initiated to provide transportation for TANF recipients who have no means of transportation to access required TANF Work training activities. To initiate a transportation contract, contact the ~~State Office,~~ Family Support Services Division, TANF Section.

(6) **Individual Development Accounts (~~IDA~~ IDAs).** IDAs are dedicated savings accounts that are used for a qualified purpose such as purchasing a first home, education or job training expenses, capitalizing a small business, or other purposes designated by the IDA administrative entity. IDAs are managed by community organizations and accounts are held at local financial institutions. An IDA can be established by an individual or on behalf of a child eligible for TANF assistance for a qualified purpose. Cash deposits and interest accrued from the deposits made by an individual in an IDA up to $2,000 are not considered as income or resources in determining TANF eligibility. The account deposits must be made from earned income, earned income tax credits, or tax refunds. Deposits made by an individual into an IDA are matched in a separate account by public and private funds. All participants may receive training in economic literacy, budgeting, money management, and business and home ownership as developed by the administrative entity.

(7) **Disability Advocacy Program (DAP).** ~~The Disability Advocacy Program~~ DAP is available to assist a TANF recipient, adult or child, who has an application for disability pending with the Social Security Administration (SSA). The program is also available for a TANF recipient, adult or child, who does not have an application pending with SSA but who ~~DHS~~ the Oklahoma Department of Human Services (OKDHS) determines has a potentially meritorious claim for such benefits. A referral is made to the ~~DHS~~ OKDHS contracted law firm to assist the recipient(s) with the application, reconsideration, Administrative Law Judge hearing, and review by the SSA Appeals Council. The evaluation of merit determines if the appropriate SSA test for disability would be met if evidence were available to prove all conditions claimed by the TANF recipient. If the evaluation of merit determines there is sufficient evidence, the law firm will represent the TANF recipient. Statewide this representation consists of assisting the recipient with the application through an unfavorable decision by the SSA Appeals Council. In counties in which representation by a lawyer or experienced non-lawyer advocate is not available without advanced payment, the contracted law firm assists with the pending application for disability through an unfavorable decision by the SSA Appeals Council. If the evaluation of merit determines there is insufficient evidence to prove conditions claimed by the TANF recipient, no further services are provided by DAP. Representation by the law firm ceases at any time the law firm determines there is insufficient evidence to support the TANF recipient's claim for disability benefits.

SUBCHAPTER 3. CONDITIONS OF ELIGIBLILITY - NEED

PART 1. RESOURCES

340:10-3-5. Personal property

(a) This ~~Section~~ subsection describes personal property and how it is considered in determining eligibility for Temporary Assistance for Needy Families (TANF).

(1) **Household goods and equipment.** Items essential to day-to-day living such as clothing, furniture, and other similarly essential items of limited value are excluded as resources.

(2) **Livestock and equipment used in a business enterprise.** The individual's equity in livestock, equipment, or inventory of merchandise in a business enterprise is considered in relation to the reserve only if the individual is not actively engaged in the business enterprise. Equity is not counted if the individual actively participates in the business or is only temporarily inactive, for example, incapacitated and can reasonably expect and has plans to resume the business enterprise. Equity is established on the basis of oral or written information which the individual has at hand and counsel with persons who have specialized knowledge about the particular resources.

(3) **Livestock and home produce used for home consumption.** Any livestock or produce grown and used by the assistance unit for home consumption is exempt.

(4) **Cash savings and bank accounts.** Money on hand or in a savings account is considered as reserve. The individual's statement that he or she has no money on hand or on deposit is sufficient unless there are indications to the contrary. When there is information to the contrary or when the individual does not have records to verify the amount on deposit, verification is obtained from bank records. Section 167.1 of Title 56 of the Oklahoma Statutes provides that financial records obtained for the purpose of establishing eligibility for assistance or services must be furnished without cost to the individual or the Oklahoma Department of Human Services (OKDHS).

(A) Checking accounts may or may not represent savings. Current bank statements are evaluated with the individual to establish what, if any, portion of the account represents savings. Any income which has been deposited during the current month is not considered.

(B) Accounts ~~which are~~ owned jointly are considered available to the individual unless it can be established what part of the account actually belongs to each of the owners, the money is actually separated, and the joint account dissolved.

(5) **Insurance policies and prepaid funeral benefits.**

(A) **Life insurance policies.** The cash surrender value (CSV) less any loans or unpaid interest of life insurance policies owned by members included in the TANF cash assistance is counted as part of the reserve. Dividends which accrue and remain with the insurance company increase the amount of reserve. Dividends paid to an individual are considered as income. However, assignment of the face value of a life insurance policy to fund a prepaid burial contract is not counted as part of the reserve. In this instance, the amount of the face value of the life insurance is evaluated according to the policy on burial funds or, if applicable, the policy on the irrevocable burial contract.

(B) **Burial spaces.** The value of a burial space for each family member whose needs are in the cash assistance or whose income and resources are considered when computing the cash assistance is excluded from resources.

(C) **Burial funds.** Revocable burial funds not in excess of $1500 for each member included in the assistance unit are excluded as a resource if the funds are specifically set aside for the burial arrangements of the individual. Any amount in excess of $1500 for each member included in the assistance unit is considered as a resource. Burial policies which require premium payments and do not accumulate cash value are not considered ~~to be~~ prepaid burial policies.

(i) Burial funds means a prepaid funeral contract or burial trust with a funeral home or burial association which is for the individual's burial expenses.

(ii) The face value of a life insurance policy, when properly assigned by the owner to a funeral home or burial association, may be used for purchasing burial funds as described in (i) of this subparagraph.

(iii) The burial fund exclusion must be reduced by the face value of life insurance policies owned by the individual and by the amounts in an irrevocable trust or other irrevocable arrangement.

(iv) Interest earned or appreciation on the value of any excluded burial funds is excluded if left to accumulate and become a part of the burial fund.

(v) If the individual did not purchase the prepaid burial, even if the individual's money was used for the purchase, the individual is not the owner and the prepaid burial funds cannot be considered a resource to the individual.

(D) **Irrevocable burial contract.** Oklahoma law provides that a purchaser of a prepaid funeral contract may elect to make the contract irrevocable. Irrevocability never becomes effective until 30 days after the contract is signed.

(i) If the irrevocable election was made prior to July 1, 1986, and the individual received assistance on July 1, 1986, the full amount of the irrevocable contract is excluded as a countable resource. This exclusion applies only if the individual does not add to the amount of the contract. Interest accrued on the contract is not considered as added. Any break in assistance requires that the contract be evaluated at the time of reapplication.

(ii) If the effective date for the irrevocable election or application for assistance is July 1, 1986, or later, the amount in any combination of an irrevocable contract, revocable prepaid burial contract or trust, and the cash value of unassigned life insurance policies cannot exceed $7500. When the

principal amount exceeds $7500, the individual is ineligible for assistance. Accrued interest is not counted as a part of the $7500 limit, regardless of when it is accrued.

(iii) For an irrevocable contract to be valid, the election to make it irrevocable must be made by the purchaser or the purchaser's guardian or an individual with power of attorney for the purchaser.

(E) **Medical insurance.** When an individual has medical insurance whether directly purchased or available in conjunction with employment, the available benefits are applied toward the medical expense for which the benefits are paid. If an assignment of the insurance is not made to the vendor and payment is made directly to the individual, the payment must be applied to the cost of medical services. Any amount remaining after payment for medical services is considered in relation to the reserve.

(6) **Stocks, bonds, mortgages, and notes.** The individual's equity in stocks and bonds, including ~~U.S.~~ United States Savings Bonds, Series A through EE, is considered in relation to the reserve. The current market value less encumbrances is the equity. Except for a bond which has been held beyond the maturity date, the current value is the redemption value listed in the table on the back of the bond for the anniversary date most recently reached. If the bond has been held beyond maturity date, it has continued to draw interest. The amount which can be realized from notes, mortgages, and similar instruments, if offered for immediate sale, constitutes a reserve.

(7) **Non-negotiable resources.** Installment payments received on a note, mortgage, and similar instruments, for which a buyer cannot be found are considered as monthly income.

(8) **Automobiles, pickups, and trucks.** The market value of each year's make and model is established on the basis of the average trade in value. In the event the individual and ~~social services specialist~~ worker cannot agree on the value of the vehicle, the individual secures written appraisals by two persons familiar with current values. If there is substantial unexplained divergence between these appraisals or between the blue book value and one or more of these appraisals, the ~~social services specialist~~ worker and the individual jointly arrange for the market value to be established by an appraisal made by a third person who is familiar with current values and acceptable to both the individual and ~~social services specialist~~ worker.

(A) **Exempt automobiles.** One automobile, pickup, truck, or other vehicle used for the primary source of transportation for each assistance unit not to exceed an equity of $5,000 is exempted. The amount of the equity in excess of $5,000 is considered against the resource limit.

(B) **Other vehicles.** The equity in other automobiles, pickups, and trucks as well as other personal property including boats, travel trailers, motorcycles, motor homes, campers, and similar items is considered in relation to the reserve. The current market value less encumbrances on the vehicle is the equity. Only encumbrances that can be verified are considered in computing equity.

(9) **Lump sum payments.** A lump sum settlement which compensates for the loss of a resource such as an automobile may be disregarded in the amount used to replace the loss. The individual is given a reasonable amount of time to replace the loss not to exceed a 30-day period. Extension beyond the 30 days may be justified in special instances when completion of the transaction is beyond the individual's control. Any amount remaining after the replacement of the loss is considered as income. Income tax refunds, except for the portion that represents an earned income tax credit (EITC), must be treated as a resource and considered available to the recipient upon receipt. Retirement benefits received as a lump sum payment at termination of employment are considered a resource. These benefits are not treated as income because the retirement contribution was regarded as income in the month earned and withheld by the employer.

(b~~10~~) ~~**Resource disregards.** Resources~~ This subsection describes resources disregarded in determining need ~~are:~~. Disregarded resources are:

(~~A~~1) food stamp allotments under the Food Stamp Act of 1977;

(~~B~~2) any payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(~~C~~3) education grants, including work study, scholarships, and similar grants, if receipt is contingent upon the student regularly attending school. The student's classification, graduate or undergraduate, is not a factor;

(~~D~~4) loans, regardless of use, if a bona fide debt or obligation to pay can be established. Criteria to establish a loan as bona fide includes an acknowledgment of obligation to repay or evidence that the loan was from an individual or financial institution in the loan business. The borrower's acknowledgment of obligation to repay, with or without interest, is considered to indicate that the loan is bona fide. If the loan agreement is not written, Form ADM-103, Loan Verification, is completed by the borrower attesting that the loan is bona fide and signed by the lender verifying the date and amount of loan;

(~~E~~5) Indian payments, including judgment funds or funds held in trust, distributed per capita by the Secretary of the Interior, Bureau of Indian Affairs (BIA) or distributed per capita by the tribe subject to approval by the Secretary of the Interior. ~~Also, disregard any~~ Any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest, or investment income accrued on such funds is disregarded. Any income from mineral leases or tribal business investments is disregarded as long as the payments are paid per capita. For purposes of this paragraph, per capita is defined as each tribal member receiving an equal amount. Any interest or income derived from the principal or produced by purchases made with the funds after distribution is considered as any other income;

(~~F~~6) special allowances for school expenses made available upon petition, in writing, from funds held in trust for the student;

(~~G~~7) trusts of a child included in a TANF benefit if it is determined by the ~~social services specialist~~ worker the funds are to be used for educational purposes for the child. Any court established trust must be examined to determine if the court has restricted the trust for other purposes. The ~~social services specialist~~ worker must verify at application and redetermination if funds have been withdrawn. Any funds withdrawn are treated as lump sum unearned income unless it can be documented the funds were used for the child's educational purposes;

(~~H~~8) any accounts, stocks, bonds, or other resources held under the control of a third party if the funds are designated for educational purposes for a TANF child, even if the child's name is on the account and the third party holder is required to access the funds;

(~~I~~9) benefits from ~~State~~ state and ~~Community Programs~~ community programs on ~~Aging~~ aging [Title III and Title V] are disregarded. Both Title III and Title V are under the Older Americans Act of 1965 amended by Public Law (P.L.) 100-175 to become the Older Americans Act amendments of 1987;

(~~J~~10) unearned income received by a TANF child, such as needs based payments, cash assistance, compensation in lieu of wages, ~~and~~ or allowances from programs funded by the Workforce Investment Act (WIA), including Job Corps income. ~~Also,~~ This includes WIA earned income received as wages~~, not to exceed six months in any calendar year unless~~ when the child is a full-time student;

(~~K~~11) payments for supportive services or reimbursement of out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE), Active Corps of Executives (ACE), and any other programs pursuant to the National and Community Service Trust Act of 1993 (NCSTA);

(~~L~~12) payments to volunteers under the NCSTA, unless the gross amount of AmeriCorps*VISTA payments equals or exceeds the state or federal minimum wage, whichever is greater;

(~~M~~13) the value of supplemental food assistance received under the Child Nutrition Act or the special food service program for children under the National School Lunch Act;

(~~N~~14) any portion of payments made under the Alaska Native Claims Settlement Act to an Alaska Native which are exempt from taxation under the Settlement Act;

(~~O~~15) Experimental Housing Allowance Program (EHAP) payments made under Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937, as amended;

(~~P~~16) advance payments of EITC or refunds of EITC, as a result of filing a federal income tax return, in the month received and the following month;

(17) refunds of the state EITC, as a result of filing a state income tax return, in the month received and the following month;

(~~Q~~18) payments from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(~~R~~19) payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from the exposure to radiation from nuclear testing and uranium mining;

(~~S~~20) federal major disaster and emergency assistance provided under the Disaster Relief Act of 1974, and comparable disaster assistance provided by state, local governments, and disaster assistance organizations;

(~~T~~21) interests of individual Indians in trust or restricted lands. However, any disbursements from the trust or restricted lands are considered as income;

(~~U~~22) a migratory farm worker's out-of-state homestead if the farm worker's intent is to return to the homestead after the temporary absence;

(~~V~~23) a non-recurring lump sum Supplemental Security Income (SSI) retroactive payment, made to a TANF recipient, in the month paid and the next following month. The amount remaining in the second month after the month of receipt is a countable resource; ~~and~~

(~~W~~24) the balance in an individual's Individual Development Account up to $2,000~~.~~;

(25) payments received under the Civil Liberties Act of 1988. These payments are made to individuals of Japanese ancestry who were detained in internment camps during World War II;

(26) payments made to individuals because of their status as victims of Nazi persecution;

(27) payments made from the crime victims compensation program as amended in section 1403 of the Victims of Crime Act of 1984, Section 10602 of Title 42 of the United States Code; and

(28) reimbursements made to a foster care parent(s).

340:10-3-10. Maximum reserve

Maximum reserve is a term used to designate the largest amount which an individual can hold in one or more capital resources and still be considered eligible for Temporary Assistance for Needy Families (TANF) from the standpoint of need. [OAC 340:10-3-2 ~~-~~ through 340:10-3-5] Such reserve may be held in any form or combination of forms of capital resources.

(1) **Maximum TANF reserve.** The maximum reserve is shown on ~~DHS~~ OKDHS Appendix C-1, Schedule of Maximum Income, Resource, and Payment Standards, Schedule IX.C. The resources of all members whose needs are included in the TANF cash assistance benefit are considered in determining the reserve for the family~~, as well as an otherwise eligible member whose needs are not included in the cash assistance~~. For resources of a needy caretaker see paragraph (2) of this Section.

(A) When both parents are in the home and one parent is included in a State Supplemental Payment

(SSP) case and the spouse is included in a TANF case with the children, the resources of both parents are evaluated in relation to eligibility for Supplemental Security Income (SSI) and therefore not considered on the TANF case.

(B) If a natural or adoptive parent or dependent child is not included in the assistance unit because of alien status, his or her resources are considered along with the resources of the eligible children in computing maximum reserve.

(2) **Consideration of resources of a relative-payee other than a natural or adoptive parent.** A relative-payee can only be included in the cash assistance benefit when the natural or adoptive parent is not in the home and the relative-payee also meets the definition of a needy caretaker. A stepparent may be included in the cash assistance benefit when the natural or adoptive parent is either incapacitated or not in the home.

(A) If a relative-payee is not eligible to be included in the TANF assistance unit or is eligible but does not request to be included, consideration is not given to his or her resources or the resources of his or her spouse in determining eligibility of the children.

(B) A relative-payee is considered resource eligible as a needy caretaker if the reserve for the case does not exceed the maximum reserve.

(C) Only one needy caretaker may be included in the TANF assistance unit when the parents are not in the home. If the needy caretaker has a spouse who is not an SSI recipient, one-half of their combined resources are considered to be the needy caretaker's resources. If the spouse of the needy caretaker is an SSI recipient, consideration is not given to his or her resources.

PART 3. INCOME

340:10-3-26. General provisions regarding income

Income is defined as gain, payment, or proceed from labor, business, property, retirement, and other benefits. All available income, except that required to be disregarded by law or the Oklahoma Department of Human Services (OKDHS) policy, is taken into consideration in determining need. Income is considered available when actually received. ~~Income reported timely is considered available the next effective date. [OAC 340:10-3-58(d)]~~ When an individual's income is reduced due to recoupment of an overpayment or a garnishment, the gross amount before the recoupment or garnishment is counted as income. The individual is responsible for reporting all income, the source, amount, and regularity of receipt.

(1) Income received on behalf of a member of the assistance unit by another individual such as, but not limited to, a guardian or conservator, is considered available to the assistance unit.

(2) Money received and used for the care and maintenance of a third party who is not included in the assistance unit is not counted as income if it can be identified and verified as intended for third party use. This is not applicable to a stepparent or a person acting in the role of a spouse. [OAC 340:10-3-57(f)]

(3) If it appears any member of the assistance unit or an individual whose income and resources are considered when computing the cash assistance is eligible for any type of income or benefits, ~~the Department~~ OKDHS notifies the assistance unit in writing. The notice contains the information that failure to apply for and take all appropriate steps to obtain such benefits within 30 days from the date of the notice results in a determination of ineligibility. Supplemental Security Income (SSI) does not fall under these types of benefits.

(4) If a husband and wife are living together or are living apart but there has not been a clear break in the family relationship, income received by either spouse and income received jointly is considered as family income. Income of individuals receiving ~~in~~ Temporary Assistance for Needy Families (TANF) benefits cannot be diverted to members who receive State Supplemental Payments. Income of a natural or adoptive parent cannot be diverted to meet the needs of a stepparent. Any family member who receives SSI is not included in a TANF benefit and consideration is not given to any of the SSI income in computing the TANF benefit.

(5) ~~Income which can reasonably be anticipated is considered available for the month its receipt is anticipated.~~ When it is determined the assistance unit's net income meets or exceeds the payment standard for that month, the application is denied or the cash assistance is terminated the next possible effective date.

340:10-3-32. Determination of earned income

Earned income results from self-employment or other employment sources.

(1) **Earned income from self-employment.** If the income results from the individual's activities primarily as a result of the individual's own labor from the operation of a business enterprise, the countable earned income is the total profit after deducting the business expenses. Money from the sale of whole blood or blood plasma is considered as self-employment income subject to necessary business expenses and appropriate earned income disregards.

(A) **Cost of producing self-employment income.** Allowable costs of producing self-employment income include, but are not limited to, the identifiable cost of labor, stock, raw material, seed, fertilizer, payments on the principal of the purchase price of income-producing real estate, capital assets, equipment, machinery, other durable goods, interest payments to purchase income-producing property, insurance premiums, and taxes paid on income-producing property. Self-employment income that represents a household's annual support is prorated over a 12-month period, even if the income is received in a shorter period of time.

(B) **Items not considered.** Items not considered as a cost of producing self-employment income are:

(i) the purchase price ~~and payments on the principal of loans for~~ of capital assets, equipment, machinery, and other durable goods;

(ii) net losses from previous periods;

(iii) depreciation of capital assets, equipment, machinery, and other durable goods; and

(iv) federal, state, and local income taxes, Federal Insurance Contributions Act (FICA) deductions, money set aside for retirement purposes, and other work related personal expenses, such as meals and necessary transportation.

(C) **Room or board.** Earned income from a room rented in the home is determined by considering 25% of the gross amount received as business expenses. Earned income from room and board paid by a person in the home is determined by considering 50% of the gross income received as a business expense.

(D) **Rental property.** Income from rental property is considered income from self-employment if none of the activities associated with renting the property is conducted by an outside person or agency.

(2) **Earned income from sources other than self-employment.**

(A) **Earned income from wages, salary, or commission.** If the income is from wages, salary, or commission, the earned income is the gross income or true wage prior to payroll deductions and withholdings.

(B) **Earned income from work and training programs.**

(i) **Workforce Investment Act (WIA).** WIA earned income received by the payee or spouse as wages is considered as any other earned income. WIA earned income of a dependent child is considered when received in excess of six months in any calendar year.

(ii) ~~**On-the-job-training**~~ **On-the-job training (OJT).** Earned income from regular employment for OJT is considered as any other earned income.

340:10-3-40. Income disregards

Income that is disregarded in determining eligibility for Temporary Assistance for Needy ~~Families(TANF)~~ Families (TANF) is:

(1) the food stamp allotment under the Food Stamp Act of 1977;

(2) any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(3) education grants, including work study, and scholarships that are contingent upon the student regularly attending school. The student's classification as a graduate or undergraduate is not a factor;

(4) loans, regardless of use, if a bona fide debt or obligation to pay can be established. Criteria to establish a loan as bona fide includes an acknowledgment of obligation to repay or evidence that the loan was from an individual or financial institution in the loan business. If the loan was from a person(s) not in the loan business, the borrower's acknowledgment of obligation to repay, with or without interest, is required to indicate that the loan is bona fide. If the loan agreement is not written, Form ADM-103, Loan Verification, must be completed by the borrower attesting that the loan is bona fide and signed by the lender verifying the date and amount of loan. When copies of written agreements or Form ADM-103 are not available, detailed case documentation must include information that the loan is bona fide and how the debt amount and date of receipt was verified;

(5) Indian payments, which include judgment funds or funds held in trust, distributed per capita by the Secretary of the Interior, Bureau of Indian Affairs (BIA) or distributed by the tribe subject to approval by the Secretary of the Interior. ~~Also, disregard any~~ Any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest, or investment income accrued on such funds is disregarded. Any income from mineral leases or from tribal business investments is disregarded as long as the payments are paid per capita. For purposes of this paragraph, per capita is defined as each tribal member receiving an equal amount. Any interest or income derived from the principal or produced by purchases made with the funds after distribution is considered as any other income;

(6) special allowance for school expenses made available upon petition in writing from trust funds of the student;

(7) income from trusts of a child included in a TANF benefit if it is determined by the ~~social services specialist~~ worker that funds are to be used for educational purposes for the child. Any court established trust must be examined to determine if the court has restricted the trust for other purposes. The ~~social services specialist~~ worker must verify at application and redetermination if funds have been withdrawn. Any funds withdrawn are treated as lump sum unearned income unless it can be documented the funds were used for the child's educational purposes;

(8) income from accounts, stocks, and bonds held under the control of a third party if the funds are designated for educational purposes for a TANF child even if the child's name is on the account and the third party holder is required to access the funds;

(9) benefits from ~~State~~ state and ~~Community Programs~~ community programs on ~~Aging~~ aging from Title III and Title V. Title III and Title V are under the Older Americans Act of 1965 amended by Public Law (P.L.) 100-175 to become the Older American Act amendments of 1987. Each state and eight organizations receive some Title V funds. These organizations ~~include~~ are:

(A) Green Thumb;

(B) National Council on Aging;

(C) National Council of Senior Citizens;

(D) American Association of Retired Persons;

(E) ~~U. S.~~ United States (US) Forest Service;
(F) National Association for Spanish Speaking Elderly;
(G) National Urban League; and
(H) National Council on Black Aging;

(10) unearned income received by a TANF child, such as a needs based payment, cash assistance, compensation in lieu of wages, or allowance~~,~~ from a program funded by the Workforce Investment Act (WIA) including Job Corps income~~. Also,~~ and WIA earned income received as wages~~, not to exceed six months in any calendar year~~;

(11) payments for supportive services or reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health ~~aids~~ aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE);

(12) payments to volunteers under the National and Community Service Trust Act of 1993 (NCSTA), unless the gross amount of AmeriCorps*VISTA payments equals or exceeds the state or federal minimum wage, whichever is greater;

(13) the value of supplemental food assistance received under the Child Nutrition Act or the special food service program for children under the National School Lunch Act;

(14) any portion of payments, made under the Alaska Native Claims Settlement Act to an Alaska Native, which are exempt from taxation under the Settlement Act;

(15) if an adult or child from the family group is living in the home and is receiving Supplemental Security Income (SSI), his or her individual income is considered by the Social Security Administration in determining eligibility for SSI. This includes any payment made by the Developmental Disabilities Services Division through the Family Support Assistance Payment Program on behalf of a child(ren) receiving SSI. ~~Therefore, that income cannot be considered by the Agency as available to the TANF assistance unit. Likewise, consideration is not given to the~~ The individual's income and SSI payment are not considered in determining the TANF benefit;

(16) Experimental Housing Allowance Program (EHAP) payments made under Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the ~~U.S.~~ US Housing Act of 1937, as amended;

(17) earnings of a TANF child who is a full-time student are disregarded;

(18) government rental or housing subsidies by governmental agencies, for example, Housing and Urban Development (HUD) which ~~is~~ are received in-kind or in cash for rent, mortgage payments, or utilities;

(19) reimbursements from an employer, the Department of Labor, or the Bureau of Indian Affairs, for out-of-pocket expenditures and allowances for travel, ~~or~~ training, meals, or supplies, which could include uniforms, to the extent the funds are used for expenses directly related to such travel, ~~or~~ training, meals or supplies ~~and uniform allowances if the uniform is uniquely identified with company name or logo~~;

(20) Low Income Home Energy Assistance Program (LIHEAP) payments for energy assistance and payments for emergency situations under Emergency Assistance to Needy Families with Children;

(21) advance payments of Earned Income Tax Credit (EITC) or refunds of EITC as a result of filing a federal income tax return;

(22) refunds of state EITC as a result of filing a state income tax return;

(~~22~~23) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(~~23~~24) payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from the exposure to radiation from nuclear testing and uranium mining;

(~~24~~25) federal major disaster and emergency assistance provided under the Disaster Relief Act of 1974 and comparable disaster assistance provided by states, local governments, and disaster assistance organizations;

(~~25~~26) interests of individual Indians in trust or restricted lands;

(~~26~~27) income up to $2,000 per calendar year received by individual Indians, which is derived from leases or other uses of ~~individually owned~~ individually owned trust or restricted lands. Any remaining disbursements from the trust or the restricted lands are considered as unearned income;

(~~27~~28) payments received under the Civil Liberties Act of 1988. These payments are made to individuals of Japanese ancestry who were detained in internment camps during World War II;

(~~28~~29) payments made to individuals because of their status as victims of Nazi persecution;

(~~29~~30) interest accrued from the deposits made by an individual into an Individual Development Account (IDA) up to $2,000; ~~and~~

(~~30~~31) stipends paid to students participating in the Indian Vocational Education Program (IVEP) through the Carl D. Perkins Vocational and Applied Technology Education Act~~.~~;

(32) payments made from the crime victims compensation program as amended in section 1403 of the Victims of Crime Act of 1984, Section 10602 of Title 42 of the United States Code; and

(33) reimbursements made to a foster care parent(s).

PART 5. ASSISTANCE PAYMENTS

340:10-3-56. Structure of the assistance unit

(a) The structure of the assistance unit is defined in this Section.

(1) Individuals whose needs **must** be included in the assistance unit, unless otherwise excluded in accordance with paragraph (3) of this subsection, are:

(A) at least one Temporary Assistance for Needy Families (TANF) eligible child;

(B) the natural or adoptive parent(s); and

(C) all blood-related minor siblings living in the home with the TANF eligible child(ren), including ~~half-brothers~~ half brothers and ~~half-sisters~~ half sisters unless eligibility for the ~~half-brothers~~ half brothers and ~~half-sisters~~ half sisters does not exist. This does not apply to siblings of a minor parent when the minor parent is the adult in the assistance unit.

(2) Individuals whose needs **may** be included are:

(A) the caretaker relative-payee other than the natural or adoptive parent(s) with whom the child(ren) resides, if this individual meets the definition of needy and is of the specified degree of relationship. A caretaker other than stepparent may be included in the assistance unit only when the natural or adoptive parent(s) is absent from the home. A stepparent may be included in the assistance unit when the natural or adoptive parent(s) is incapacitated or absent;

(B) the caretaker relative or the natural or adoptive parent when the only dependent child(ren) residing in the home:

(i) receives Supplemental Security Income (SSI); or

(ii) has been removed from the home by a child protection action and the plan for the child(ren) is impending reunification;

(C) the caretaker relative when the only child(ren) in the home receives federal or state foster care maintenance payments;

(D) the natural parent(s) when the only child in the home received benefits in the form of a voucher and has been removed from the cash benefit as a result of attaining 36 months of age;

(E) the adoptive parent(s) when the only dependent child(ren) receives a Title IV-E or state adoption subsidy; or

~~(F) a child(ren) of the proper degree of relationship to the adult in the home who is not a blood-related sibling to the child(ren) in the assistance unit; or~~

(~~G~~F) a family that includes any head of household or a spouse of the head of household who has received TANF benefits for a total of 60 cumulative months nationwide, whether or not consecutive, and a hardship extension is approved. All other conditions of TANF eligibility must be met. The hardship extensions are:

(i) under-employment. The participant is regularly working 30 hours or more a week and earning at least the minimum wage or its equivalent, but the net income of the assistance unit is insufficient to close the TANF cash assistance;

(ii) chronically under-employed. The participant is under-employed over an extended period of time as a result of documented barriers;

(iii) pending SSI or Social Security Administration (SSA) disability application. The participant has applied for SSI or SSA disability benefits and has not received an unfavorable decision from the SSA Appeals Council. This extension is granted only if the ~~Agency~~ Oklahoma Department of Human Services (OKDHS) determines the disability application has merit and the participant pursues all appeals through a decision by the SSA Appeals Council;

(iv) care of a disabled child or spouse. The participant is responsible for the care of a disabled child or spouse. This extension is granted only when verification has been provided to show the participant is needed in the home to care for this disabled individual and there is no alternative care available;

(v) a clinical diagnosis of mental illness. The participant must be diagnosed with and receiving treatment for a mental disorder listed at ~~20 CFR~~ Part 404, Subpart P, Appendix 1 of Title 20 of the Code of Federal Regulations. This illness must interfere with the participant maintaining or obtaining gainful employment. If appropriate, the individual must participate in other work activities in conjunction with receiving treatment;

(vi) a substance abuse treatment plan. The participant has a treatment plan level of care which requires intensive aftercare treatment of nine hours or more a week in conjunction with other appropriate work activities, or outpatient treatment of nine hours or more a week in conjunction with other appropriate work activities, or is in full-time inpatient treatment; or

(vii) a continuing training or educational activity. The participant is actively involved during the 60th month in an approved training or educational activity which will be completed in less than 12 months.

(3) Individuals whose needs **may not** be included are:

(A) an individual who has received a State Supplemental Payment (SSP) for the same month;

(B) an individual who has received or is included in an SSI payment for the same month;

(C) the spouse of the payee if the payee is not the natural or adoptive parent;

(D) a child(ren) who is receiving foster care;

(E) an adopted child(ren) receiving an adoption subsidy;

(F) an alien who is not legally admitted to the ~~U.S.~~ United States (US) for permanent residence or does not meet alienage requirements;

(G) a caretaker other than a stepparent when the natural or adoptive parent is in the home;

(H) an individual whose period of ineligibility due to receipt of a lump sum payment has not expired;

(I) a stepparent when the natural or adoptive parent is in the home and not incapacitated;

(J) an individual in a household that is eligible to receive benefits under a tribal TANF program;

(K) a child(ren) born to a recipient after ten months from the date of application. Any such child(ren) is not eligible for the parent to receive cash benefits but is eligible for the parent to receive a non-cash voucher in the incremental amount the cash benefits would have been increased had the child(ren) been eligible for cash benefits. This voucher is issued for items of necessity for newborns until the age of 36 months. If a recipient gives birth to an additional child(ren) during the period in which the family is eligible for benefits or during a temporary penalty period of ineligibility, the increase in the amount of benefits is issued as a voucher. A child(ren) born within ten months of application is not considered an additional child(ren) for this provision. The first child(ren) born after ten months from the date of application to a minor child(ren) of an applicant or a recipient family is not considered an additional child(ren) for this provision and is added to the cash payment. Any subsequent child(ren) born to a minor child(ren) is considered an additional child(ren) who is added for voucher benefits for the first 36 months of age;

(L) a fugitive felon;

(M) a probation and/or parole violator;

(N) an individual convicted of having fraudulently misrepresented residence in order to obtain assistance in more than one state. The individual is ineligible for a ten year period that begins on the date of conviction;

(O) a family that includes any head of household or a spouse of the head of household who has received TANF benefits for a total of 60 cumulative months whether or not consecutive and a hardship extension is not approved; or

(P) a minor unmarried payee who has a dependent child(ren) in the minor's care and does not reside with a parent(s), legal guardian, or other adult relative age 18 or older. For the minor payee to be eligible for TANF benefits, the minor must live with the minor's natural or adoptive parent(s) or a stepparent, legal guardian, or other adult relative age 18 or older, or live in a foster home, maternity home, or other supportive living arrangement supervised by an adult. A supportive living arrangement is where a private family setting is maintained and an adult assumes the responsibility for the care and control of the minor and the minor's dependent child(ren) or provides supportive services such as counseling and guidance. The minor payee can reside elsewhere and be eligible for TANF if good cause is established because the:

(i) minor has no living parent or legal guardian whose whereabouts are known;

(ii) parent(s), legal guardian, or other adult relative does not allow the minor to live in the home;

(iii) physical or emotional health or safety of the minor or the minor's dependent child(ren) is jeopardized if the minor or the minor's dependent child(ren) lives in the home with the parent(s), legal guardian, or other adult relative age 18 or older;

(iv) minor parent has lived apart from the minor's parent(s), legal guardian, or other adult relative age 18 or older, for at least one year before the birth of any dependent child(ren), or before the minor applied for benefits; or

(v) minor parent is legally emancipated pursuant to Chapter 4, Title 10 of the Oklahoma Statutes. For a minor to be legally emancipated, the district court must have granted the minor the authority to act on the minor's own behalf.

(b) In general, when an individual whose requirements are included in a TANF assistance unit is temporarily absent from the home for the purpose of receiving training or education for employment, or certain medical services, he or she is considered part of the family and the budgetary requirements are not changed unless needs change by reason of circumstances unrelated to the temporary absence. Individuals temporarily absent from the home but included in the assistance unit are:

(1) an individual receiving training or education for employment during the period of time the training or educational activities are taking place;

(2) a child(ren) attending boarding school during the school term;

(3) a child(ren) absent from the home on visitation to the absent parent up to a maximum of three months. This consideration applies only to visitation and does not apply if the absent parent has physical and legal custody of the child(ren) during these three months;

(4) a child(ren) absent in order to attend school, other than boarding school. Factors considered in making this determination include the maintenance of normal ties between home and the child(ren) during the period of absence; whether the child(ren) continues under the control and guidance of the payee during the absence; and assumption of responsibility by the relative-payee for meeting the child's expenses during the school term. A child(ren) who attends the School for the Blind or the School for the Deaf is considered temporarily absent from the home in determining TANF eligibility;

(5) an individual absent from the home because of entrance into a private facility for counseling, rehabilitation, behavioral problems, or special training. If an assessment indicates care is projected for a period exceeding four months, the absence is not considered temporary. At any time an absence is determined as not temporary or no longer temporary, the needs of the individual cannot be included in the case;

(6) an individual absent from the home for medical services, other than institutionalization for treatment of mental illness, mental retardation, or tuberculosis, for up to six months. Six-month extensions may be allowed when verification indicates the individual may return to the home within the next six months;

(7) an individual absent from the home to receive substance abuse treatment for up to four months. A ~~four~~

~~month~~ four-month extension may be allowed when verification indicates the individual will return to the home within the next four months; or

(8) an individual absent from the home to receive nursing care approved by the Oklahoma Health Care Authority, Level of Care Evaluation Unit. If it appears that this individual may be disabled, an application for a State Supplemental Payment is taken and a referral made to the ~~Social Security Administration~~ SSA district office for an SSI application.

(c) A change in benefit is not made during a temporary absence from the state for three months or less, unless a change is necessary by reason of some change in circumstances not relating to such absence from the state.

340:10-3-59. Assistance benefits

(a) **Availability of funds.** If funds in any category of assistance are not sufficient to meet the full need of all individuals in that category within ~~agency~~ the Oklahoma Department of Human Services (OKDHS) policy, the Commission for Human Services (Commission) specifies the percentage of total requirements for which funds are available. The formula for computing the assistance payment is the need standard multiplied by the percent specified by the Commission equals the payment standard. The payment standard minus the total available net income equals the amount of the assistance payment.

(b) **Maximum benefits.** The maximum benefit a Temporary Assistance for Needy Families (TANF) assistance unit is eligible to receive cannot exceed a nine-person payment standard. ~~If financial assistance is requested for a child(ren) who moves into a TANF household that is receiving maximum benefits, the child(ren) remains in his or her own case if one exists or the social services specialist takes an application for his or her needs only.~~ A TANF eligible child(ren) who is not a blood-related sibling to the other TANF eligible child(ren) must have his or her own case.

(c) **Minimum payments.** The minimum TANF benefit is $10 except for recoupment of an overpayment. No TANF benefit is issued when the family is eligible for a monthly benefit of less than $10. However, the TANF case is eligible as an active case in "Special Medical Status" and the family can receive food stamps in this case, if eligible.

(d) **Payment to minors.** Minors 16 years of age or older may be considered as the adult payee for TANF on behalf of others if the individual is assuming the responsibilities of an adult and meets all conditions of eligibility for TANF. Minors 15 years of age or under may be counted as an adult on a case if the qualifications of adult responsibility are met. However, he or she cannot be the payee on the case.

(e) **Overpayments.** The overpayment may be the whole or any part of the benefit or vendor payment made when the recipient did not meet all conditions of eligibility.

(f) **Non-conditioning of benefits.** The flat grant system of budgeting was developed to determine the extent of need based on the number of eligible persons and is not ~~to be~~ interpreted to restrict in any way the use ~~which~~ the recipient makes of the TANF benefit. This also precludes any agreement on the part of ~~the Department~~ OKDHS to pay or guarantee payment for goods or services provided to recipients by vendors in lieu of money payment.

PART 7. TRANSITIONAL BENEFITS

340:10-3-81. Adjustment period

(a) **Scope.** In an effort to promote marriage and provide a more secure and stable family situation, an adjustment period up to three months of the existing Temporary Assistance for Needy Families (TANF) benefit can be approved by the ~~social services specialist~~ worker. The intent of the adjustment period is to assist the family in the payment of outstanding bills and to allow for the gradual assumption of financial responsibilities. When a TANF recipient marries and the income of the spouse will close the case, an adjustment period can be made available to the family. If deprivation ends for the child(ren) when the spouse returns home and he or she is not incapacitated or does not meet the unemployed parent policy, an adjustment period can be made available to the family. At the time the recipient reports his or her marriage or the return of the spouse, it is the responsibility of the ~~social services specialist~~ worker to discuss the adjustment period with the family to determine possible eligibility. The TANF recipient must be made aware the receipt of an adjustment period counts towards the 60-month lifetime limit of receipt of TANF.

(b) **Requirements.** The requirements for receipt of an adjustment period are:

(1) the marriage of the recipient or return of the spouse must be reported timely. If the TANF recipient fails to report the marriage or return of the absent spouse timely, the number of months of benefits authorized is adjusted accordingly; and

(2) the stepparent or returning spouse must be screened for literacy and substance abuse prior to receipt of an adjustment period. If the stepparent or returning spouse refuses to complete the screenings, an adjustment period is not approved. When the screening(s) indicates a need, a referral is made to an appropriate provider. If the stepparent or returning spouse fails to follow through with the referral, this does not affect receipt of the adjustment period.

(c) **Benefits.** The maximum adjustment period approved is three months. The benefit issued is the same as the existing TANF benefit issued prior to the recipient's marriage or the return of the spouse.

(1) When the TANF recipient ~~is receiving~~ receives purchased ~~day~~ child care for the child(ren), no change is made regarding ~~day~~ child care eligibility or the family share co-payment during the time of the adjustment period.

(2) If the family receives food stamps, it is necessary to show the income of the stepparent or the returning spouse on the computer document so food stamp benefits are correctly computed.

(3) Medical benefits will remain open until medical eligibility is determined by the ~~social services specialist~~ worker.

SUBCHAPTER 10. CONDITIONS OF ELIGIBILITY - DEPRIVATION

340:10-10-4. Continued absence of the natural or adoptive parent(s) from the home

(a) **Determining absence.** Continued absence of the natural or adoptive parent(s) from the home constitutes a reason for deprivation of parental care. It is essential to determine if a primary caretaker exists or if the parents are equally sharing parental responsibilities. Only the parent determined as the primary caretaker is eligible to receive Temporary Assistance for Needy Families (TANF) for this child(ren). If both parents are exercising responsibility for the child(ren), providing day-to-day care, and share maintenance, physical care, and guidance for the child(ren), deprivation does not exist for this child(ren). The child(ren) is deprived of parental care if any one of the above conditions is not met. The nature of the absence must have either interrupted or terminated the parent's functioning as a provider of maintenance, physical care, or guidance for the child(ren) and the known or indefinite duration of the absence precludes counting on the parent(s) for the present support or care of the child(ren). If these conditions exist, the length of time of the absence is not considered. A parent(s) whose absence is due solely to employment, looking for employment, education, or active duty in the uniformed services of the United States, is not considered absent from the home. A parent(s) who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.

(b) **Identifying information.** An applicant for Temporary Assistance for Needy Families (TANF) must provide the name of the person(s) alleged as responsible for the support of a child(ren) and provide identifying information such as name, address, and the employer of the person(s), if known. The parent or caretaker relative completes and signs Form ~~FSS-AP-1a~~ FSS-AP-1A, Absent Parent (AP) Information Sheet. Absence is determined through an evaluation of the information recorded. If the absent parent can be located at the time deprivation is being established or at subsequent redeterminations, the absent parent must be interviewed to determine whether deprivation exists and whether child support is being paid. When there is any question as to whether deprivation actually exists, the parent is advised that it may be necessary to obtain further evidence from persons acquainted with the situation.

(c) **Establishing need.** To establish the need for TANF, it is necessary to determine if any child support is currently being paid and, if so, the amount, how often it is paid, and the method of payment. Parents have a legal obligation to provide financial support for their child(ren), whether or not they were married to each other. However, an unmarried mother is legally the sole parent until paternity is established. The termination of parental rights does not stop the obligation of either parent to provide financial support for his or her minor child(ren), unless the child(ren) has been subsequently adopted. An adoptive parent's legal obligation continues even if a child(ren) is returned to the care of the natural parent. State law requires a referral to the appropriate district attorney if an active TANF case involves willful desertion or abandonment by the parent(s). This referral to the district attorney is made by the Child Support Enforcement Division (CSED).

(d) **Acknowledgment of paternity.** At any time the alleged father is located, the acknowledgment of paternity is discussed with the alleged father. The alleged father's and the mother's notarized signature are secured on Form CSED-209, Affidavit Acknowledging Paternity. If the alleged father lives in the home and acknowledges paternity orally, deprivation does not exist. Additionally, if the alleged father in the home denies paternity but the mother continues to maintain that he is the father, deprivation does not exist pending legal establishment of paternity. If the alleged father is under the age of 18, he must not be interviewed unless his parents, legal guardian, or natural guardian are present at the interview.

340:10-10-5. Requirement for assignment of support rights and cooperation

(a) As a condition of eligibility, when the reason for deprivation is absence, each applicant or recipient of Temporary Assistance for Needy Families (TANF) must assign to the Oklahoma Department of Human Services (OKDHS) any support rights accrued, pending, and continuing of any other family member included in the assistance unit. Failure to assign support rights makes the assistance unit ineligible for TANF. This also includes Title IV-E benefits. Support rights may also be assigned for Medical Assistance (MA) and State Supplemental Payment (SSP) for the blind and disabled ~~category cases~~ when the recipient is a minor with a parent absent from the home, as well as MA custody cases when the state has temporary custody. As a condition of eligibility for TANF, each applicant or recipient must cooperate with ~~the Department~~ OKDHS in respect to a child of the individual ~~in:~~.

~~(1) identifying and locating a known parent;~~

~~(2) establishing paternity; and~~

~~(3) establishing, modifying, or enforcing a support order.~~

~~(b) If the applicant or recipient refuses to cooperate with the Department without good cause in any of the three areas listed in (a) of this Section, the cash assistance must be reduced by 25% of the TANF payment standard.~~

(~~c~~b) Failure of the applicant or recipient to cooperate without good cause ~~in obtaining support~~ may be indicated either during the intake interview or at any time further action by the recipient is necessary. Actions indicating a failure to cooperate are refusals to:

(1) ~~give information to assist in locating the absent parent; and~~ identify and assist in locating a known parent; ~~and~~

(2) ~~name the known father of a child included in the assistance unit.~~ establish paternity; and

(3) establish, modify, or enforce a support order.

(c) If the applicant or recipient refuses to cooperate with OKDHS without good cause in any of the three areas listed in (b) of this Section, the cash assistance must be reduced by 25% of the TANF payment standard.

(d) The Child Support Enforcement Division (CSED) district office makes the determination that an individual is not

cooperating in establishing paternity or obtaining child support. This may be indicated by:

(1) failure to provide any requested information or keep scheduled appointments as necessary for the development of child support;

(2) refusal to complete and sign documents necessary to take legal action against the absent ~~parent~~ parent(s) when requested to do so by the CSED district office;

(3) failure to forward to CSED all child support payments received from the absent parent(s) after an assignment of child support rights to ~~the Department~~ OKDHS has been made;

(4) refusal to make a repayment agreement or to comply with a repayment plan when direct child support is retained;

(5) pursuit of private legal action affecting the status or amount of a support obligation; and

(6) discovery of any questionable action or inaction ~~in regard to~~ regarding a support obligation.

(e) When an individual is determined to be ~~failing to cooperate~~ cooperating with CSED, ~~the cash assistance provided to the family is reduced by 25% of the TANF payment standard. The~~ the 25% penalty is removed effective the date cooperation resumes. [~~OAC 340:10-10-7 (b)(3)(C~~ OAC 340:10-10-7(b)(3)(C)]

340:10-10-6. Good cause

(a) **Basis for client to claim good cause.** Although cooperation is required as a condition of eligibility for Temporary Assistance for Needy Families (TANF), federal regulations provide for waiver of that condition when such cooperation is not in the best interest of the child. However, the Oklahoma Department of Human Services (OKDHS) may determine that child support enforcement activities can be safely conducted without the cooperation of the client.

(1) It is clear that the best interests of the parent or caretaker relative are relevant to the child's best interest determination when an adverse impact on the parent or caretaker will have an adverse impact upon the child. Clearly, the physical safety and well-being of the parent or caretaker relative is in the best interest of the child. If cooperation by the mother in establishing paternity or securing support would subject her to physical or emotional harm, such cooperation would be against the child's best interest if harm to the mother is sufficiently severe to affect her ability to care for the child adequately.

(2) ~~The Department~~ OKDHS determines that the client has good cause for refusing to cooperate only if:

(A) there is possible physical or emotional harm to the child;

(B) there is possible physical or emotional harm to the parent or caretaker relative-payee;

(C) the child was conceived as a result of incest or forcible rape;

(D) legal proceedings for adoption of the child are pending before a court; or

(E) the client is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption.

(b) **Assignment and degree of promptness.** The good cause exception applies only to excuse the cooperation requirement. The requirement that the applicant or recipient assign support rights to ~~the Department~~ OKDHS as a condition for TANF eligibility cannot be waived or excused based on a good cause determination. The assignment requirement is independent from the cooperation requirement and is not affected by a good cause determination. The cooperation requirement is a TANF eligibility condition when there is an absent parent(s), unless the applicant has good cause for refusing to cooperate. In all but exceptional cases, such as when it is very difficult to gather information, the good cause determination must be made with the same degree of promptness as the determination of TANF eligibility.

(c) **Notice of right to request a decision.** The client has the right to claim good cause for failure to cooperate in obtaining child support. When deprivation is based on absence, ~~every~~ the applicant for or recipient of TANF must sign Form C-9, ~~Notice Concerning Good Cause for Refusal to Cooperate~~ Cooperation Agreement and Request for Good Cause, at the time of original application, when a child is added to the grant, or when circumstances result in an applicant's or recipient's request for good cause. The county does not deny, delay, or discontinue assistance pending a determination of good cause for refusal to cooperate if the applicant or recipient has complied with the requirements to furnish evidence or information.

(d) **Responsibility of applicant or recipient.** It is the responsibility of the applicant or recipient who makes a claim for good cause to supply documentary evidence to establish the claim, or to furnish sufficient information to permit ~~the Department~~ OKDHS to investigate the circumstances of good cause for refusing to cooperate. Uncorroborated statements of the applicant or recipient do not constitute verifying information as required by this regulation.

(1) The evidence must be of probative value and must be supported by written statements to the extent possible. Examples of acceptable written statements are:

(A) birth certificate~~,~~ or medical or law enforcement records which indicate that the child was conceived as a result of incest or forcible rape;

(B) court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;

(C) criminal, medical, child protective services, social services, psychological, or law enforcement records which indicate that the putative or absent parent might inflict physical or emotional harm on the child or caretaker relative;

(D) medical records which indicate the emotional health history and present emotional health status of the caretaker relative or child, or a written statement from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the caretaker relative or child;

(E) a written statement from a public or licensed private social agency that the applicant or recipient is

being assisted by ~~the agency~~ OKDHS to resolve the issue of whether to keep the child or relinquish the child for adoption; and

(F) sworn statements from individuals other than the client with knowledge of the circumstances which provide the basis for the good cause claim.

(2) Upon request, the ~~social services specialist~~ worker assists the client in obtaining evidence that is not reasonably obtainable. This requirement is limited to the specific documentary evidence listed in (1)(A) ~~-~~ through (F) of this subsection. The client must specify the type of document or record needed, as well as provide sufficient identifying information to make it possible to be obtained.

(e) **Title IV-E exemption.** Under limited conditions the parent(s) of a child removed from the home by a custody order may be exempt from the required referral to the CSED district office as a condition of the child's eligibility. A referral from the ~~Division of~~ Children and Family Services ~~(DCFS)~~ Division (CFSD) and Office of Juvenile Affairs (OJA) includes reasons for the request of an exemption to the requirement to cooperate in the development of child support.

340:10-10-7. Oklahoma Department of Human Services (OKDHS) responsibilities in relation to support payments

(a) **Referral to the Child Support Enforcement Division (CSED).** Federal regulations require referral to ~~the~~ CSED ~~be made~~ no later than two working days after the Temporary Assistance for Needy Families (TANF) benefit is issued based on deprivation due to absence. The ~~completed~~ appropriate completed CSED forms supplement the ~~computer generated~~ computer-generated referral and are submitted, with the exception of good cause, to CSED. Information which may have an effect on support enforcement may become known after the CSED district office referral has been made. ~~Such information is reported by updating the computer input document and forwarding the information and attachments, if any, by memo to the appropriate CSED district office.~~

(b) **Receipt of child support or spousal support.** For purposes of this Subchapter, child support is defined as voluntary monetary contributions or ~~court ordered~~ court-ordered obligations. When a child support order also contains an order for spousal support which may be referred to as alimony or support alimony in Oklahoma, the obligation for spousal support must also be assigned to ~~the Department of Human Services~~ OKDHS. At the application interview, the applicant is informed of the responsibility to forward to the Oklahoma Centralized Support Registry (OCSR) any support payments received from the absent parent(s) after TANF certification.

(1) **Payments received during application period.** All child support payments reported by an applicant during the time prior to certification are considered as income. For purposes of rules in this Chapter, certification is considered the date of the ~~supervisor signs~~ supervisor's signature ~~the computer input document~~ authorizing payment. Support anticipated to be received after certification is not considered as the client has agreed by signing Form FSS-1, ~~Combined~~ Comprehensive Application and Review ~~Forms~~ Form, and ~~Appendix G of Chapter 25~~ Form CSED-5, Statement of Understanding, Cooperation and Assignment -TANF, to submit any future payments to ~~CSED~~ OCSR.

(2) **Payments received after certification.** Any support payments brought to the county office by the client after certification must be forwarded to ~~the Centralized Support Registry~~ OCSR. Payments are not sent in the form of cash.

(3) **Retained support payments.** If the ~~social services specialist~~ worker becomes aware that the client has retained assigned support payments, the CSED district office is contacted with this information.

(A) The client is considered as not cooperating if:

(i) assigned support paid directly to the client is retained;

(ii) he or she refuses to repay a retained support overpayment in full or sign a repayment plan;

(iii) he or she fails to make payments according to the repayment agreement; or

(iv) he or she retains assigned direct support payment even if any overpayment has been repaid in full or a repayment plan is being followed.

(B) The CSED district office ~~or State Office, Family Support Services Division (FSSD)~~ determines ~~if~~ whether non-cooperation has ~~taken place~~ occurred and notifies the county office. When non-cooperation is determined, the TANF cash assistance ~~is~~ reduced by~~:~~ 25% of the TANF payment standard and the support is considered as income.

~~(i) considering the support as income; and~~

~~(ii) 25% of the TANF payment standard.~~

(C) When notified by CSED that the client has resumed cooperation, the ~~social services specialist~~ worker removes the 25% penalty and no longer considers the support as income. The cash assistance is increased effective the date cooperation resumes.

(4) **Child support and other income exceeds cash assistance.** When a support payment is received that is greater than or equal to that month's TANF cash assistance, ~~or when added to all other gross income exceeds the gross income maximum standard, it must be determined if the case remains eligible. The amount of child support paid up to the amount of the monthly support is considered available. If the available amount exceeds the cash assistance or if, when it is added to all other case income, the amount exceeds the gross income maximum standards,~~ the ~~case~~ TANF cash assistance must be closed. ~~When child support, spousal support, or both, causes ineligibility, the family is entitled to continued medical benefits.~~ If the TANF cash assistance is not closed timely, ~~Any~~ any child support payment received during ~~the~~ that month ~~the case becomes ineligible~~ or subsequent months is retained by CSED for reimbursement of TANF payments made for those months or any preceding months. When child support, spousal support, or both, causes ineligibility, the family is entitled to continued medical benefits.

Following reimbursement of all TANF cash assistance, any excess payment remaining is forwarded to the client.

(5) **Federal and/or state tax intercept payments.** Tax intercept payments collected by CSED prior to the client's current receipt of TANF and held for six months may be distributed to the client and is considered as a resource the month following the month of receipt.

(c) **Arrearage in child support payments.** ~~In the determination of the amount of child support owed by an absent parent, the CSED calculates any amount in arrearage.~~ CSED determines the amount of child support owed by the absent parent, which includes any arrearages. Arrearages are amounts that are past due for previous months. When a child support payment received by ~~the Department~~ OKDHS during any given month includes arrearages, paragraphs (1) ~~-~~ through (~~3~~2) of this subsection apply.

~~(1) Any portion of the arrearages for months during which the family was not receiving TANF are paid to the family by the State Office and are considered as a nonrecurring lump sum payment.~~

(~~2~~1) Any portion of the arrearages for months during which the family was receiving TANF ~~are~~ is considered as reimbursement to ~~the Department~~ OKDHS for the TANF received by the family.

(~~3~~2) The only payment from such arrearages made to the family is that portion, if any, which exceeds the total TANF payments.

(d) **Child support services after TANF closure.** At the time the TANF ~~case~~ benefit is closed, the client is advised that he or she can receive non-TANF Child Support Services with no further application, no fee required, nor charge for collection deducted. This service occurs automatically unless the client specifically requests in writing that CSED not provide the service or the ~~case~~ client becomes ineligible for non-TANF Child Support Services for some other reason.

SUBCHAPTER 14. CONDITIONS OF ELIGIBILITY - IMMUNIZATIONS

340:10-14-1. Immunizations

(a) **Scope.** Immunization of ~~all~~ minor children two months of age or older is a variable condition of eligibility. Caretaker relatives must provide proof of current immunization. This is accomplished by the vaccination record issued by the local health official or a licensed physician. If the minor ~~child~~ child(ren) is attending a licensed child care center or home or is enrolled in a parochial, private, or public school, no further proof of immunization is required as each of these entities require immunization or a signed certificate of exemption on file with the Oklahoma State Department of Health (OSDH) as a condition of attendance. If after six months the caretaker relative, without good cause, has failed to provide proof of immunization for the minor child(ren), the cash assistance must be reduced by 25% of the payment standard. The 25% penalty is removed effective the date the caretaker relative provides verification of current immunization.

(b) **Good cause.** A caretaker relative can request good cause depending on the medical condition of the child(ren), ~~or~~ the religious affiliation of the child(ren), or the personal objection of the parent. Good cause is approved ~~by having~~ when a:

(1) physician ~~certify~~ certifies on Form FSS-TANF-1, Immunization Certificate of Exemption, that there is a medical contraindication; ~~or~~

(2) religious leader or parent ~~certify~~ certifies on Form FSS-TANF-1 that immunizations are contrary to the teachings of the child(ren)'s religion~~.~~; or

(3) parent certifies on Form FSS-TANF-1 that immunizations are contrary to the beliefs of the parent.

SUBCHAPTER 20. DIVERSION ASSISTANCE

340:10-20-1. Diversion Assistance (DA)

(a) **Scope.** DA for families with a minor child(ren) provides for financial assistance in lieu of Temporary Assistance for Needy Families (TANF) when there is an immediate need to retain or obtain employment. It is not used for fines including traffic fines or any cost related to a criminal offense such as legal fees or court costs. It is limited to once in the ~~life-time~~ life time of the applicant(s); ~~however, unforeseen circumstances could mitigate this provision~~ therefore, it is vital that financial planning be initiated to determine if the provision of DA will allow the family to be self-sufficient for the next 12 months. Families approved for this benefit are not included in the count of persons reported for federal participation rates and these payments do not count against the individual(s) 60-month lifetime limit of receipt of TANF. For this reason, an adult must be included in the DA benefit.

(b) **Need.** The criteria for the receipt of DA is:

(1) the individual(s) is employed or has a bona fide offer of employment;

(2) there is a financial need which, if not met, can cause the loss of employment or the offer of employment for the individual(s);

(3) the family monthly gross income cannot exceed the gross income maximum as shown on ~~DHS~~ OKDHS Appendix C-1, Schedule of Maximum Income, ~~Resources~~ Resource, and Payments Standards, Schedule XVI, for the appropriate family size; and

(4) family resources cannot exceed limits as shown on ~~DHS~~ OKDHS Appendix C-1, Schedule XVI.

(c) **Requirements.** The applicant(s) completes the application form which states the applicant(s) agrees to not apply for TANF for one year from the date of application for DA. In two-parent families both parents must sign the application form.

(1) The applicant(s) must be screened for literacy and substance abuse prior to receipt of DA. If the applicant(s) refuses to complete the screenings, the application for DA is denied. When the screening for literacy or substance abuse indicates a need, a referral is made to an appropriate provider. If the applicant(s) fails to follow through with the referral, this does not affect the eligibility for DA.

(2) Refer to OAC 340:65-3-4 for Social Security number (SSN) requirement. The application is not delayed waiting for a SSN.

(3) Refer to OAC 340:10-15 for requirements for citizenship and alienage.

(4) The application is processed within seven days.

(d) **Benefits.** Benefits can equal up to three months of the payment standard as shown on ~~DHS~~ OKDHS Appendix C-1, Schedule XVI for the appropriate family size. Benefits can be approved in more than one authorization as long as the request for additional funds is made before the end of the 90 day period which begins with the initial date of application, and does not exceed ~~the~~ three ~~month maximum~~ times the monthly payment standard for the family size. Payment is issued through an authorization to purchase. The provider is paid no later that five days from the date of receipt of the properly completed invoice in the ~~Office of~~ Finance Division.

[OAR Docket #03-490; filed 3-27-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 20. LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

[OAR Docket #03-489]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Low Income Home Energy Assistance Program
340:20-1-12. [AMENDED]
340:20-1-14. [AMENDED]
340:20-1-17. [AMENDED]
(Reference APA WF # 02-37)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Title XXVI of Public Law 97-35, the Omnibus Budget Reconciliation Act.
DATES:
Comment period:
December 16, 2002 through January 15, 2003
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None requested
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January 30, 2003
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January 30, 2003
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March 17, 2003
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 26, 2003.
Final adoption:
March 26, 2003
Effective:
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SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
340:20-1-12 is revised to reference the correct Low Income Home Energy Assistance Program (LIHEAP) application forms. 340:20-1-14 is revised by deleting the words Data Services Division and Department and adding language that exempts county staff from sending notices to certain energy vendors. 340:20-1-17 is revised to reference the correct LIHEAP application forms, replace out-of-date terms, and eliminate unnecessary language.
CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2003.

SUBCHAPTER 1. LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

340:20-1-12. Applications

~~OAC 340:10, Appendix II, Application for Emergency Assistance, or computer generated~~ Computer-generated Form LIHEAP-1-A, Application for Low Income Home Energy Assistance, or Form LIHEAP-1-B, Application for Low Income Home Energy Assistance - Walk-In, is completed for every request for home energy assistance, with the exception of ~~those A,B,C,D,~~ A, B, C, D, ~~or~~ and S cases that have been pre-authorized.

(1) Form LIHEAP-1-A is ~~computer~~ automatically mailed to payees in selected active ~~A,B,C,D,~~ A, B, C, D, or S cases certified prior to December. The application shows the case number and case name and continues with the same case number regardless of ~~A,B,C,D,~~ A, B, C, D, or S case status after the energy case has been certified. The ~~computer-generated~~ computer-generated Form LIHEAP-1-A is returned to the ~~County Office~~ county office when completed by the applicant to be processed for application approval or denial.

(2) Households making an initial application for Low Income Home Energy Assistance Program (LIHEAP) and not containing a payee-recipient or applicant of an ~~A,B,C,D,~~ A, B, C, D, or S case require an "N" number. Households requiring an "N" number must apply for LIHEAP through their county office using ~~application OAC 340:10, Appendix II~~ Form LIHEAP-1-B.

(3) A new application is not necessary when a worker is notified of a change of "service" address.

(4) In order to ~~assure~~ ensure that payments are made to the correct energy supplier for gas and electricity, it is necessary to know the account name and the account number of the client. Therefore, for households using gas or electricity it is necessary to see the household's most recent paid or unpaid bill or to obtain verification from the utility supplier.

340:20-1-14. Actions, method of payment, and notifications

Contingent upon the receipt of federal funding, one payment is made during the federal fiscal year to or on behalf of households included in paragraph (1) of this Section~~,~~ unless a situation arises which causes two payments to be made. Examples of situations that cause two or more payments to be made include a delay in federal funding~~,~~ or release of contingency funds by the President~~, and the like~~.

(1) **Approvals.** Maximum household benefit levels are determined by fuel type, household size, and household income. Normally, one direct payment is made to designated energy suppliers on behalf of approved households. The payment is normally made in February. The amount of the payment is the original household benefit level as adjusted, if necessary, based upon the total encumbrance for heating assistance in relation to federal funds available for payments.

(2) **Direct payments.** The same payment schedule in paragraph (1) of this Section applies for unsubsidized renters and roomers with utilities included in their rent, and for households whose energy source is wood, coal, heating oil, or kerosene, except payments are made directly to approved households.

(3) **Closures.** The county office authorizes closure of cases in which the household is no longer eligible. ~~However, closure~~ Closure is not authorized before the county has contacted the designated energy supplier and determined that the household has no outstanding debt with the supplier. If there is an outstanding debt, the case is not closed. The ~~Data Services Division~~ case automatically closes ~~cases~~ after the household's program benefit level has been paid.

(4) ~~**Computer generated**~~ **Computer-generated notices.** ~~Computer generated~~ Computer-generated notices are mailed from State Office to the applicant or recipient showing the ~~Department's~~ action taken on an energy case.

(A) Notice #1, Form LIHEAP-37-A, Notice of Eligibility/Authorization, is mailed to the applicant.

(B) Notice #2, Form LIHEAP-37-C, Notice of Eligibility, is mailed to the recipient. This notice is mailed for each authorization for a roomer or renter when fuel is included as a part of the shelter payment, and for households whose fuel source is wood, coal, kerosene, or oil.

(C) Notice #3, Form LIHEAP-37-D, Notice of Payment, is mailed to the recipient as notification that payment has been made to the energy supplier on his or her behalf.

(D) Notice #4, Form LIHEAP-37-E, Notice of Denial, is mailed to the applicant when an application has been denied.

(E) Notice #5, Form LIHEAP-37-F, Notice of Closure, is mailed to the recipient when the county office closes an authorization.

(F) Notice #6, Form LIHEAP-37-K, Special ABCDS Authorization Notice, is mailed to ~~those ABCDS~~ A, B, C, D, and S clients who were pre-authorized for Low Income Home Energy Assistance Program (LIHEAP) ~~Heating Assistance~~ heating assistance benefits. The notice advises the recipient that his or her ~~Heating Assistance~~ heating assistance eligibility has been predetermined.

(G) Notice #7, Form LIHEAP-37-M, Expedited Services/ECAP Notice of Payment, is mailed to the recipient as notification that payment has been made to the supplier on his or her behalf.

(5) ~~**County generated**~~ **County-generated notices.** The county office mails or issues Form LIHEAP-37-J, Notice of Eligibility for Energy Crisis Assistance, to the energy provider or to the recipient for delivery to the energy provider unless the provider is specifically exempted by the Family Support Services Division. The notice is issued by the county whenever the household meets eligibility requirements for crisis assistance.

340:20-1-17. Energy Crisis Assistance

(a) **Energy Crisis Assistance.** Energy crisis situations are handled through Expedited Services (ES) during the regular ~~Heating Assistance Program~~ heating assistance program, and through the Energy Crisis Assistance Program (ECAP) in March. All applications for Energy Crisis Assistance ~~are~~ must be made by contacting the county Oklahoma Department of Human Services (OKDHS) ~~DHS~~ office. The procedures and eligibility conditions in (1) through (8) of this subsection apply to both ~~Expedited Services~~ ES and ECAP.

(1) If a household is approved for Energy Crisis Assistance, either ~~Expedited Services~~ ES or ECAP, assistance is provided to resolve the crisis situation within 48 hours from the time of application.

(2) If the crisis situation is verified by a designated authority as life-threatening, the application ~~is~~ must be processed so that assistance is provided to resolve the crisis situation within 18 hours following application provided, the household is eligible for crisis assistance benefits. The life-threatening decision must be documented in detail in the case record. Authority for designating a crisis situation as life-threatening is limited to a:

(A) physician;

(B) public health official;

(C) licensed practitioner of the healing arts; or

(D) ~~DHS~~ OKDHS county director.

(3) Following verification of the crisis and determination of eligibility, the certifying worker contacts the fuel supplier as soon as possible to request delivery of fuel. Form LIHEAP-37-J, Notice of Eligibility For Energy Crisis Assistance, is then issued to the supplier or to the client to take to the supplier.

(4) ~~Expedited Services~~ ES and ECAP are utilized for households having an energy crisis who do not exceed the income and liquid resource standards. If the energy crisis is due to garnishment or recoupment of an overpayment, other than ~~DHS~~ OKDHS, the computation to determine net income is:

(A) gross earned income;

(B) minus the garnishment or recoupment amount;

(C) minus the Temporary Assistance for Needy Families (TANF) standard work related expense;

(D) plus ~~earned~~ unearned income;

(E) equals net income for ~~Expedited Services /ECAP~~ ES and ECAP.

(5) A household that exceeds income and liquid resource standards is ineligible. Even if income and liquid resources are equal to or below the standard, the ~~social~~ worker ~~verifies~~ must verify that the energy crisis need cannot be met by available income and liquid resources. The household also must have had service discontinued or terminated by the seasonal primary energy supplier, or received ~~one of the following~~ a:

(A) notice of scheduled cut-off within 72 hours;

(B) notice of refusal to provide additional energy needs by the supplier when supply of fuel will be depleted within 72 hours or less; or

(C) information regarding fee for a new connection.

(6) The worker ~~ascertains~~ must ascertain why the energy bill has not been paid. For a household to be eligible for ~~Expedited Services~~ ES or ECAP, some precipitating factor must exist which caused the household's inability to pay their energy bill. Simply not paying the bill when there was no household crisis does not qualify a household for ~~Expedited Services~~ ES or ECAP. Factors preventing payment of the energy bill include, but are not limited to, situations causing the household to make a choice between paying the energy bill and:

(A) purchasing sufficient food for the household;

(B) paying for emergency situations such as medical expenses or disaster recovery; or

(C) providing clothing for children in the household~~, and the like~~.

(7) Counties must use discretion in determining what constitutes good cause for a household not paying the utility bill. ~~As long as the~~ Any practical reason is ~~not clearly erroneous within the intent of policy, as determined by Family Support Services, Special Programs/LIHEAP, it~~ is acceptable. If in doubt, the ~~State Office~~ Family Support Services Division (FSSD), LIHEAP Unit, is available for consultation~~,~~.

(8) If the energy supplier will not establish or restore service for the amount of the ES or ECAP payment, combined with whatever other resource is available or can be developed, the crisis payment cannot be authorized.

(9) All payments for crisis assistance are made directly to energy suppliers with rare exceptions~~,~~. ~~for example, if no reliable wood supplier is available, it is permissible to send the payment directly to the eligible household by entering the client's name and social security number as that of the vendor. Such situations should occur infrequently, and the worker must use judgment in determining whether the client is a more reliable payee than any supplier available.~~

(b) **Expedited Services (ES).** During the open application period in December, energy crisis situations are addressed by approving eligible households for ~~Expedited Services (~~ES~~)~~.

(1) A household approved for ES is not eligible for a heating assistance payment in February. Also, if a household which has already been approved for heating assistance, either through pre-certification or regular assistance is approved for ES, the heating assistance authorization on the 105H screen must be closed. The ES benefit from the ~~estimated benefit matrix~~ Estimated Benefit Level Matrix is the appropriate amount based on the Agency's best estimate of the total amount of federal funds that will be available in relation to the number of households expected to be approved.

(2) ~~Expedited Services~~ ES payments are made weekly after the ~~Heating Assistance~~ heating assistance application period begins in December. The household benefit level for ES and ~~Heating Assistance are~~ heating assistance is the same unless it is necessary to adjust the ~~Heating Assistance~~ heating assistance benefit, either up or down, before the February payment is made.

(c) **Energy Crisis Assistance Program (ECAP).** Based upon previous years' program experience, reasonable funds are reserved until March 15 of each year for ~~an Energy Crisis Assistance Program (~~ECAP~~)~~. All ECAP applications must be made on Form ~~OAC 340:10, Appendix H~~ LIHEAP-1-B, Application for Low Income Home Energy Assistance. The authorized benefit for ECAP is limited to a one-time-only payment for the amount necessary to connect, restore, or maintain energy service to the household. The authorized benefit cannot include the cost of propane or butane tank delivery. ~~The ECAP benefit may not exceed a maximum of $100 for a single person household and $150 for a household composed of two or more persons.~~ In instances where the maximum amount of ECAP and other available emergency programs do not meet the crisis, the case ~~is~~ must be documented as having a feasible plan for maintaining or restoring service before an ECAP payment ~~is~~ can be authorized. Payment may only be authorized for the seasonal primary source of energy, although it is possible for the primary energy source to change in some situations. If an interim period is implemented, the client may chose the primary energy source. If a cooling program is implemented, payment is only authorized for the primary energy source for cooling. ~~Refer to OAC 340:20-1.10(b).~~ [OAC 340:20-1-10(b)]

[OAR Docket #03-489; filed 3-27-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 40. CHILD CARE SERVICES

[OAR Docket #03-491]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 3. Initial Application
340:40-3-1. [AMENDED]

Subchapter 5. Plan of Service
340:40-5-1. [AMENDED]
Subchapter 7. Eligibility
340:40-7-3. [AMENDED]
340:40-7-8. [AMENDED]
Subchapter 13. Child Care Rates and Provider Issues
340:40-13-3. [AMENDED]
(Reference APA WF # 02-16 and 02-27)

AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [Pub. L. 104-193]; the Balanced Budget Act of 1997 [Pub. L. 105-33]; and 45 CFR Parts 98 and 99.

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Effective:
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SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 3. Initial Application
340:40-3-1 [AMENDED]
Subchapter 5. Plan of Service
340:40-5-1 [AMENDED]
Subchapter 7. Eligibility
340:40-7-3 [AMENDED]
340:40-7-8 [AMENDED]
Subchapter 13. Child Care Rates and Provider Issues
340:40-13-3 [AMENDED]
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03-90

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
340:40-3-1 is revised by removing references to procedures that are no longer applicable; adding language that requires application processing to be completed statewide within two working days of receiving verification; adding a requirement that the client must choose a child care provider who has a valid contract on the date child care begins; allowing expedited application processing when required verification is beyond the client's control to provide; and changing the title of social services specialist to worker. 340:40-5-1 is revised by adding language to clarify that the natural or adoptive parent who lives in the home and does not meet a need factor is also considered an alternative to subsidized child care; requiring the client to choose a child care provider who has a valid contract on the date child care begins; adding exception criteria for the selection of a one star facility; and changing the title of social services specialist to worker. 340:40-7-3 is revised by changing the date a child is no longer eligible for child care assistance to the day before the 13th birthday for a typical child and the day before the 19th birthday for a child with disabilities or a child in DHS custody. 340:40-7-8 is revised by adding language allowing child care benefits to be reduced or terminated when counseling is unsuccessful; ending child care approval for a child with disabilities on the day before the child's 19th birthday; and changing the title of social services specialist to worker. 340:40-13-3 is revised by adding language to clarify the criteria used in determining child care rates and changing the date a child is no longer eligible for child care assistance to the day before the 13th birthday for a typical child and the day before the 19th birthday for a child with disabilities or a child in DHS custody.

CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2003.

SUBCHAPTER 3. INITIAL APPLICATION

340:40-3-1. Initial application

(a) **Initial application.** An applicant or the applicant's authorized representative completes ~~Form PS-1, Request for Services, and~~ Form K-2, Application for Child Care Services, or Form FSS-1, Comprehensive Application and Review ~~Form~~, to apply for child care services. When child care is needed for a child with disabilities, the ~~social services specialist~~ worker and applicant also complete Form ADM-123, Certification for Special Needs Child Care Rate.

(1) **Date of request.** The date of request is the date the applicant requests child care services. A request can be made verbally or in writing.

(~~1~~2) **Date of application.** The date of application is the date the ~~signed application is received in the county office. A verbal request for child care services by either the applicant or the applicant's authorized representative may also serve as the initial application date.~~ applicant or the applicant's authorized representative completes the child care interview and provides all necessary verification to the county office. This includes providing the name of the child care provider the client wishes to use. This provider must already have a valid Department of Human Services (DHS) child care provider contract and not be shown at OAC 340:40-5-1(g) as an exception to choice of provider.

(~~2~~3) **Child care interview.** Child care interviews are typically completed face-to-face with the applicant or authorized representative. A face-to-face interview is required for preventive child care requests and strongly recommended for special needs requests.

(~~3~~4) **Explanation of eligibility factors.** At the time of the initial interview, the ~~social services specialist~~ worker advises the applicant or authorized representative of his or her rights and responsibilities, ~~as well as~~ all factors of eligibility, and explains which child care providers are eligible to receive subsidy payment. The applicant must cooperate with the DHS Office of Inspector General during any audit or investigation of the applicant or the provider the applicant uses for child care. The applicant must report within ten days any changes in his or her circumstances.

(~~4~~5) **Timeliness.** ~~Applications for child care must be completed within 30 days of the date of the application.~~ Near real-time (NRT) benefit processing time frames are used for all child care applications. To be considered timely, the worker must determine eligibility within two working days of receiving all necessary verification to certify or deny the application. If the applicant does not provide requested verification, the worker must deny the request within 30 days of the date of request. The ~~social services specialist~~ worker sends Form FSS-37, Notice Regarding Social Services, explaining the reason for delay to any applicant whose application is over 30 days old.

(~~5~~6) **Right to appeal.** The applicant has the right to appeal the untimely processing of a child care request or the decision of eligibility or ineligibility.

(b) **Expedited eligibility processing.** The ~~social services specialist~~ worker must process an application immediately when required verification is beyond the applicant's control to provide, the applicant does not have the money to pay toward the cost of child care, and without child care the applicant:

(1) is in danger of losing a job; or

(2) cannot start a new job.

(c) **Eligibility determination.** A Family Support Services ~~Division (FSSD) social services specialist~~ (FSS) worker completes all applications ~~where~~ when an eligibility determination for a family must be made. Child Welfare (CW) staff must process all applications made by ~~Child Welfare~~ CW foster parents for child care. Either ~~FSSD~~ FSS or ~~Child Welfare~~ CW staff may process preventive service requests.

(1) **Applicant determined eligible.** ~~The social services specialist approves child care back to the application date if need existed on that date and the applicant used a contracted child care provider.~~ The earliest date the worker approves child care is the date the applicant provides all necessary verification to determine eligibility. The applicant is responsible for any child care used before the certification date ~~of application~~ or which is not part of the approved child care plan.

(2) **Applicant determined ineligible.** The application is denied if the applicant is ineligible or requests cancellation of the application.

SUBCHAPTER 5. PLAN OF SERVICE

340:40-5-1. Plan of service

(a) **Plan of service.** Providing child care is part of an overall plan of service designed to help the ~~parent~~ parent(s) or ~~caretaker~~ caretaker(s) with whom the child(ren) lives to achieve his or her maximum potential for self-support. Quality child care services assure the ~~parent~~ parent(s) or ~~caretaker~~ caretaker(s) that each child has adequate care which affords developmental and learning experiences while the ~~parent~~ parent(s) or ~~caretaker~~ caretaker(s) is engaged in self-support activities. The ~~social services specialist~~ worker helps the client to become more independent by suggesting ways to increase household income and identifying strengths in the client's life. The Family Support Services ~~Division social services specialist~~ (FSS) worker and the Child Welfare staff freely share information to develop a plan that best meets the needs of the family when both are working with the family.

(b) **Plan components.** The plan of service consists of many components that all link to form a goal-directed plan of care. These components include:

(1) the name, age, and grade level of the child(ren) for whom child care is needed;

(2) need for child care;

(3) the days and hours for which care is approved, including travel time;

(4) whether care is approved on a weekly, full-time, blended, or part-time care basis;

(5) whether there is an appropriate, feasible alternative to Department of Human Services (DHS) subsidized child care;

(6) ~~what~~ that the plan ~~is in place~~ to increase the client's income is in place;

(7) a back up plan for care when the child(ren) cannot go to the authorized child care provider;

(8) the name, address, and telephone number of a person who could be called on in case of an emergency;

(9) a plan to help the client choose a child care provider;

(10) a discussion about ~~what, if any,~~ the family share co-payment the family ~~needs to~~ must pay toward the cost of child care, if one is required;

(11) a discussion of any other social service needs of the family; and

(12) a discussion of the client's responsibilities and rights when using subsidized child care.

(c) **Alternative to subsidized child care.** The ~~social services specialist~~ worker explores with the client whether there is an appropriate, feasible alternative to ~~Department~~ DHS subsidized child care. The client has a choice whether ~~or not~~ to use this alternative unless the alternative is a spouse or the natural or adoptive parent of the child(ren) who lives in the home and who does not meet a need factor. Possible alternatives include:

(1) care by a dependable relative who is able and willing to assume responsibility for care and supervision of the ~~child~~ child(ren) for part of the day;

(2) care in a free or low cost facility, such as a preschool, prekindergarten, kindergarten, Head Start, Early Head Start, or tribal child care program;

(3) dependent care expenses paid directly by a Temporary Assistance for Needy Families client which are considered as earned income exemptions; and

(4) for a school age child(ren), the possible rearrangement of the parent's or caretaker's employment or training schedule to coincide with the hours the child(ren) is in school.

(d) **Plan to increase income.** At each application or review, the client and the ~~social services specialist~~ worker discuss ways the client can increase income to the household. The client and ~~social services specialist~~ worker identify together the goals child care helps the family achieve. Together they estimate when the family can assume progressively greater responsibility for the cost of child care. The ~~social services specialist~~ worker makes referrals to other agencies as appropriate.

(e) **Back up plan.** The ~~social services specialist~~ worker discusses with the client the back up plan for child care he or she has in place if the child(ren) cannot go to the usual provider for some reason such as illness, school holidays, or another unforeseen emergency. The back up plan includes the name and address of a person the client feels he or she can rely on when the normal plan of care cannot be used.

(f) **Emergency contact.** ~~The application or review form~~ Form FSS-1, Comprehensive Application and Review, or Form K-2, Application for Child Care Services, includes the name, phone number, and address of a person who can be contacted in case of emergency when the primary parent or caretaker cannot be reached.

(g) **Choice of provider.** The ~~social services specialist~~ worker documents the choice of provider on ~~the application or review form~~ Form FSS-1 or Form K-2. He or she calls the chosen provider to ensure acceptance of the child(ren) does not cause the provider to exceed his or her licensed capacity after describing the days and hours care is needed. If the client does not choose a provider at the time of ~~application~~ the request, the ~~social services specialist~~ worker provides the client with information to help in making the choice. The client can choose a family child care home regardless of star level. The client ~~can choose any child care provider who holds a contract with the state of Oklahoma except~~ cannot choose a child care:

(1) facility that does not have a valid contract with DHS;

(~~1~~2) facility in which the client or his or her spouse has an ownership interest;

(~~2~~3) home in which the child resides;

(~~3~~4) home ~~where~~ in which the client also works during the hours his or her child(ren) is in care;

(~~4~~5) center ~~where~~ in which the client works and has job responsibilities which include care of the child(ren) for whom child care is requested;

(~~5~~6) provider who is related to the client and only accepts a relative's child(ren);

(~~6~~7) provider who does not allow parental access during the hours the provider is caring for children; ~~or~~

(~~7~~8) provider who is receiving state or federal funds, such as Head Start, Early Head Start, or public schools unless:

(A) all parents are charged a fee for the hours subsidy payment is requested; and

(B) the program is offering extended day or full year services. Programs operating only during typical school or Head Start hours are not eligible~~.~~;

(~~8~~9) provider caring for a school age child during the regular school day when such student could be attending a public or private school during those hours~~.~~; or

(10) center which is a one star facility unless there is no one star plus, two, or three star centers in the community or one of the special exception criteria are met. Special exception criteria are:

(A) the child(ren) was already approved for care at this one star center prior to January 1, 2003. The child(ren) can remain at this facility unless the child stops attending there for more than 30 days. The child can also be approved at this same facility again if the only reason the child did not attend for more than 30 days was because of a school break or due to circumstances beyond the control of the family such as illness of the child;

(B) care is requested for a child living in the same home as a child already approved for care as described in (10)(A) of this subsection for the same one star child care provider; or

(C) the parent or guardian demonstrates that they do not have another child care option that meets the family's needs.

(h) **Family share co-payment.** The ~~social services specialist~~ worker uses DHS Appendix C-4, Child Care Eligibility/Rates Schedule, to determine the family share co-payment paid by clients who are income eligible. The family share co-payment is applied before ~~the Department~~ DHS pays a child care subsidy. The amounts the family and ~~the Department~~ DHS pay toward the cost of care varies depending on the plan of service, family size, income, and the number of children receiving child care services.

(i) **Social services requests.** When a client requests help in meeting the social ~~service~~ services needs listed on Form FSS-1~~, Combined Application and Review Form~~ or Form K-2, ~~Application for Child Care Services,~~ the ~~social services specialist~~ worker provides all available information to aid a client in meeting these needs.

(j) **Client rights and responsibilities.**

(1) The client has a right to an explanation of the "Client Child Care Responsibilities and Service Plan Agreement" listed on Form FSS-1 or Form K-2 before signing the form.

(2) The ~~social services specialist~~ worker must ~~also~~ advise the client that a child care request is not approved back to the date of request ~~after near real time benefit processing is implemented~~ unless the interview is conducted and verification is provided on that same date.

(3) The client ~~also~~ has a right to ask for a fair hearing if he or she disagrees with an action taken on the case.

(4) The client is ~~also~~ advised that the provider may charge the client extra for special fees such as enrollment or transportation fees as long as these fees are posted and also charged to the general public. The provider is:

(A) ~~The provider is~~ not contractually allowed to charge the client more for days and hours covered in the child care plan even if the hours are more than customary for a full-time day~~.~~; and

(B) ~~The provider is~~ not allowed to charge the client for days the child(ren) is not in attendance.

(5) The client is ~~also~~ advised he or she is required to cooperate with the DHS Office of Inspector General in any audit or investigation of possible overpayments by the client or by his or her chosen provider.

SUBCHAPTER 7. ELIGIBILITY

340:40-7-3. Age requirements

Children are eligible for child care services through the ~~month~~ day before they turn 13 years of age. Children with disabilities and children under court supervision may be eligible to receive a child care subsidy through the ~~month~~ day before they turn 19 years of age.

340:40-7-8. Defining the need factor for child care services

(a) **Employment.** Employment means the adult earns wages for work performed if the adult is part of the household for income purposes.

(1) If the adult is not making at least minimum wage for the number of hours he or she is working, the ~~social services specialist~~ worker counsels with the individual ~~on~~ regarding increasing income. If counseling is unsuccessful, child care benefits can be reduced or terminated. A person employed and working from his or her own home can receive child care in an out-of-home child care home or center.

(2) Job search meets the definition of employment and child care may be approved only when a recipient who has received child care services for at least 30 days loses employment or successfully completes a formal education or training program and requests child care assistance to look for a job. Child care may be approved for a maximum of 30 calendar days from the date the client loses employment or successfully completes a formal education or training program. Job search may be approved no more than twice per calendar year.

(b) **Training.** Job skills training includes vocational training and "hands-on" work experience to develop technical skills, knowledge, and abilities in specific occupational areas. All training programs must include qualitative measures to evaluate the participant's progress. Examples include competency gains, proficiency levels, and certificates of completion.

(c) **Formal education program.** A formal education program is defined as a course of study which leads to the attainment of an associate's or bachelor's degree.

(d) **Temporary Assistance for Needy Families (TANF) Work activity.** When a client receives TANF assistance, child care may be provided for any activity outlined in the client's Form TW-2, TANF Work/Personal Responsibility Agreement. Need is also met when the individual is waiting to enter an approved TANF Work activity. Approval is limited to a time period not to exceed:

(1) two weeks; or

(2) one month on an exception basis where child care arrangements or other services would otherwise be lost and the subsequent activity is scheduled to begin within that period.

(e) **TANF applicant job search.** TANF applicants referred for immediate employment are eligible for child care for job search. TANF applicants are advised:

(1) child care for job search is limited to 20 days which must be used within 30 calendar days from the date of request;

(2) in-home child care arrangements are not available for TANF applicants;

(3) child care may only be used during the times the applicant is actually looking for a job; and

(4) he or she must notify the county office immediately upon securing employment.

(f) **Food Stamp Employment and Training (E&T) recipients.** Income eligible food stamp recipients who live in a Food Stamp E&T county may receive voucher-authorized child care for E&T activities if child care services are necessary for the parent or caretaker to participate in the E&T activities. Participants are eligible for a maximum of $160~~.00~~ per month per child.

(1) Child care services are available whether the parent or caretaker is a required or voluntary participant.

(2) In two-parent or two-caretaker families, both parents may participate in E&T activities simultaneously and receive voucher-authorized child care unless one parent or caretaker has been exempted to care for a child(ren) under six years of age.

(3) Child care services are only purchased from licensed and contracted out-of-home child care facilities.

(4) Food Stamp E&T participants are predetermined eligible for ~~voucher-authorized~~ voucher-authorized child care and are approved with a zero family share co-payment.

(5) At the end of each calendar month, the client submits to the ~~social services specialist~~ worker a completed Form FSP-22, Job Search Plan.

(6) An overpayment is written for any vouchered child care used by the client for which he or she was not eligible.

(7) The Family Support Services Division, Food Stamp Section monitors a random selection of cases quarterly to ensure the integrity of the program.

(g) **Protective or preventive child care.** Protective or preventive child care services are used as an early intervention strategy in certain critical situations to help in preventing neglect, abuse, or exploitation. The ~~social services specialist~~ worker may approve child care in these situations to help stabilize the family situation or to enhance family functioning.

(1) The ~~social services specialist~~ worker may approve protective or preventive child care for a maximum of 30 calendar days at the county level.

(2) The family may or may not be expected to help in paying the cost of this child care depending on the unique circumstances of the family.

(3) If the family is financially ineligible for child care services but there is evidence the family is so burdened by debt that the additional financial pressure of paying for child care may result in further deterioration of family stability and functioning, the ~~social services specialist~~ worker may approve protective or preventive child care. A plan to reduce such debt must be established.

(4) If determining financial eligibility will take time, the ~~social services specialist~~ worker may approve child care while the parent or caretaker is gathering ~~such~~ necessary information.

(5) Protective or preventive child care is temporary and planning to reduce or eliminate the need for such child care begins at the initial contact.

(h) **Child with disabilities.** A child with disabilities is defined as a child receiving Supplemental Security Income (SSI), SoonerStart early intervention services, or special education services provided in accordance with an Individualized Education Program (IEP) by the local school district. This definition also includes a child whose SSI payment stops because of financial reasons but who still meets the medical definition of disability as determined by the Social Security Administration. A child must receive SSI to be predetermined eligible for child care services with a zero family share co-payment if he or she meets all conditions of eligibility for child care. Child care may be approved for a child with disabilities through the ~~month of~~ day before the child's 19th birthday when a statement from a licensed health care professional is provided stating the child is physically or mentally incapable of self-care as age appropriate.

(1) **Approval for the higher special needs rate.** Form ADM-123, Certification for Special Needs Child Care Rate, is completed and signed by the parent or guardian, the child care provider, Division of Child Care (DCC) licensing staff, and the child's Family Support Services ~~social services specialist~~ worker or Child Welfare ~~specialist~~ worker. The parent or caretaker must submit the child's ~~Individual~~ Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP) ~~which~~ that documents the care needs of the child. If a child receiving SSI is not receiving special education services or SoonerStart services, a statement from a health professional describing the care needs of the child is submitted. A change from the applicable daily or weekly rate to the higher special needs rate is effective the first of the month following the month eligibility for the rate is determined by DCC licensing staff. When care is not provided until the special needs rate is approved, it is effective the first day care is provided.

(2) **Enrichment child care services for children with disabilities.** The purpose of enrichment child care services is to assist the child in developing socialization skills. Children with disabilities receiving SSI who are normally not eligible for child care may be approved for enrichment child care services based solely on the needs of the child's condition of delay or disability rather than on the activities of the parent or caretaker. Child care is limited to a maximum of two days per week not to exceed ten full-time or part-time days per month for enrichment child care. The parent or caretaker must provide a statement from a professional involved in the child's life recommending child care be provided and the reason child care would be beneficial to the child. When such enrichment child care is approved, it is provided outside of the child's home, preferably in a setting where at least one other child is present.

SUBCHAPTER 13. CHILD CARE RATES AND PROVIDER ISSUES

340:40-13-3. Child care payments and rates

(a) The Department of Human Services (DHS) contracts to purchase out-of-home child care services for children only with licensed providers who:

(1) ~~whose~~ post rates and fees ~~are posted~~;

(2) ~~who~~ sign and comply with all the terms of Form CCDF-1-E, Child Care Provider Contract;

(3) ~~who~~ have participated in mandatory contract training; and

(4) ~~who~~ have access to an account at a financial institution for electronic benefit transfer (EBT) purposes once the EBT system is implemented in a county.

(b) By Oklahoma Statutes, ~~the Agency~~ DHS cannot make advance payments to child care providers.

(c) The rates paid by ~~the Department~~ DHS are determined by:

(1) the child's age;

(2) ~~where~~ settings in which the care is provided:

(A) ~~in~~ the child's own home;

(B) ~~in~~ a child care center; or

(C) ~~in~~ a child care home;

(3) whether the child has disabilities and the provider is approved for the special needs rate. The special needs rate is added to the applicable daily~~, blended,~~ or weekly rate;

(4) whether the care is provided on a full-time basis, over four hours per day or a part-time basis, four hours or less per day;

(5) whether care is provided on a daily, blended, or weekly basis and, if on a weekly basis, whether care is provided three, four, five, six, or seven days per week;

(6) the county in which the provider is located; and

(7) whether the facility qualifies for a differential quality rate.

(d) For ~~Department~~ DHS purchased in-home child care services for children, the allowable rate is the amount as shown on DHS Appendix C-4, Child Care Eligibility/Rates Schedule. The in-home rate is 90% of the ~~one-star~~ one star child care home rate for the age of the child. If a child is eligible for the severe or moderate special needs rate, this is added to the applicable in-home rate for that child.

(e) For ~~Department~~ DHS purchased out-of-home services, the allowable rate is the amount as shown on DHS Appendix C-4.

(f) When care is authorized for two different providers for the same day, each provider may only be authorized for a part-time rate regardless of the number of hours of care provided.

(g) Charges are authorized and payment is made only when the care provided is in accordance with the jointly developed plan of service between the client, the provider, and ~~the Department~~ DHS.

(h) ~~Age-driven~~ Age-driven rate changes are effective the first of the month following the child's birth date except as shown in (i) of this Section.

(i) Eligibility for a child(ren) stops the day before:

(1) a typical child reaches age 13; or
(2) a child with disabilities or a child in DHS custody reaches age 19.

(~~i~~j) A change to add the higher special needs rate to the applicable daily or weekly rate is effective the first of the month following the month eligibility for this rate is determined.

(~~j~~k) A child care provider may be approved for a differential quality rate if he or she meets the criteria for this rate. This rate is given effective the first of the month following the month the provider is approved for this rate by Division of Child Care licensing staff. The rate is designated on DHS Appendix C-4 by its "Star" status.

(~~k~~l) The blended rate may be approved for children age four and older from August 16th through May 15th each year for children attending public school, a prekindergarten program, or Head Start during the traditional school year. The blended rate may be approved for the full calendar year when children attend school the entire year.

[OAR Docket #03-491; filed 3-27-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 50. FOOD STAMP PROGRAM

[OAR Docket #03-492]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
340:50-1-3. [AMENDED]
340:50-1-5. [AMENDED]
340:50-1-9. [AMENDED]
Subchapter 3. The Application Process
340:50-3-1. [AMENDED]
340:50-3-3. [AMENDED]
Subchapter 5. Non-Financial Eligibility Criteria
Part 1. Household Definition
340:50-5-5. [AMENDED]
340:50-5-7. [AMENDED]
Part 3. Special Households
340:50-5-28. [REVOKED]
Part 5. Students, Strikers, Resident Farm Laborers, Migrant Households, Sponsored Aliens, and School Employees
340:50-5-45. through 340:50-5-46. [AMENDED]
Part 7. Related Provisions
340:50-5-68. [AMENDED]
Part 9. Work Registration
340:50-5-88. [AMENDED]
Subchapter 7. Financial Eligibility Criteria
Part 1. Resources
340:50-7-2. [AMENDED]
Part 3. Income
340:50-7-22. through 340:50-7-24. [AMENDED]
340:50-7-25. [REVOKED]
340:50-7-26. [AMENDED]
340:50-7-28. through 340:50-7-29. [AMENDED]
340:50-7-31. [AMENDED]
Subchapter 9. Eligibility and Benefit Determination Procedures
340:50-9-4. [AMENDED
Subchapter 13. Fair Hearings
340:50-13-3. [AMENDED]
Subchapter 15. Overpayments and Fraud
Part 1. Overpayments
340:50-15-5. [AMENDED]
Part 3. Fraud
340:50-15-27. [AMENDED]
Appendix B. List of Needed Verifications [REVOKED]
Appendix C. Application for Food Stamps [REVOKED]
Appendix N. Head of Household Designation [REVOKED]
(Reference APA WF # 02-41)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Title IV of Public Law 107-171, Sections 4102 and 4107.
DATES:
Comment period:
December 16, 2002 through January 15, 2003
Public hearing:
None requested
Adoption:
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Submitted to Governor:
January 30, 2003
Submitted to House:
January 30, 2003
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Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 26, 2003.
Final adoption:
March 26, 2003.
Effective:
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The purpose of the proposed rules is to simplify the definition of income and resources as allowed by the Food Stamp Reauthorization Act of 2002 and clarify rules by removing unnecessary language and replacing out-of-date terms. Food Stamp Program rules are revised to exclude educational assistance income and all Indian per capita payments not counted under Temporary Assistance for Needy Families (TANF) rules. 340:50-1-3 and 340:50-3-1 are revised to remove references to coupons and food stamp identification cards. 340:50-1-5 and 340:50-5-46 are revised by removing references to coupons. 340:50-1-9 is revised by replacing the word agency with Department of Human Services. 340:50-3-3 is revised to reflect the correct form name and number for requesting release of information. 340:50-5-5 is revised to reflect the correct form name and number for informing the client of an eligibility determination delay. 340:50-5-7 is revised by clarifying that residents of public or private non-profit shelters for homeless persons are eligible for participation in the Food Stamp Program. 340:50-5-28 and 340:50-7-25 are revoked. 340:50-5-45 is revised by changing references to the Job Training Partnership Act to Workforce Investment Act and removing language concerning student income. 340:50-5-68 is revised by removing unnecessary words. 340:50-5-88 is revised by changing the maximum child care payment for work registrants with a child under 12 years of age. 340:50-7-2 is revised by adding language to exclude educational assistance and Individual Development Accounts as resources. 340:50-7-22 is revised by adding language to exclude educational assistance, Indian per capita payments, and purchases made with excluded Indian per capita payments as income. 340:50-7-23, 340:50-7-26, and 340:50-9-4 are revised removing out-of-date language. 340:50-7-24 is revised by removing language concerning reimbursements for education expenses. 340:50-7-28 is revised by removing references to State Emergency Payments. 340:50-7-29 is revised by removing educational grants as countable income. 340:50-7-31 is revised to specify that allowable shelter and dependent care expenses paid by or billed to a disqualified household member are prorated among household members and that the disqualified member's share is not considered a deductible shelter expense for the remaining household members. 340:50-13-3 is revised to replace out-of-date terms and describe what steps are followed when the household refuses to cooperate with a quality control reviewer. 340:50-15-5 is revised to reflect the correct form for requesting a fair hearing. 340:50-15-27 is revised to incorporate by reference the state and

federal laws pertaining to Food Stamp Program penalties. 340:50, Appendices B, C, and N are revoked as they are no long used.

CONTACT PERSON:

Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2003.

SUBCHAPTER 1. GENERAL PROVISIONS

340:50-1-3. Utilization of benefits

(a) **Scope and applicability.** Under the Food Stamp Program, households receive food stamps based on their level of need. Participating households may use their ~~coupons~~ benefits to purchase eligible food at retail stores which are authorized by Food and Nutrition Services (FNS) to accept ~~coupons~~ benefits. State and/or local sales tax cannot be charged on eligible food purchases paid for with ~~coupons~~ benefits. In ~~certain~~ specified instances, persons may use their ~~coupons~~ benefits to purchase prepared meals.

(b) **Eligible food.** "Eligible ~~foods~~ food" means:

(1) any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot food products prepared for immediate consumption;

(2) seeds and plants to grow foods for the personal consumption of eligible households;

(3) meals prepared and delivered by an authorized meal delivery service to households eligible to use ~~coupons~~ benefits to purchase delivered meals; or meals served by an authorized communal dining facility for the elderly, for Supplemental Security Income (SSI) households or both, to households eligible to use ~~coupons~~ benefits for communal dining;

(4) meals prepared and served by a ~~drug addict or alcoholic~~ treatment ~~and~~ or rehabilitation center for drug addicts and/or alcoholics to eligible residents and children of residents who live with their parents in the treatment center;

(5) meals prepared and served by a group living arrangement facility to residents who are blind or disabled as defined in OAC 340:50-5-4;

(6) meals prepared by and served by a shelter for battered women and children to its eligible residents; and

(7) meals prepared and served by a public or non-profit homeless meal provider ~~(e.g., soup kitchens, temporary shelter)~~ to eligible homeless households.

(c) **Communal dining and meal delivery services.** The criteria in (1) - through (2) of this subsection is used to determine ~~if~~ whether household members can qualify to use their food ~~coupons~~ benefits at communal dining facilities or for meal delivery services.

(1) **Communal dining.** A person 60 years of age or over or an SSI recipient and ~~his/her spouse (~~his or her spouse, regardless of the spouse's age~~)~~, may use ~~coupons~~ benefits to purchase meals especially prepared at a communal dining facility authorized by FNS to accept food ~~coupons~~ benefits. ~~Recipients who participate in this service will have a special I.D. card marked "CD".~~ A communal dining facility may accept ~~coupons~~ benefits only after authorization by FNS. "Communal dining ~~facilities~~ facility" means a facility such as:

(A) senior citizens' centers;

(B) apartment buildings occupied primarily by elderly persons;

(C) any public or non-profit private school which prepares meals especially for elderly persons during special hours and certain other public or non-profit establishments ~~which~~ that prepare and serve meals for the elderly; and

(D) a private ~~establishments~~ establishment under contract with a state or local agency to offer at concessional prices, meals prepared especially for the elderly or disabled.

(2) **Meal delivery service.** A person 60 years of age or ~~over~~ older or a person under age 60 who is physically handicapped or otherwise disabled to the extent that ~~he/she~~ he or she is unable to adequately prepare all ~~his/her~~ his or her meals is eligible to purchase meals with ~~coupons~~ benefits. If the household member lives with a spouse, the spouse may also purchase meals from a non-profit meal delivery service regardless of age or disability. ~~Recipients who participate in this service will have a special I.D. card marked "M".~~

(d) **Social services.** The ~~social~~ worker is responsible for providing those services, within ~~agency~~ Oklahoma Department of Human Services (OKDHS) policy, ~~which~~ that the family needs and desires and for making appropriate referrals as indicated. It is mandatory that referrals be made to the Children~~, Youth~~ and Family Services Division, Child Welfare Unit, on all situations involving suspected abuse of children.

(e) **Volunteers.** Volunteers or persons other than workers may be used in program informational activities, assisting the client with applications and transportation, but may not interview the client to determine eligibility or certify households.

340:50-1-5. Non-discrimination

Applications for participation in the Food Stamp Program are handled in a non-discriminatory manner ~~in that certification and issuance of coupons, conduct of fair hearings, or the conduct of any other program services are made~~ without regard to age, race, color, sex, handicap, religious creed, political beliefs, or national origin.

(1) Each ~~county office~~ county director or his or her designee initiates and maintains a plan to inform the public that the Food Stamp Program is administered in a non-discriminatory manner. Each county office must contact local minority group organizations by letter. If there is not a local minority group organization, the county makes a personal or written contact with prominent minority

leaders, ministers, teachers, and businessmen in May of each year.

(2) A copy of each letter of notification of non-discrimination is forwarded to the ~~State Office~~ Oklahoma Department of Human Services (OKDHS), ~~Affirmative Action Officer~~ affirmative action officer ~~(Room 501), and the~~. The county maintains a file of all such correspondence ~~so these will be~~ that is available for inspection during compliance reviews and audits of the Food Stamp Program.

(3) Each county office is responsible for displaying the United States Department of Agriculture (USDA) nondiscrimination poster in each reception area and each interviewing office.

(4) Individuals who believe they have been subject to discrimination may file a written complaint within 180 days with the Secretary of Agriculture, Administrator of Food and Nutrition Services (FNS), or file the complaint with ~~DHS~~ OKDHS who ~~will~~ routes it to FNS. The worker ~~shall explain~~ explains the complaint system to each individual who expresses an interest in filing a discrimination complaint and ~~shall advise~~ advises the individual of the right to file a complaint.

(5) Every effort ~~shall be~~ is made to have the person making the complaint provide the ~~following information~~:

(A) ~~The~~ name, address, and telephone number or other means of contacting the person alleging discrimination~~.~~;

(B) ~~The~~ location and name of the organization or office which is accused of discriminatory practices~~.~~;

(C) ~~The~~ nature of the incident or action or the aspect of program administration that led the person to allege discrimination~~.~~;

(D) ~~The~~ reason for the alleged discrimination, ~~(~~age, race, color, sex, handicap, religious creed, national origin, or political belief~~).~~;

(E) ~~The~~ names, titles ~~(if appropriate)~~, and addresses of persons who may have knowledge of the alleged discriminatory acts~~.~~; and

(F) ~~The~~ date or dates on which the alleged discriminatory action occurred.

(6) All complaints received by ~~DHS~~ OKDHS regarding ~~Civil Rights~~ civil rights are forwarded to the ~~DHS Affirmative Action Officer~~ OKDHS affirmative action officer, who serves as the ~~Department's Civil Rights Coordinator~~ OKDHS civil rights coordinator, ~~who~~ and routes the complaint to the United States Department of Agriculture for investigation.

340:50-1-9. Rights and responsibilities

(a) ~~**Rights of the applicant/recipient.**~~ The applicant or recipient has the right to:

(1) ~~**Right to make application**~~ make application. Any household has the right to file an application on the same day ~~he/she~~ he or she initially contacts ~~the agency~~ Oklahoma Department of Human Services (OKDHS) in person, by telephone, or by mail.

(2) ~~**Right to designate an authorized representative**~~ designate an authorized representative. The household has the right to designate an authorized representative.

(3) ~~**Right to information**~~ information. A client ~~(applicant/recipient)~~, applicant, or recipient has the right to be provided with information concerning the Food Stamp Program.

(4) ~~**Right to a face-to-face interview**~~ a face-to-face interview. A client has the right to a face-to-face interview whenever ~~he/she~~ he or she is discussing ~~his/her~~ his or her individual situation with ~~the agency~~ OKDHS.

(5) ~~**Right to a prompt decision**~~ a prompt decision. A client has the right to be notified in writing of a decision on ~~his/her~~ his or her application and, if eligible, to receive food ~~coupons~~ benefits within 30 days following application.

(6) ~~**Right to retroactive/lost benefits**~~ retroactive or lost benefits. If the application has been wrongfully delayed, denied, or terminated, the applicant is entitled to lost benefits.

(7) ~~**Right to correct amount of food stamps**~~ correct amount of food stamps. The applicant, if eligible, ~~shall be~~ is entitled to the correct amount of food stamps based upon current budgetary standards.

(8) ~~**Right to equal treatment**~~ equal treatment. The applicant has the right to be treated the same as all other food stamp recipients. A person shall not, on the grounds of race, color, religious creed, national origin, political beliefs, age, sex, or handicap, be excluded from participation in, be denied benefits of, or be subject to discrimination under the Food Stamp Program.

(9) ~~**Right to a fair hearing**~~ a fair hearing. The applicant has the right to a fair hearing if dissatisfied with any ~~agency~~ OKDHS decision or lack of action in regard to ~~his/her~~ his or her food stamp application. The client also has the right to examine ~~his/her~~ his or her case record and all files and documents to be used at a fair hearing.

(10) ~~**Right to withdraw application**~~ withdraw application. The client has the right to withdraw ~~his/her~~ his or her application at any time prior to the determination of eligibility. Once eligibility has been determined, the client has the right to request that ~~his/her~~ his or her case be closed.

(11) ~~**Right to examine case file**~~ examine case file. Upon written request from a responsible member of the household or its authorized representative, the household may review its case file. However, ~~the agency~~ OKDHS may withhold confidential information, as stated in ~~section 6 of this subchapter~~ accordance with OAC 340:50-1-6.

(b) ~~**Responsibilities of applicant/recipient.**~~ The applicant or recipient has the responsibility:

(1) ~~**Responsibility to submit identifiable application**~~ to submit an identifiable application. The applicant ~~shall submit~~ submits an application containing a legible name, address, and signature to be completed during the certification process if ~~he/she~~ he or she wants to participate in the Food Stamp Program.

(2) ~~**Responsibility to participate in face-to-face interview**~~ to participate in a face-to-face interview. The

~~applicant/recipient shall have~~ applicant or recipient has a face-to-face interview in the food stamp office with a worker prior to initial certification and all recertifications.

(3) ~~**Responsibility to supply needed information**~~ to supply needed information. The applicant has the responsibility to supply information essential to the establishment of ~~his/her~~ his or her eligibility to participate in the Food Stamp Program.

(4) ~~**Responsibility to provide required or requested verification**~~ to provide required or requested verification. Gross non-exempt income, identified alien status, and actual utility expenses in excess of the standard ~~shall be~~ are verified for all households prior to certification. The household has primary responsibility for providing verification. ~~(certain~~ Certain exceptions to these requirements are specified in the verification section~~)~~ [OAC 340:50-3-3].

(5) ~~**Responsibility for authorized representative**~~ for authorized representative. The applicant is responsible for all information given by the authorized representative and also for overissuance of benefits ~~which~~ that result from erroneous information given by an authorized representative.

(6) ~~**Responsibility to report certain changes**~~ to report certain changes. The applicant has the responsibility to report all changes which occur between the date of application and the certification interview. The recipient has the responsibility to report certain changes in circumstances within ten days from the date the change becomes known to them.

(7) ~~**Responsibility to cooperate**~~ to cooperate. The ~~applicant/recipient shall~~ applicant or recipient is required to cooperate with all Program requirements by providing required information.

(8) ~~**Responsibility to register for work**~~ to register for work. Unless otherwise exempt from work registration, the ~~applicant/recipient~~ applicant or recipient has the responsibility to register for work at the time of the initial application and at each recertification.

(9) ~~**Responsibility to provide social security numbers**~~ to provide Social Security number (SSN). Each household member ~~shall~~ is required to provide ~~his/her social security~~ his or her SSN ~~number~~.

(c) ~~**Responsibilities of the Agency.**~~ OKDHS has the responsibility:

(1) ~~**Responsibility to accept an identifiable application**~~ to accept an identifiable application. ~~The agency shall~~ OKDHS must accept an identifiable application when submitted. ~~(~~An identifiable application is an application containing a legible name, address, and a signature.~~)~~

(2) ~~**Responsibility to take prompt action**~~ to take prompt action. ~~The agency shall~~ OKDHS must take prompt action on all applications by either approving or denying the application within 30 days from the date the application is filed.

(3) ~~**Responsibility to take prompt action on all changes**~~ to take prompt action on all changes. ~~The agency~~ OKDHS is required to take prompt action on all changes to determine if the change affects the household's eligibility or entitlement.

(4) ~~**Responsibility to notify the client of the need for recertification**~~ to notify the client of the need for recertification. ~~The agency shall notify~~ OKDHS notifies the client of the expiration of the period of certification. ~~The agency shall send~~ OKDHS sends the client a new application just prior to or at the start of the last month of the household's certification period.

(5) ~~**Responsibility to recertify applicant/recipients timely**~~ to recertify households timely. ~~The agency~~ OKDHS has the responsibility to process all subsequent applications timely so there will not be a break in the benefits the client is eligible to receive.

(6) ~~**Responsibility to restore lost benefits**~~ to restore lost benefits. ~~The agency shall restore~~ OKDHS restores benefits to the ~~applicant/recipient~~ household if the food ~~coupons~~ benefits were wrongfully denied, delayed, or terminated.

(7) ~~**Responsibility for giving notice of action**~~ for giving notice of action. ~~The agency~~ OKDHS is responsible for giving adequate and/or timely notice of action when appropriate.

(8) ~~**Responsibility to provide service**~~ to provide services. The county OKDHS offices ~~shall~~ assure that the operating hours of the food stamp offices meet the needs of ~~recipients/applicants~~ recipients or applicants who work. Annually each office ~~shall be~~ is reviewed to ensure that such needs are met. The results of these reviews ~~shall be~~ are retained in the ~~State Office~~ Family Support Services Division for review by Food and Nutrition Services (FNS).

SUBCHAPTER 3. THE APPLICATION PROCESS

340:50-3-1. The application process

(a) **General.** The application process begins with a request for an application form and ends with determining the household's eligibility and entering that determination into the computer system. ~~A household files a signed food stamp application with the Department of Human Services. Persons having lawful alien status must have status verified through Systematic Alien Verification for Entitlements (SAVE).~~

(1) The application must be processed no later than 30 days after the signed application is filed in the Oklahoma Department of Human Services (OKDHS) county office. The process involves such actions as:

(A) making application forms available~~,~~;

(B) assisting a household in the completion of an application~~,~~;

(C) interviewing members of the household or the authorized representative~~,~~;

(D) providing necessary collateral contacts for verification~~,~~; and

(E) preparing necessary documents to authorize the household to receive and use food stamp benefits.

(2) Expedited services must be available to those households who are in immediate need as defined in OAC 340:50-11, Part 1.

(3) Persons having lawful alien status must have status verified through Systematic Alien Verification for Entitlements (SAVE).

(4) Benefits must be provided retroactively to the date of application for households who have timely completed the application process and who have been determined eligible. ~~This process must be completed no later than 30 days after the application is filed in the County Office. Expedited services must be available to those households who are in immediate need as defined in OAC 340:50-11 Part 1. Benefits must be provided retroactively to the month of application for households who have timely completed the application process and who have been determined eligible.~~

(b) **Filing applications.** Each household wishing to participate in the Food Stamp Program must file a separate application. ~~[~~See OAC 340:50-5-1 for ~~Household Definition~~ household definition~~]~~. The designated head of household is not required to make the food stamp application. Applications may be made by a responsible household member or authorized representative. A responsible household member or authorized representative completes an authorization for release of information at the time of application, if necessary. Applications may be filed in person or by mail.

(1) **Right to same day filing.** Since the time limit for providing benefits is calculated from the date the application is actually received in the county office, households are advised of their right to complete and file an application on the same day they contact the county office. They ~~shall~~ are also ~~be~~ advised they do not have to be interviewed before filing the application and they may file an incomplete application form as long as the form contains the applicant's name, address, and the signature of either an adult member of the household or the household's authorized representative. Food stamp households are encouraged to file the application form on the same day they or their authorized representative contacts the county office.

(A) Application forms are made readily accessible to potentially eligible households and groups and organizations who assist individuals in completing application forms for food stamps.

(B) If the household has contacted the county office by telephone but is unable to file an application on the same day, or the household has requested food assistance in writing, the county office mails an application form to the household on the same day the written request or telephone call is received.

(C) To facilitate participation in the Food Stamp Program, households in which all members are applying for State Supplemental Payments or Temporary Assistance for Needy Families (TANF) must be allowed to apply for food stamps at the same time they apply for financial assistance. However, the household's eligibility and benefit level are based on food stamp eligibility criteria and the household is certified in accordance with food stamp regulations. Special procedures for taking and processing food stamp applications for those households are provided in ~~Subchapter 11 of this Chapter~~ OAC 340:50-11.

(D) Immediately upon receipt in the county office, all application forms ~~will be~~ are screened to determine whether or not the household is entitled to expedited services. County screening procedures are instituted for screening applications received through the mail and applications filed in the county office. All initial applicant households that qualify under the provisions in ~~Subchapter 11 of this Chapter~~ OAC 340:50-11 must receive expedited processing if certified for food stamp benefits. Expedited service processing is not an option for the client.

(2) **Head of household.** A household may select, as head of household, an adult parent of children of any age living in the food stamp household, or an adult who has parental control over children under 18 years of age living in the food stamp household~~,~~ provided all adult household members agree to the selection. Households select their head of household at each certification action or whenever there is a change in household composition. If all adult members do not agree to the selection or decline to select an adult head of household, the household may select another head of household or the worker may designate a head of household. In no event ~~shall~~ does the failure to select an adult who has parental control of children delay the certification or result in the denial of benefits for an otherwise eligible household.

(3) **Authorized representative.** An authorized representative is an individual who is knowledgeable of the household circumstances and who is designated in writing by the head of the household, spouse, or other responsible household member to act on behalf of the household in applying for and obtaining food stamp benefits. In the event the only adult member of the household is classified as a non-household member, that person may be designated as the authorized representative for minor household members.

(A) When an authorized representative has been designated in writing to make application on behalf of a household, the household is informed they ~~are~~ will be held liable for any overissuance which results from erroneous information given by the authorized representative. Whenever possible the head of the household or spouse should prepare or review the application even though the authorized representative ~~will~~ actually ~~file~~ files the application and ~~be~~ is interviewed.

(B) Employees of ~~the Department~~ OKDHS and relatives who are authorized to accept food stamp benefits may not act as authorized representatives without the specific written approval of the local county director after a determination has been made that no one else is available to serve as the authorized representative.

(C) Disqualified individuals may not act as authorized representatives during the period of disqualification unless the individual disqualified is the only adult member of the household able to act on its behalf and the county office determines there is no one else available to serve as an authorized representative.

~~(D) The authorized representative who obtains food coupons has his or her name designated at the time the application is completed and listed on Form FSP-4, Food Stamp Identification Card. He or she may use the coupons to purchase food for the household provided he or she has the household Food Stamp Identification Card with the full knowledge and consent of the head of the household.~~

(4) **Documentation and control of authorized representatives.** The county office ~~will ensure~~ ensures an authorized representative is properly designated and has not been disqualified. The name of the authorized representative must be contained in the household's case file and shown on the computer input form. Limits ~~may~~ are not ~~be~~ placed on the number of households an authorized representative may represent. Care is taken by the county office to assure the household has freely requested the assistance of the authorized representative, the household circumstances are correctly reported, and the household is receiving the correct amount of benefits.

(5) **Disqualification of authorized representative.** An authorized representative ~~may be~~ is disqualified from serving as an authorized representative in the Food Stamp Program for up to one year when evidence demonstrates the individual has misrepresented a household's circumstances, has knowingly provided false information pertaining to the household, or has made improper use of benefits. Information indicating that an individual should be disqualified as an authorized representative is forwarded to the ~~State Office,~~ Family Support Services Division, for a decision. The county office is notified in writing of the decision. If the individual is disqualified, appropriate notification is mailed to the household by the State Office. This provision does not apply to individuals serving as authorized representatives for group homes or drug and alcoholic treatment programs.

~~(6) **Emergency authorized representative.** The household may also designate an emergency authorized representative to obtain coupons on occasions when, due to an emergency, neither a household member nor the authorized representative is able to do so. In these situations, the head of the household, spouse, or authorized representative signs the back of the Authorization to Participate (ATP) and fills in the name of the person who is to be the emergency authorized representative. The emergency authorized representative will sign the back of the ATP at the same time the head of the household signs the ATP and will countersign it when obtaining the coupons. The emergency authorized representative must also present the Food Stamp Identification Card at the time of obtaining the coupons.~~

(c) **Processing initial applications.** When an application form is received ~~which~~ that contains the applicant's name and address, and is signed by a responsible member of the household or the household's authorized representative, the date of application is the date it is received and stamped into the county office except as stipulated. When the application form has been signed by the responsible person or authorized representative for a household who is also applying for public assistance, the application ~~will be~~ is processed in accordance with ~~Subchapter 11 of this Chapter~~ OAC 340:50-11.

(1) **Normal processing standard for initial applications.** The worker must provide eligible households who complete the initial application process with food stamp benefits within 30 days following the date the initial application was filed. ~~When ATP's are mailed, three days are allowed for delivery; when coupons are mailed, two days are allowed.~~

(2) **Withdrawing of application.** A household may voluntarily withdraw its application at any time prior to the determination of eligibility. The worker documents in the case record the reason for withdrawal, if any was given by the household, and that contact was made with the household to confirm the withdrawal. The household is advised of its right to reapply at any time.

(d) **Second 30 days.** A new application is not needed when a household fails to complete the application process within 30 days if they provide the required verification within 60 days. This includes verification waived for expedited services. When there is a break in the certification, the application and certification dates are changed to the date the verification is provided.

340:50-3-3. Verification

(a) **General standards for verification.** Verification is the use of third party information or documentation to confirm the accuracy of statements made on the application form. For specific policy regarding required verification of non-financial eligibility criteria, ~~refer to Subchapter 5 of this Chapter~~ at OAC 340:50-5, and for financial eligibility criteria, ~~refer to Subchapter 7 of this Chapter~~ at OAC 340:50-7. The household is provided a clear written statement explaining what the household must do to cooperate in obtaining verification and completing the application.

(b) **Questionable ~~Information~~ information.** The worker must verify questionable factors of eligibility, ~~(~~including all factors affecting household composition~~)~~, prior to certification, only if these would affect a household's entitlement. To be considered questionable, the information on the application must be inconsistent with statements made by the applicant, inconsistent with other information in the case record, or inconsistent with information received by the Oklahoma Department of Human Services (OKDHS). There must be documentation as to why the information was considered ~~to be~~ questionable, what documentation was used to resolve the questionable information and the reason ~~why~~ an alternate source of documentation, such as a collateral contact or home visit, was made. When determining if information is questionable, the worker bases the decision on each household's

individual circumstances. A household's report of expenses which exceed its income prior to deductions may be grounds for a determination that further verification is required.

(c) **Sources of verification.** The following sources of verification are not intended to be all inclusive but ~~will provide~~ provides the worker with types of evidence ~~which~~ that may be used to establish eligibility.

(1) **Documentary evidence.** The worker uses documents whenever possible as the primary source of verification. Examples of documentary evidence include wage stubs, rent receipts, and utility bills. Although documentary evidence is the primary source of verification, verification cannot be limited to a single document or source. Where information from another source contradicts statements made by the household, the household is immediately afforded the opportunity to resolve the discrepancy. Whenever documentary evidence cannot be obtained, the worker uses alternate sources of verification, such as collateral contacts and home visits. In all cases, the method of verification is recorded in the case record.

(2) **Collateral contacts.** The worker has the responsibility to verify all factors of eligibility for food stamps which may require one or more collateral contacts. The client's signature on the application for food stamps grants the necessary authorization for securing required information or verification. A collateral contact is a verbal confirmation of a household's circumstances by a person outside the household. The collateral contact may be made either in person or over the phone. The acceptability of a collateral contact is not restricted to a particular individual, but may be anyone that can be expected to provide an accurate third party verification of the household's statement. Examples of acceptable collateral contacts are employers, community action groups, migrant service agencies, neighbors of the household, or other persons outside the household. If the collateral source is one which requires written authorization before supplying information to ~~the Department~~ OKDHS, the signature of the client on ~~OAC 340:65, Appendix A~~ Form ADM-60, Request for Release of Information, or an approved county form must be obtained. This authorization also includes the permission of the client's spouse for obtaining information regarding ~~his/her~~ his or her circumstances ~~to be given~~ in connection with the same application, and of the client's parents when the client is a dependent blind child.

(3) **Home visits.** A home visit can be used as verification if documentary evidence cannot be obtained from other sources and the visit is scheduled in advance with the household.

(4) **Field investigation.** The ~~food stamp social~~ worker ~~will conduct~~ conducts an intensive field investigation when a household is suspected of withholding information or of intentional program violations. A field investigation is made after the worker has exhausted all other methods of verification and still does not have enough evidence to certify, deny, or close a case.

(A) The intensive field investigation ~~will include~~ includes all questionable factors of eligibility. The worker ~~will make~~ makes every effort to obtain the most reliable second-party verification available. Contacts may include but are not limited to the ~~applicants/recipients~~ applicants or recipients, other adult household members, employers, banks, government agencies, landlords, neighbors, and utility companies~~, etc~~. The client does not have to provide specific written authorization ~~(OAC 340:65, Appendix A)~~ unless it is required by the collateral source before they can or will furnish the requested information.

(B) Persons who are contacted for information related to a client's eligibility must be advised of the reason the information is needed and how it will be used. If the person providing the information is unwilling to have ~~his/her~~ his or her identity revealed to the client, the information is not used to make an eligibility decision nor is it recorded in the case record. The worker must attempt to verify the information using an alternate source.

(C) The worker ~~will contact~~ contacts the client when the information gathered during the investigation differs from that given by the client. The client ~~will be~~ is given the opportunity to clear up conflicting information when possible. When the client cannot be contacted, the worker ~~will document~~ documents, in the case record, what attempts were made.

(D) The verified evidence gathered during the course of the investigation ~~will be~~ is documented, in detail, in the case record. This documentation must include ~~the following information~~:

(i) ~~What~~ what information was received, dates related to the information, source of the verification, and the date the information was received~~.~~;

(ii) ~~Give~~ give a complete explanation of conflicting information and what attempts were made to resolve the differences with the client~~.~~; and

(iii) ~~When~~ when the client refuses to cooperate in determining eligibility, the case record must clearly show that the client was given the opportunity to cooperate and was able to do so.

(E) When the eligibility determination is delayed due to a field investigation the worker manually issues a notice ~~(Appendix H of this Chapter)~~ informing the client of the pending status of the application.

(d) **Responsibility for providing verification.** The household has primary responsibility for providing documentary evidence to support its income statements and to resolve any questionable information. The worker ~~will assist~~ assists the household in obtaining this verification provided the household is cooperating with the worker. Households may supply documentary evidence in person, through the mail, or through an authorized representative. The county office accepts any reasonable documentary evidence provided by the household and is primarily concerned with how adequately the verification confirms the statement on the application. If it would be too difficult or impossible for the household to obtain documentary evidence in a timely manner, the worker offers assistance to the household in obtaining the documentary evidence. The

household ~~will~~ is not ~~be~~ required to provide multiple sources of verification when the household has already provided information which adequately supports the statements on the application. However, the worker may require households to provide additional verification when the existing verification is incomplete. An application ~~will~~ is never ~~be~~ denied solely because a person outside the food stamp household fails to cooperate in providing information, verification or other help needed to process an application. Disqualified or ineligible individuals are considered members of the food stamp household for this provision.

(e) **Documenting case files.** Case files must be documented in detail to support eligibility, ineligibility, and benefit level determinations. Documentation must include sources of verification, dates of the sources of verification, and amounts verified. It must also reflect computations used to arrive at monthly income~~,~~ deductions~~, etc~~. When verification ~~was~~ is required to resolve questionable information, the worker must document in the case record why the information was considered questionable, what documentation was used to resolve the questionable information and the reason an alternate source of documentation, such as a collateral contact or home visit, was made.

SUBCHAPTER 5. NON-FINANCIAL ELIGIBILITY CRITERIA

PART 1. HOUSEHOLD DEFINITION

340:50-5-5. Non-household members

~~When there are individuals~~ Individuals residing in a household who cannot be considered household members~~, such persons~~ are termed non-household members and are not considered in determining the household's eligibility or food stamp allotment. Such non-household members include those described in this subsection.

(1) **Roomers.** Roomers are individuals to whom the household furnishes lodging for compensation, but not meals.

(2) **Boarders.** Boarders are individuals to whom the household furnishes lodging and meals and who pay a reasonable monthly payment for board. Only the amount paid for board is evaluated to determine if the payment is a reasonable monthly amount. A boarder whose arrangement is for more than two meals per day must pay an amount which equals or exceeds the amount of the maximum food stamp allotment for the appropriate size of the boarder household as shown on ~~DHS~~ Oklahoma Department of Human Services (OKDHS) Appendix C-3, Maximum Food Stamp Allotments and Standards for Deductions, Income, and Utilities. Boarders whose arrangements are for two meals or less per day must pay an amount which equals or exceeds two-thirds of the food stamp allotment for the appropriate size of the boarder household as shown on ~~DHS~~ OKDHS Appendix C-3. Boarder status cannot be extended to:

(A) parents who live with children, natural, adopted, or step regardless of age, unless at least one parent is elderly or disabled as defined in OAC 340:50-5-4;

(B) children under the age of 18 under the control of an adult household member. Children placed in foster care and children placed in the home by the Development Disabilities Services Division (DDSD) may be considered boarders;

(C) a spouse, ceremonial or common law, of a household member;

(D) siblings, natural, adopted, half or step, unless at least one sibling is elderly or disabled as defined in OAC 340:50-5-4; and

(E) individuals paying less than a reasonable monthly payment for meals as described in this paragraph. Individuals furnished both meals and lodging by a household but paying less than a reasonable monthly payment are considered members of the household which provides the meals and lodging.

(3) **Children in foster care and children placed by ~~the~~ DDSD.** Children in foster care and children placed by DDSD with extended family care providers are considered boarders unless the household requests such individuals be included as food stamp household members. The foster care payments and the reimbursements for room and board paid by DDSD are considered as "income to the children~~,"~~ and, therefore, cannot be included as income to the household caring for the children even when the payments are made to the provider household. The host household has the option to include the children as members of the food stamp household. When the children are included as food stamp household members the entire foster care payment or reimbursement for room and board is counted as income to the household. The income paid to the extended family care provider by DDSD for care rendered is counted as earned income to the provider.

(4) **Live-in attendants.** Live-in attendants are individuals who reside in a household to provide medical, housekeeping, child care, or other similar services.

(5) **Students.** Students are persons enrolled in an institution of higher education who are ineligible because they fail to meet the eligibility criteria in OAC 340:50-5-45(a).

(6) **Others.** Others are individuals who share living quarters with the household but who do not customarily purchase food or prepare meals with the household.

340:50-5-7. Excluded households and/or household members

(a) **Food Distribution Programs (FDP) operated by Indian Tribal Organizations (ITO).** Several Indian Tribal Organizations operate Food Distribution Programs in the State of Oklahoma. ~~See DHS Appendix D-4-c, Indian Food Distribution Programs, for ITO and/or FDP locations~~. Households or any member of a household participating in FDP are not eligible to participate in the ~~DHS~~ Oklahoma Department of Human Services (OKDHS) Food Stamp Program (FSP) the same month. ~~Household~~ Households with at least one adult

member of any Indian Tribe, living within the boundaries of an ITO location either in a rural area or in a town with a population of less than 10,000, may elect to participate in the FDP. A household may switch between the FDP and FSP as long as there is no dual participation for any member for the same month. To ensure that dual participation does not occur, monthly lists of recipients ~~will be~~ are exchanged between ITO and ~~DHS~~ OKDHS.

(1) The ~~county office~~ worker is responsible for checking the ITO listing if there are indications that an applicant could meet the criteria for FDP eligibility. If the household is not on the listing, the ~~county~~ worker makes a telephone inquiry to the appropriate ITO to verify the household has not been certified since the date of the last compiled list. Closure of an FDP case must also be verified through the FDP office or by written notice before a household can be certified for food stamps.

(2) The FDP office ~~will use~~ uses the ~~DHS~~ OKDHS listing for the same verification procedure followed by a telephone call to the county to check on subsequent food stamp receipt. The ~~county office will provide~~ worker provides any information pertinent to participation in or eligibility for either program.

(3) Dual receipt will result in food stamp overpayment if the household was already receiving FDP benefits at the time of FSP certification.

(b) **Ineligible households.** ~~The following households are excluded by law from participating in the Food Stamp Program:~~

(1) **Boarders.** Residents of a commercial boarding house and boarders as defined in 340:50-5-5 are not eligible to participate in the Food Stamp Program. A commercial boarding house is defined as an establishment which offers meals and lodging for compensation with the intention of making a profit. The number of boarders residing in a boarding house cannot be used to determine if a boarding house is a commercial enterprise. Households containing a boarder or the proprietor of a commercial boarding house may participate in the program separate and apart from the boarders or residents of the boarding house if that household meets all the eligibility requirements for participation.

(2) **Residents of institutions.** Individuals are considered residents of an institution when the institution provides them with ~~the majority of their meals (~~over 50% of three meals daily~~)~~ as part of the institution's normal services. Residents of institutions are not eligible for participation in the program ~~with the following exceptions~~ unless they are:

(A) ~~Residents~~ residents of ~~Federally~~ federally subsidized houses for the elderly built either under Section 202 of the Housing Act of 1959 or Section 236 of the National Housing Act~~.~~;

(B) ~~Narcotic~~ narcotic addicts or alcoholics, who~~,~~ for the purpose of participation in a drug or alcoholic treatment and rehabilitation program, reside at a facility treatment center~~.~~;

(C) ~~Residents~~ residents of group homes who are considered blind or disabled in accordance with OAC 340:50-5-4. "Group home" means a private or public non-profit residential setting that serves no more than 16 residents that is certified by the State Health Department under regulations issued under Section 1616(e) of the Social Security Act~~.~~;

(D) ~~Individuals~~ individuals who do not receive their meals from the institution but prepare their own meals or are participating in a delivered meals program or a communal dining program are eligible for food stamps if they meet other eligibility requirements~~.~~;

(E) ~~Women~~ women or women with their children who are temporarily residing in a shelter for battered women and children. Shelter for battered women and children means a public or private non-profit residential facility that serves battered women and their children. If such a facility also serves other individuals, a portion of the facility must be set aside on a long term basis to serve only battered women and children~~.~~;

(F) ~~Students~~ students who attend school away from home as long as they return home for at least part of each month~~.~~; or

(G) residents of public or private non-profit shelters for homeless persons.

PART 3. SPECIAL HOUSEHOLDS

340:50-5-28. Shelter for battered women and children

Residents of shelters for battered women and children that do not provide a majority of the residents' meals may file an application and are certified using program requirements applicable to any other household. To be eligible for special eligibility rules in this Section, residents must be residing in a shelter for battered women and children that provides a majority of the residents' meals. Residents of shelters providing meals voluntarily apply on their own behalf. They may name a shelter member or other person to act as an authorized representative for application and certification purposes; however, the ~~resident is~~ residents are expected to control the use of their own ~~coupon~~ allotment.

(1) **Verification for shelter status.** The county office is responsible for verifying that the shelter for battered women and children meets the definition specified in OAC 340:50-5-7(b). Verification of non-profit status is accomplished by seeing correspondence from Internal Revenue Service (IRS) stipulating that the organization is tax-exempt as a charitable or educational entity under Section 501(c)(3) of the IRS code. If this document is not available, a copy of the shelter's by-laws is sent to the ~~State Office,~~ Family Support Services Division, and the county ~~will be~~ is notified of the determination of non-profit status. The county office is responsible for keeping a list of shelters for battered women and children in their county,

whose status has been verified and must also keep documentation of that verification. ~~Shelters having FNS authorization to redeem coupons at wholesalers are considered to have shelter status without further verification and the county office is notified of these shelters by the State Office.~~

(2) **Separate households.** Shelter residents who are included in another active household may participate as a separate household if the active household which includes them is the household containing the person who subjected them to abuse. They may receive an additional allotment as a separate household only once a month. Prompt action is taken to reflect changes in the active household's composition and allotment.

(3) **Income, resources, and expenses.** Residents applying as a separate household are certified solely on the basis of their own income, resources, and the expenses for which they are responsible. Income, resources, and the expenses of their former household are disregarded. Jointly owned resources are considered inaccessible if the resources are owned with members of their former household and the resident's access to the value of the resources is dependent upon the agreement of a joint owner who still resides in the former household. Room payments to the shelter ~~is~~ are considered as shelter expense.

~~(4) **Issuance.** Households may request to receive their entire coupon allotment in $1.00 coupons. Households making this request are provided an ATP and are instructed to request the issuance agent to redeem the entire allotment in $2.00 books if possible.~~

PART 5. STUDENTS, STRIKERS, RESIDENT FARM LABORERS, MIGRANT HOUSEHOLDS, SPONSORED ALIENS, AND SCHOOL EMPLOYEES

340:50-5-45. Students

(a) **Student classification.** Persons enrolled at least half-time in an institution of higher education are considered students through vacation and breaks as well as normal periods of class attendance. Persons who graduate, are expelled or suspended, dropout, or do not intend to register for the next normal school term, excluding summer school, are no longer considered students. Student enrollment status begins on the first day of the school term of the institution of higher education. A college or university which offers degree programs is considered an institution of higher education even when a high school diploma or equivalency certificate is not required to enroll. Therefore, students enrolled at least half time in the **regular curriculum** are considered enrolled in higher education. A college includes a junior, community, two-year, or four-year college, or university. Individuals enrolled at a college or university in special programs, such as courses for English as a second language, or other courses which are not part of the regular degree programs are not considered enrolled in higher education. Business, technical, trade, or vocational schools which normally require a high school diploma or equivalency certificate for enrollment in the curriculum are also considered higher education. Courses in business, technical, trade, or vocational schools which do not require a high school diploma or equivalency certificate for enrollment are not considered higher education.

(b) **Students not subject to eligibility restrictions.** The students described in this subsection may participate in the Food Stamp Program if all other eligibility criteria are met. Eligibility restrictions discussed in subsection (c) of this Section do not apply if the students are:

(1) under age 18 or age 50 or older;

(2) physically or mentally unfit. If mental or physical unfitness is claimed and the unfitness is not evident to the ~~case manager~~ worker, verification may be required. Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by governmental or private sources, participation in a state Vocational Rehabilitation (VR) Program, or of a statement from a physician or licensed or certified psychologist;

(3) attending high school;

(4) participating in an on-the-job training program. Students are considered participating in on-the-job training programs only during the period of time the students are being trained by the employer;

(5) attending an institution of higher education less than half-time; or

(6) enrolled half-time or more in schools and training programs which are not institutions of higher education.

(c) **Eligibility restrictions for students.** Eligibility restrictions for students are given in this subsection.

(1) Persons between the ages of 18 and 50 who are physically and mentally fit and are enrolled at least half-time in an institution of higher education may participate in the Food Stamp Program only if:

(A) employed for a minimum of 20 hours per week and paid for that employment. Earning wages equal to the federal minimum wage times 20 is not a substitute for this restriction;

(B) self-employed for a minimum of 20 hours per week and receives weekly earnings at least equal to the federal minimum wage times 20;

(C) participating in a state or federally financed work study program during the regular school year~~:~~.

(i) To qualify under this provision, the students must be approved for work study at the time of application for food stamps. The work study must be approved for the school term and the students must anticipate actually working during the school term. The exemption begins with the month in which the school term begins or the month work study is approved, whichever is later. Once begun the exemption continues until the end of the month in which the school term ends, or it becomes known the students have refused an assignment.

(ii) The exemption does not continue between terms when there is a break of a full month or longer unless the student is participating in a work study program during the break~~.~~;

(D) responsible for the care of a dependent household member under the age of six;

(E) responsible for the care of a dependent household member six through 11 years of age where the ~~case manager~~ worker determines that adequate child care is not available to enable the students to attend class and work 20 hours per week or participate in a state or federally financed work study program. The reasons for lack of adequate child care include but are not limited to location of the nearest ~~day~~ child care facility or availability of funds to pay ~~day~~ child care expenses. Determination of availability of adequate child care is made on a case-by-case basis;

(F) single parents enrolled in an institution of higher education on a full-time basis as determined by the institution and responsible for the care of a dependent child under age 12, regardless of the availability of day care.

(i) This provision applies in those situations where only one natural, adoptive, or ~~step parent~~ stepparent regardless of marital status is in the same food stamp household as the child.

(ii) If no natural, adoptive, or ~~step parent~~ stepparent is in the same food stamp household as the child, another full-time student in the same food stamp household as the child may qualify for eligible student status under this provision if he or she has parental control over the child and is not living with his or her spouse;

(G) Temporary Assistance ~~to~~ for Needy Families (TANF) recipients; or

(H) assigned to or placed in an institution of higher education through:

(i) the ~~Job Training Partnership Act (JTPA)~~ Workforce Investment Act (WIA);

(ii) a food stamp employment and training program;

(iii) the Job Opportunities and Basic Skills (JOBS) program under Title IV of the Social Security Act;

(iv) a program under Section 236 of the Trade Act of 1974 currently known as The Trade Assistance Program and administered by the Oklahoma Employment Security Commission; or

(v) a state or local employment or training program, as determined appropriate by the United States Department of Agriculture, Food and Nutrition Service (FNS).

(2) Only one person may be considered as responsible for a dependent child. The caretaker need not be the person providing for the child's support.

~~(d)~~ **~~Students' income.~~** ~~The information in (1) and (2) of this subsection relates to households containing students.~~

~~(1)~~ **~~Sources and verification of income.~~** ~~Income peculiar to student households includes earnings, scholarships, fellowships, education grants, deferred payment loans, veterans' educational benefits, cash gifts or awards for education, or vendor payments from parents. Such sources of income result in an uneven cash flow. The payments may be received in one payment but are intended to cover a specific period of time such as a semester or school year. Likewise, the major expenses of education, tuition and mandatory fees, may also be paid at one time.~~

~~(A) Eligible students are responsible for providing information to document the amount of the non-excluded student aid received. These students are also responsible for providing verification of educational income made available or earmarked by the school, institution, program, or other grantor for:~~

~~(i) tuition;~~

~~(ii) mandatory fees including the rental or purchase of equipment, material, and supplies related to pursuing the course of study involved;~~

~~(iii) books;~~

~~(iv) supplies;~~

~~(v) transportation;~~

~~(vi) child care; and~~

~~(vii) miscellaneous personal expenses other than living expenses of the student incidental to attending such school, institution, or program.~~

~~(B) If the institution, school, program, or other grantor does not earmark amounts made available for the allowable costs involved, the student must verify the amount used for the allowable cost involved. Students must also be allowed to provide verification for the exclusion of amounts used for allowable costs where the amounts earmarked are less than the amounts actually used. Student households may not receive a deduction from their income for dependent care or excess shelter expense amounts that have been made available or earmarked, and excluded as educational income.~~

~~(C) Students may not be able to provide identifiable receipts for each and every expense. The case manager can accept other forms of verification such as public transportation rate charts rather than a receipt. Excludable expenses claimed by the student must not exceed the value of the total amount of the education assistance grant.~~

~~(D) Educational income received by an eligible household member who is enrolled in a recognized institution of post secondary education, at a school for the handicapped, in a vocational education, or in a program that provides for completion of a secondary school diploma or the equivalent thereof, is handled as shown in (i) - (vi) of this subparagraph.~~

~~(i) For Title IV, Higher Education Act, and Bureau of Indian Affairs (BIA) Student Assistance Programs, exclude the entire amount for award years beginning on or after July 1, 1993.~~

~~(ii) For Title XIII, Indian Higher Education Programs, exclude the entire amount.~~

~~(iii) For Job Training Partnership Act (JTPA), exclude all JTPA assistance payments except for earnings of individuals 19 years of age or older~~

~~who are participating in on-the-job training under Section 204(5), Title II.~~

~~(iv) For federal College Work Study, exclude the entire amount for award years beginning on or after July 1, 1993.~~

~~(v) For state College Work Study exclude to the extent the income is made available or earmarked by the grantor or actually used for tuition, mandatory fees, books, supplies, transportation, and other miscellaneous personal expenses other than living expenses, of the student incidental to attending such institution, school, or program.~~

~~(vi) For all other educational assistance, exclude to the extent the income is made available or earmarked by the grantor or actually used for tuition, mandatory fees, books, supplies, transportation and other miscellaneous personal expenses, other than living expenses, of the student incidental to attending such institution, school, or program.~~

~~(2) **Determining net food stamp income.** To determine the monthly income for eligible students, the procedures are:~~

~~(A) determine the total cash value of all non-excluded scholarships, educational grants, deferred payment loans, or other monies received in a lump sum for expenses of education;~~

~~(B) subtract applicable educational expenses;~~

~~(C) when there are remaining earmarked or verified educational expenses, the amount is averaged over the period of time it is intended to cover and subtracted from the monthly vocational income such as state Work Study or Veterans' Educational benefits;~~

~~(D) when there is remaining non-exempt lump sum educational income, it is averaged over the period the monies are intended to cover. This figure represents the monthly income from educational grants and loans;~~

~~(E) add all other monthly non-exempt unearned income and the non-exempt earned income less the earned income deduction according to DHS Appendix C-3, Maximum Food Stamp Allotments and Standards for Deductions, Income, and Utilities; and~~

~~(F) determine monthly net income based on any applicable deductions.~~

340:50-5-46. Strikers

(a) **Definition of a striker.** A striker is defined as anyone involved in a strike or concerted stoppage of work by employees ~~(~~including a stoppage by reason of the expiration of a collective-bargaining agreement~~)~~ and any concerted slowdown or other concerted interruption of operations by employees. Households with one or more members on strike are ineligible unless the household was eligible for food stamps the day prior to the strike and are otherwise eligible at the time of application. For households receiving food stamps or households eligible before the strike, ~~coupon allotments may~~ benefits are not ~~be~~ increased as a result of loss of income from the striking members.

(b) **Individuals not considered strikers.** Individuals not considered strikers who are eligible for program participation are employees:

(1) ~~Employees~~ whose workplace is closed by an employer in order to resist the demands of the employees ~~(a lockout)~~;

(2) ~~Employees~~ unable to work as a result of striking employees;

(3) ~~Employees~~ not wanting to cross a picket line due to fear of personal injury or death; or

(4) ~~Employees~~ who are exempt from the work registration requirement the day before the strike for reasons other than employment.

(c) **Determine income.** When a household makes application and a member is on strike, eligibility at the time of application is determined by comparing the striking member's income the day before the strike to the striker's current income. The higher of the two is the income that is used for the striking member. This income is added to other household members' income and the usual deductions are allowed. A household member participating in the Food Stamp Program the day prior to the strike who reports a loss of income due to the strike has income determined the same as for an applicant on strike.

(d) **Other certification processes.** Striking members must register for work unless otherwise exempt.

(1) Households containing one or more persons on strike from their place of employment are not certified for a period of more than one month if the household is certified before the 15th day of the month of application. Otherwise, the maximum certification period must be for two months.

(2) A great deal of confusion may result if there is a sudden, large influx of applications due to a strike. In order that applicants may be handled as orderly and timely as possible, ~~consideration should be given to~~ county staff may consider using group meetings to explain the program and general procedures and to screen for potential ineligible households. Application forms must be supplied when requested at the county office, be accepted when they are presented, and must be certified or denied within 30 days after receipt.

(3) Individuals and organizations who are parties to a strike, ~~(~~or their facilities~~)~~, may not be used in the certification process except as a source of verification for information supplied by the applicant.

PART 7. RELATED PROVISIONS

340:50-5-68. Social Security numbers (SSNs)

(a) All household members must provide their ~~numbers Social Security~~ SSNs when applying for participation in the Food Stamp Program. ~~It is explained~~ The worker explains to the applicant that refusal to provide SSNs will result in disqualification of the individual for whom a SSN is not provided. If

an applicant cannot provide a SSN, proof of application is required prior to certification for each household member except a newborn. The household must provide the SSN or proof of application for the newborn at its next ~~re-certification~~ recertification or within six months following the month the baby is born, whichever is later. Disqualification ends when the SSN is provided or the SSN application is made and verified.

(b) **Failure to comply.** If the ~~social services specialist~~ worker determines a household member has refused or failed to make all efforts to apply for or provide a SSN for a household member, that individual is ineligible to participate in the Food Stamp Program. The disqualification applies to the individual for whom the SSN is not provided and not to the entire household. The income and resources of individuals disqualified for failure to provide a SSN are considered in determining food stamp eligibility.

PART 9. WORK REGISTRATION

340:50-5-88. Requirements after registration

Requirements after registration are applicable only to registrants in the Job Search Project county.

(1) **Employment and training (~~E&T~~ E & T).** The intent of the Food Stamp E & T Program is to ensure all able bodied food stamp recipients are involved in meaningful ~~work-related~~ work related activities which will lead to paid employment and a decreased dependency on assistance programs. The Oklahoma Department of Human Services (OKDHS) is responsible to assist and direct individuals in E & T activities which enable them to achieve or maintain economic self support. These activities include registration for E & T, employment related evaluations and assessment, employability planning, counseling, job developing, and job placement.

(A) All work registrants not exempted from work registration who live in the Food Stamp ~~E&T~~ E & T county or have not been exempted from ~~E&T~~ E & T activity must participate in the Food Stamp ~~E&T~~ E & T Program. Food stamp recipients exempted from work registration or from ~~E&T~~ E & T may participate in the Food Stamp ~~E&T~~ E & T Program as a volunteer.

(B) The E & T requirement applies each time a registrant loses a work registration exemption, re-enters the Food Stamp Program after a period of absence, or each 12 months, whichever occurs first.

(C) If a work registrant becomes exempt from work registration at any point during the E & T process, E & T requirements no longer apply.

(D) When a work registrant moves from a non-E & T county into the Job Search Project county, the E & T is initiated for work registrants immediately following receipt and review of the case file. When a work registrant moves from the Job Search Project county into a non-E & T county, E & T requirements no longer apply.

(2) **Food stamp E & T exemptions.** Mandatory work registrants not exempted from work registration may be exempted from the Food Stamp ~~E&T~~ E & T Program if the registrant:

(A) resides an unreasonable distance from the county office or potential employer. A distance is considered unreasonable if the round trip exceeds two hours by public or private transportation;

(B) is a migrant or seasonal farm worker away from his or her home base and following the work stream;

(C) lacks adequate day care;

(D) has physical or mental problems;

(E) is 55 years old or older and working under Title V of the Older American Act; or

(F) is homeless as defined in OAC 340:50-5-29.

(3) **E & T classification.** Participants are classified into four groups.

(A) **Job ready.** The registrant does not have substantial barriers to employment.

(B) **Not job ready.** This classification is assigned when the food stamp work registrant has barriers that require services not available through the Food Stamp ~~E&T~~ E & T Program. If this classification is assigned, the food stamp ~~social services specialist~~ worker or food stamp ~~E&T social services specialist~~ E & T worker finds services to eliminate these barriers to employment.

(C) **Job attached.** The registrant is temporarily laid off or expects to return to work within 60 calendar days. This classification is assigned for only 60 calendar days. At the end of the 60 calendar day period, the registrant, if still unemployed, is reassessed and reclassified to a different category.

(D) **Exempt.** This classification is assigned if the registrant meets any of the conditions listed in paragraph (2) of this subsection.

(4) **Food stamp ~~E&T~~ E & T component assignments.** Participants classified as ~~job ready~~ job ready are assigned to an ~~E&T~~ E & T component. The components are described in (A) ~~-~~through (C) of this paragraph.

(A) **Job Search.** Participants assigned to this component are required to contact a minimum of 24 employers within an eight-week period or two four-week periods. One eight-week period is eight consecutive weeks of job search with a follow-up meeting after the first four weeks. A two four-week job search period has a period of time between the two job search periods. One follow-up interview is required each four weeks.

(i) A job contact is defined as a registrant presenting himself or herself as available and applying for work.

(ii) Appointments are scheduled on Form FSP-20, Food Stamp Employment and Training Letter.

(iii) The job search assignment is given to the registrant in writing on Form FSP-22, Job Search Plan. This form is also used to schedule follow-up

interviews and used by the registrants to report job contacts. Job contacts are reported in writing and the registrant must attest that the signed statement is true. Employers contacted by the registrant are not required to provide written confirmation of the contact but the registrant is required to sign the statement attesting he or she made the contacts.

(iv) If an ~~E&T~~ E & T participant is referred to a job contact by the food stamp ~~E&T social services specialist~~ E & T worker and does not make this contact the ~~E&T social services specialist~~ E & T worker initiates conciliation. [OAC 340:50-5-88(6)(A)]

(v) If an ~~E&T~~ E & T participant does not accept a job offered to him or her without good cause, the food stamp ~~E&T social services specialist~~ E & T worker initiates conciliation. [OAC 340:50-5-88(6)(A)]

(B) **Workforce Investment Act (WIA) component.** Participants assigned to this component are eligible for all the services available at WIA. Participants assigned to this component have completed the job search component without finding a job or are identified by the ~~E&T social services specialist~~ E & T worker as individuals who can benefit from the services available through WIA. When the component is assigned, the participant is provided Form TW-3, Interagency Referral and Information, to take to WIA. The ~~E&T~~ E & T participant is responsible for returning to the E & T ~~social services specialist~~ worker Form TW-3 signed by a representative of WIA.

(C) **Oklahoma Employment Security Commission (OESC) component.** Participants assigned to this component are eligible for all the services available at OESC. Participants assigned to this component are ~~E&T~~ E & T participants the ~~E&T social services specialist~~ E & T worker has determined would benefit from these services. When this component is assigned, the participant is provided with Form TW-3 to take to OESC. The ~~E&T~~ E & T participant is responsible for returning to the E & T ~~social services specialist~~ worker Form TW-3 signed by a representative of OESC.

(5) **E & T related expenses.** Participants in the Food Stamp E & T Program may receive up to $25 per month for ~~E&T~~ E & T activity if another agency is not reimbursing the participant for the same type of activity. Reimbursement is $3 for a half day, four hours or less, and $6 for a full day, more than four hours. The food stamp ~~E&T social services specialist~~ E & T worker gives Form TW-13, Time and Progress Report, to the ~~E&T~~ E & T participant to complete Part 1 and return to the county office during the first week of each month. Work registrants with a child(ren) under 12 years of age required to participate or who volunteer in the Food Stamp E & T Program are eligible for a maximum child care payment of ~~$160~~ $200 per month per child vendor purchased child care.

(6) **Failure to comply.**

(A) A registrant who fails to keep a scheduled ~~E&T~~ E & T interview or fails to comply with E & T requirements and does not meet the good cause provision in OAC 340:50-5-88(7), is given the opportunity to comply through a conciliation period. The purpose of conciliation is to resolve disputes in an informal fashion and avoid invoking penalties. The conciliation period starts the day after noncompliance with ~~E&T~~ E & T requirements is determined and lasts for no more than ten calendar days.

(B) If the registrant has not responded to the conciliation process by the tenth day, the ten-day advance notice is sent. The adverse action is taken for noncompliance of ~~E&T~~ E & T requirements. This notice is sent no later than the last day of the conciliation period.

(C) To comply with conciliation or show a good faith effort to comply, the participant during the conciliation period must:

(i) be assessed or assigned, if he or she failed to be assessed or assigned;

(ii) complete the balance of job contacts or at least three verified contacts, if he or she failed to complete job search component; or

(iii) provide Form TW-3, if he or she failed to return Form TW-3 from the WIA or OESC component.

(D) If conciliation has failed, mandatory disqualification periods are imposed. Disqualification periods remain in effect until the later of the date the household member complies with the work rules or is disqualified for:

(i) the first violation, one month;

(ii) the second violation, three months; or

(iii) the third or subsequent violation, six months.

(E) The disqualification cannot be ended unless the required household member meets the criteria in (6)(D) of this subsection, leaves the household, or becomes exempt from work registration. If any household member who failed to comply with ~~E&T~~ E & T joins another household as the head of household, the entire new household is ineligible for the remainder of the disqualification period. If the member who failed to comply with ~~E&T~~ E & T joins another household where he or she is not the head of the household, the individual is considered an ineligible household member.

(F) Households and individuals disqualified for failure to comply with ~~E&T~~ E & T requirements may request a fair hearing and continue participation.

(G) If the participant fails to comply with ~~E&T~~ E & T requirements and meets the definition of head of household, the case is closed.

(H) If the participant fails to comply with ~~E&T~~ E & T requirements and does not meet the definition of head of household, that individual is removed from

the case. His or her income and resources continue to be counted.

(I) For purposes of failure to comply with work requirements, the head of household is defined in OAC 340:50-5-90.

(J) The principal wage earner is the household member, including excluded members, who has the greatest earned income in the two months prior to the violation.

(7) **Good cause.** Good cause includes circumstances beyond the registrant's control, such as, but not limited to:

(A) illness;

(B) illness of another household member requiring the presence of the registrant;

(C) a household emergency;

(D) unavailability of transportation; or

(E) lack of adequate child care for children ages 6-through 11.

(8) **Suitable work.** Any employment offered is considered suitable:

(A) if the wage offered is at least the highest of the applicable federal minimum wage, the applicable state minimum wage, or 80% of the federal minimum wage, if neither the state nor federal minimum wage applies;

(B) if the employment offered is on a piece-rate basis and the average hourly wage the employee can reasonably expect is at least equal to the applicable hourly wages specified;

(C) if the registrant, in order to be hired or to continue working, is not required to join, resign from, or refrain from joining any legitimate labor organization;

(D) if the work offered is not at a site subject to a strike or lockout at the time of the offer unless the strike has been enjoined under the Labor Management Relations Act ~~[~~(Taft-Hartley)~~]~~ or an injunction has been issued under Section 10 of the Railway Labor Act; or

(E) unless the registrant demonstrates or the ~~social services specialist~~ worker determines:

(i) the risk to health and safety is unreasonable;

(ii) the household member is physically or mentally unfit to perform the employment as documented by medical evidence or other reliable information;

(iii) the employment offered within the first 30 calendar days of registration is not in the registrant's major field of experience;

(iv) the distance from the registrant's home to the place of employment is unreasonable based on the expected wage and the time and cost of daily commuting. Commuting time cannot exceed two hours daily; or

(v) the working hours or nature of the employment interferes with the registrant's religious observations, convictions, or beliefs.

(9) **Monitoring ~~E&T~~ E & T.** The Family Support Services Division staff monitor the Food Stamp ~~E&T~~ E & T Program.

SUBCHAPTER 7. FINANCIAL ELIGIBILITY CRITERIA

PART 1. RESOURCES

340:50-7-2. Excluded resources

Only resources listed in this Section are excluded for household members, for disqualified members whose resources are counted, or for ineligible aliens who would otherwise be a household member. When an exclusion applies because of use by or for a household member, the exclusion also applies when the resource is ~~being~~ used by or for a disqualified person whose resources are counted or for an ineligible alien who would otherwise be a household member.

(1) **Home and surrounding property.** The home and surrounding property which is not separated from the home by intervening property owned by others is exempt. Public right-of-way, such as roads which run through the surrounding property and separate it from the home, does not affect exemption of the property. The home and surrounding property remain exempt when temporarily unoccupied by reasons of employment, training for future employment, illness, vacation, or uninhabitability caused by casualty or natural disaster so long as the household intends to return. Households that currently do not own a home, but own or are purchasing a lot on which they intend to build or are building a permanent home receive an exclusion for the value of the lot and, if it is partially completed, for the home.

(2) **Household personal goods, life insurance, and pension plans.** Household goods, personal belongings, including one burial lot per household member, the cash value of life insurance policies, and prepaid burial plans are exempt. The cash value of pension plans or funds is excluded, except for Individual Retirement Accounts (IRA) and Keogh Plans. A Keogh Plan may be excluded if it involves a contractual arrangement with individuals outside the household.

(3) **Vehicles.**

(A) Exclude one licensed vehicle per adult household member, including an ineligible alien or disqualified household member whose resources are considered available to the household, regardless of the use of the vehicle. Exclude any other vehicle a household member under age 18, including an ineligible alien or disqualified household member under age 18 whose resources are considered available to the household, drives to commute to and from employment, or to and from training or education which is preparatory to employment, or to seek employment. This exclusion applies during temporary periods of

unemployment to a vehicle which a household member under age 18 customarily drives to commute to and from employment. Also exclude any licensed vehicle if:

(i) used for income-producing purposes such as, but not limited to, a taxi, truck, or fishing boat, or a vehicle used for deliveries, to call on clients or customers, or required by the terms of employment. Licensed vehicles that have previously been used by a self-employed household member engaged in farming but are no longer used in farming because the household member has terminated his or her self-employment from farming must continue to be excluded as a resource for one year from the date the household member terminated his or her self-employment farming;

(ii) annually producing income consistent with its fair market value, even if used only on a seasonal basis;

(iii) necessary for long distance travel, other than daily commuting, that is essential to the employment of a household member, ineligible alien, or disqualified person whose resources are ~~being~~ considered available to the household, such as the vehicle of a traveling sales person or of a migrant farm worker following the work stream;

(iv) used as the household's home;

(v) necessary to transport a physically disabled household member, physically disabled ineligible alien, or physically disabled disqualified person whose resources are considered available to the household, regardless of the purpose of such transportation. The vehicle need not have special equipment or be used primarily by or for the transportation of the physically disabled household member. Only one vehicle per physically disabled household member may be excluded;

(vi) necessary to carry fuel for heating or water for home use when the transported fuel or water is anticipated to be the primary source of fuel or water for the household during the certification period. Households must receive this resource exclusion without having to meet any additional tests concerning the nature, capabilities, or other uses of the vehicle. Households must not be required to furnish documentation unless the exclusion of the vehicle is questionable;

(vii) the value of the vehicle is inaccessible because its sale would produce an estimated return of not more than $1,500;

(viii) jointly owned by a food stamp household member and someone who does not live with the food stamp household. To be excluded, the vehicle must not be used by, nor in the possession, of anyone who lives in or with the household. The member must also be unable to sell the vehicle because the signature of the co-owner is needed and that person will not sign; or

(ix) legally prohibited from being sold by the food stamp household. The determination of whether a food stamp household can legally sell a vehicle is governed by the law of the State of Oklahoma.

(B) The exclusions in (i) ~~-~~ through (iii) of this Section continue to apply when the vehicles are not in use because of temporary unemployment such as when a taxi driver is ill and cannot work or the vehicle is broken down and cannot be used.

(4) **Real or personal property directly related to the maintenance of excluded vehicles.** Property, real or personal, to the extent it is directly related to the maintenance or use of a vehicle described in paragraph (3) of this subsection is excluded. Only that portion of real property determined necessary for maintenance or use is excluded. For example, a household which owns a produce truck to earn its livelihood may be prohibited from parking the truck in a residential area. The household may own a 100-acre field and use a quarter-acre of the field to park or service the truck. Only the value of the quarter-acre is excluded under this provision, not the entire 100-acre field.

(5) **Income producing property.** Income producing property which annually produces income consistent with the fair market value is excluded even if used on a seasonal basis. Examples of such property are rental homes and mineral rights. When it is necessary to determine if property is producing income consistent with its fair market value, the ~~social services specialist may contact~~ worker contacts a local realtor, tax assessor, the Small Business Administration, Farmer's Home Administration, or other knowledgeable sources to determine the prevailing rate of return from similar property in the area.

(6) **Property essential to employment.** Property, such as farm land or work related equipment including tools of a tradesman or the machinery of a farmer, which is essential to the employment or self-employment of a household member is excluded. Property of a household member engaged in farming continues to be excluded for one year from the date the household member terminates his or her self-employment from farming.

(7) **Installment contracts.** Installment contracts for the sale of land or buildings are excluded if the contract or agreement is producing income consistent with its fair market value. The exclusion applies to the value of the property sold under the installment contract or held as security in exchange for a purchase price consistent with the fair market value of that property.

(8) **Inaccessible resources.** Resources whose cash value is not accessible to the household are exempt, such as but not limited to, irrevocable trust funds, security deposits on rental property or utilities, property in probate, and real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold. If questionable, the ~~social services specialist~~ worker establishes that the property is for sale and that the household will accept a reasonable offer. A resource is

considered inaccessible if its sale or other disposition is unlikely to produce funds amounting to one half or more of the applicable resource limit for the household. The value of the inaccessible resource is the amount of the expected return to the household after subtracting estimated cost of sale or disposition, and consideration of the ownership interest to the household. A single resource may not be subdivided solely to obtain an exclusion as inaccessible. This inaccessible provision does not apply to vehicles or financial instruments such as stocks, bonds, or negotiable financial instruments. Any funds in a trust or transferred to a trust and the income produced by that trust to the extent it is not available to the household is considered inaccessible to the household if:

(A) the trust arrangement is not likely to cease during the certification period and no household member has the power to revoke the trust arrangement or change the name of the beneficiary during the certification period;

(B) the trustee administering the funds is either a court, or an institution, corporation, or organization which is not under the direction or ownership of any household member, or an individual appointed by the court who has court imposed limitations placed on his or her use of the trust funds;

(C) trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction, or influence of a household member; and

(D) the funds held in irrevocable trust are either established from the household's own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational or medical expenses of any person named by the household creating the trust, or established from non-household funds by a non-household member.

(9) **Education assistance.** All education grants, work study, scholarships, and student loans are exempt if receipt is contingent upon the student regularly attending school.

(~~9~~10) **Resources excluded by law.** Resources currently excluded by ~~federal~~ law are:

(A) payments received:

(i) under the Alaska Native Claims Settlement Act [Public Law (P.L.) 92-203, Sec. 21(a)];

(ii) under the Sac and Fox Indian Claims Agreement [P.L. 94-189];

(iii) from the disposition of funds to the Grand River Band of Ottawa Indians [P.L. 94-540];

(iv) by members of the Confederated Tribes of the Mescalero Reservation [P.L. 95-433]; or

(v) under the Maine Indians Claims Settlement Act of 1980 to members of the Passamaquoddy and the Penobscot Nation [P.L. 96-420];

(B) payments received by certain Indian tribal members under P.L. 94-114, Sec. 6 regarding submarginal land held in trust by the United States;

(C) Indian per capita payments distributed from ~~judgement~~ judgment awards and trust funds made pursuant to P.L. 98-64 ~~of $2,000 or less~~. ~~Portions of these payments in excess of $2,000 are not excluded.~~ Also excluded is any interest or investment income accrued on such funds while held in trust or any purchases made with judgement funds, trust funds, interest or investment income accrued on such funds. ~~Any~~ Exclude any per capita payments, such as headrights of Osage tribe, income from mineral leases, or other tribal business ventures, as long as the payments meet the distribution requirements as stated in this subparagraph. ~~However, any~~ Any interest or income derived from the funds after distribution is considered as any other income. ~~The $2,000 exclusion applies to each payment regardless of how frequently the payments are made and regardless of the number of months for which the payment is made.~~ The per capita exclusion applies per person rather than per family. When these excluded funds are deposited in a bank or other financial institution, the deposits are excluded as long as the funds are kept in a separate account and not commingled in an account with non-excluded funds. When the excluded funds are commingled in an account with non-excluded funds, the excluded funds retain their exemption for six months from the date of commingling. After six months from the date of commingling, all funds are counted as a resource. Purchases made with excluded funds are considered a resource~~. However, purchases made with excluded per capita funds received between December 31, 1981, but prior to January 12, 1983, are handled differently than all other purchases. This special consideration applies to all property including vehicles. Purchases of $2,000 or less made solely with excluded funds received during this time frame are excluded. Purchases partially paid for with these excluded funds are excluded to the extent they were paid for with these funds. If more than one per capita payment was used, the excluded amount may exceed $2,000. If the property has depreciated, the excluded amount is depreciated proportionately. Determine what percentage of the original purchase price was paid for from these excluded funds and exclude this percentage of the current market value. This exception does not apply to subsequent purchases, for example, trading a car bought with excluded funds. The property is exempt only while it is held by the person who originally received the per capita payment with which it was purchased~~;

(D) interests of individual Indians in trust or restricted lands;

(E) benefits received from special supplemental food program for women, infants, and children (WIC) [P.L. 92-443, Sec. 6];

(F) reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 [P.L. 91-646, Sec. 216];

(G) Earned Income Tax Credit (EITC) payments received by a participating food stamp household member as part of a federal tax refund or as advance payments received as part of a pay check, excluded for 12 months during continuous participation. This does not mean that households lose the exclusion if they temporarily leave the program for administrative reasons;

(H) refunds of the state EITC as a result of filing a state income tax return in the month received and the following month;

(~~H~~I) payments received from the Youth Incentive Entitlement Pilot Projects, the Youth Community Conservation and Improvement Projects, and the Youth Employment and Training Programs under Title IV of the Comprehensive Employment and Training Act of 1978 [P.L. 95-524];

(~~I~~J) financial assistance provided by a program funded in whole or in part under Title IV of the Higher Education Act in accordance with P.L. 99-498;

(~~J~~K) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.) ~~are not considered in determining eligibility for or the amount of the benefit~~;

(~~K~~L) payments received under the Civil Liberties Act of 1988. These payments are ~~to be~~ made to individuals of Japanese ~~Ancestry~~ ancestry who were detained in internment camps during World War II;

(~~L~~M) payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from the exposure to radiation from nuclear testing and uranium mining;

(~~M~~N) amounts held in an account for the fulfillment of a Plan for Achieving Self-Support (PASS) under Title XVI of the Social Security Act;

(~~N~~O) the resources of any non-household ~~members~~ member unless the individual is disqualified from the program by an administrative or court fraud hearing, by failing to obtain or refusing to provide a Social Security number, or is an ineligible alien who would otherwise be a household member;

(~~O~~P) payments or allowances made under any federal law for the purpose of energy assistance such as the Low Income Heating and Energy Assistance Program (LIHEAP);

(~~P~~Q) earmarked resources, such as those governmental payments made by the Individual and Family Grant Program or the Small Business Administration which are designated for the restoration of homes damaged in a disaster and which are subject to a legal sanction if the funds are not used as intended. Resources such as those of ~~eligible students or~~ self-employed persons, which have been prorated and counted as income, and Indian lands held jointly with the tribe or land that can be sold only with the approval of the Bureau of Indian Affairs are also exempt;

(~~Q~~R) the identified resources of all Temporary Assistance for Needy Families (TANF) and Supplemental Security Income (SSI) recipients when the household's total resources are calculated for food stamp eligibility purposes;

(~~R~~S) excluded monies kept in a separate account, which are not commingled in an account with the non-excluded funds retain excluded status for an unlimited period of time. Monies of ~~students and~~ self-employed households which are excluded as a resource because they have been prorated over the period they are intended to cover and are commingled in an account with non-excluded funds retain their exclusion for the period of time over which they have been prorated as income. All other excluded monies which are commingled in an account with other funds retain their exempt status for six months from the date they are commingled. If the household's total resources, including all funds in the commingled account, exceed the allowable limit after that time, all funds in the commingled account are considered as a resource; ~~and~~

(~~S~~T) payments made to individuals because of their status as victims of Nazi persecution~~.~~; and

(U) any funds deposited in an Individual Development Account (IDA) operated under the Assets for Independence Act.

PART 3. INCOME

340:50-7-22. Income exclusions

Only the payments listed in this Section can be excluded from the household's income, from income of disqualified members whose income is counted, or from the income of ineligible aliens who would otherwise be household members. No other income is excluded.

(1) **In-kind income.** In-kind income is any gain or benefit which is not in the form of money payable directly to the household, including non-monetary or in-kind benefits, such as meals, clothing, public housing, or produce from a garden.

(2) **Vendor payments.** Vendor payments are payments in money on behalf of a household when a person or organization outside the household uses its own funds to make a direct payment to either a household's creditors or a person or organization providing a service to the household.

(3) **Education assistance.** All education grants, work-study, scholarships, and student loans are exempt if receipt is contingent upon the student regularly attending school.

(~~3~~4) **Income excluded by ~~federal~~ law.** Income excluded by ~~federal~~ law is:

(A) reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970. [P.L. 91-646, ~~Sec.~~ § 216] Such payments are:

(i) payments to persons displaced due to the acquisition of real property;

(ii) relocation payments to a displaced home owner toward the purchase of a replacement dwelling if the owner purchased and occupied the dwelling within one year following displacement; and

(iii) replacement housing payments to displaced persons not eligible for a home owner's payment;

(B) payments received under the Alaska ~~natives~~ Natives Claims Settlement Act [P.L. 92-203, Sec. 21 (a)], under the Sac and Fox Indian Claims Agreement [P.L. 94-189], from the disposition of funds to the Grand River Band of Ottawa Indians [P.L. 94-540], by members of the Confederated Tribes of the Mescalero Reservation [P.L. 95-433], or under the Maine Indian Claims Settlement Act of 1980 to members of the Passamaquoddy and the Penobscot Nation [P.L. 96-420];

(C) any payment to volunteers under Title II, Retired and Senior Volunteer Program (RSVP), ~~Foster Grandparents~~ foster grandparents and others, of the Domestic Volunteer Services Act of 1973 [P.L. 93-113] as amended. Payments under Title I of that Act, Volunteers In Service to America (VISTA), University Year for Action, and Urban Crime Prevention Program, to volunteers are excluded for those individuals receiving food stamps or public assistance at the time they joined the Title I Program, except that households who were receiving an income exclusion for a VISTA or other Title I subsistence allowance on February 1, 1979 continue to receive an income exclusion for VISTA for the length of their volunteer contract in effect at the time. Temporary interruptions in food stamp participation does not alter the exclusion once an initial determination has been made;

(D) income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes [P.L. 94-114, Sec. 6];

(E) Indian per capita payments distributed from judgment awards and trust funds made pursuant to Public Law 98-64 ~~of $2,000 or less~~. ~~Portions of these payments in excess of $2,000 are not excluded.~~ Also excluded is any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest or investment income accrued on such funds. Any per capita payments, such as headrights of Osage tribe, income from mineral leases or other tribal business ventures are excluded, as long as they meet the distribution requirements as stated in this paragraph. Any interest or income derived from the funds after distribution is considered as any other income. ~~The $2,000 exclusion applies to each payment regardless of how frequently the payments are made and regardless of the number of months for which the payment is made.~~ The per capita exclusion applies per person rather than per family. When:

(i) these excluded funds are deposited in a bank or other financial institution the deposits are excluded as long as they are kept in a separate account and not commingled in an account with non-excluded funds. When the excluded funds are commingled in an account with non-excluded funds they ~~shall~~ retain their exemption for six months from the date of commingling. After six months from the date of commingling, all funds ~~shall be~~ are counted as a resource; and

(ii) purchases made with excluded funds are considered a resource~~. However, purchases made with excluded per capita funds received between December 31, 1981, but prior to January 12, 1983, are handled differently than all other purchases. This special consideration applies to all property including vehicles. Purchases of $2,000 or less made solely with excluded funds received during this time frame are excluded. Purchases partially paid for with these excluded funds are excluded to the extent they were paid for with these funds. If more than one per capita payment was used the excluded amount may exceed $2,000. If the property has depreciated the excluded amount will be depreciated proportionately. The percentage of the original purchase price that was paid for from these excluded funds is determined and this percentage of the current market value is excluded. This exception does not apply to subsequent purchases, such as trading a car bought with excluded funds. The property is exempt only while it is held by the person who originally received the per capita payment with which it was purchased~~;

(F) income up to $2,000 per year received by individual Indians, which is derived from leases or other uses of individually-owned trust or restricted lands ~~shall not be counted as income~~. The income exclusion applies to calendar years beginning January 1, 1994. Any remaining disbursements from the trust or restricted lands are considered as income;

(G) allowances, earnings, and payments made for participation in the Workforce Investment Act (WIA) to individuals of all ages and student status. There are numerous programs for which payments are excluded. These programs include Summer Youth, Job Corp, paid class room training, and others. The exemption to the income exclusion is income to individuals for on-the-job training ~~under section 204(b)(1)(C) or section 264(c)(1)(A)~~ paid to participants 19 years old and older. This income is treated as any other earned income;

(H) payments, allowances, or earnings to individuals participating in programs under Title I of the National and Community Service Act, such as Health Careers Volunteer Program and the Americorps Program, ~~shall~~ are not ~~be~~ included as income for purposes of determining food stamp eligibility and benefit level;

(I) payments or allowances made under any federal law for the purpose of energy assistance, Low Income Home Energy Assistance Program (LIHEAP) and also utility payments, and reimbursements made by the Department of Housing and Urban Development (HUD) and the Farmers Home Administration (FmHA);

(J) the amount of the mandatory salary reduction of military service personnel used to fund the G.I. Bill;

(K) all funds which are paid to individuals under the Community Service Employment Program under Title V. [P.L. 100-175] This program is authorized by the Older Americans Act. Each state and eight organizations receive some Title V funds. These organizations include:

(i) Green Thumb;

(ii) National Council on Aging;

(iii) National Council of Senior Citizens;

(iv) American Association of Retired Persons;

(v) U. S. Forest Service;

(vi) National Association for Spanish Speaking Elderly;

(vii) National Urban League; and

(viii) National Council on Black Aging;

(L) Earned Income Tax Credit (EITC) payments received as part of a tax refund and also EITC advance payments received as part of a paycheck [P.L. 100-435];

(M) refunds of the state EITC as result of filing a state income tax return;

(~~M~~N) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(~~N~~O) payments received under the Civil Liberties Act of 1988. These payments are made to individuals of Japanese ancestry who were detained in interment camps during World War II;

(~~O~~P) payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from the exposure to radiation from nuclear testing and uranium mining;

(~~P~~Q) payments for the fulfillment of a Plan for Achieving Self-Support (PASS) under Title XVI of the Social Security Act;

(~~Q~~R) payments made to individuals because of their status as victims of Nazi persecution; and

(~~R~~S) funds distributed by Federal Emergency Management Assistance (FEMA) due to a disaster or emergency to individuals directly affected by the event. This exclusion also applies to comparable disaster assistance provided by states, local governments and disaster assistance organizations. For payments to be excluded, the disaster or emergency must be declared by the President of the United States.

340:50-7-23. Payments which are not considered income

(a) The payments in (1) - through (3) of this subsection are not considered as income~~:~~.

(1) Monies withheld from any income source to repay a prior overpayment received from that same source~~,~~.

(2) Monies voluntarily or involuntarily returned to repay a prior overpayment received from that same income source~~, or~~.

(3) Child support payments received by ~~AFDC~~ Temporary Assistance for Needy Families (TANF) recipients which must be sent to the Child Support Enforcement Unit to maintain ~~AFDC~~ TANF eligibility.

(b) Monies withheld or returned to repay overpayments in federal, state, or local means tested assistance programs are not excluded when they are withheld or returned to repay overpayments resulting from intentional program violation as established by the agency administering the program.

(1) In the Food Stamp Program, willful misrepresentation is considered as intentional program violation.

(2) ~~In ABD and AFDC,~~ The State Supplemental Payment to the Aged, Blind, and Disabled and TANF programs define ~~the terms defining the~~ intentional program violation ~~are restitution/fraud/willful~~ using the terms restitution, fraud, and willful misrepresentation~~, in SSI the term is fraud and the VA program definition is fraud~~.

(3) The Social Security Administration (SSA) and Veteran's Administration programs define intentional program violation as fraud. Supplemental Security Income (SSI) is a means-tested program within SSA.

340:50-7-24. Reimbursements

(a) Reimbursements for past or future expenses to the extent they do not exceed actual expenses and do not represent a gain or benefit to the household are not considered. Examples are reimbursements for:

(1) ~~Reimbursements for the purpose of~~ job or training related expenses such as travel, per diem, uniforms, and transportation to and from job or training site. However, if these expenses are not reimbursements, they are not otherwise deductible~~.~~;

(2) ~~Reimbursements and~~ out-of-pocket expenses ~~of volunteers~~ incurred by volunteers in the course of their work~~.~~;

(3) ~~Medical~~ medical or dependent care ~~reimbursements.~~; and

~~(4) Reimbursements for educational expenses regardless of the source based on amounts earmarked by the institution, school, program or other grantor as made available for the specific costs of tuition, mandatory fees, books, supplies, transportation, child care and miscellaneous personal expenses (other than living expenses).~~

(~~5~~4) ~~Reimbursements received by households to be paid for~~ services provided by Title XX of the Social Security Act.

(b) When a reimbursement, including a flat allowance, covers multiple expenses, each expense does not have to be separately identified as long as none of the reimbursements

cover normal living expenses. The amount ~~by which a~~ of the reimbursement that exceeds the actual incurred expenses is counted as income. ~~However, a~~ A reimbursement is not considered to exceed actual expenses unless the provider or household indicates the amount is excessive.

(c) ~~Reimbursement~~ Reimbursements for normal living expenses of the household, such as rent or mortgage, personal clothing, ~~or~~ and food eaten at home are a gain or benefit, and, therefore, are not excluded. To be excluded, these payments must be provided specifically for an identified expense other than normal living expenses and used for the purpose intended.

340:50-7-25. Educational assistance [REVOKED]

~~(a) **Entirely excluded assistance.** Educational income provided under Title IV (Higher Education Act), Bureau of Indian Affairs (BIA) Student Assistance, Title XIII (Indian Higher Education Programs), Workforce Investment Act with the exception of earnings from section 204(b)(c) or 264(c)(1)(A) on the job training, and federal College Work Study are excluded entirely from consideration as income.~~

~~(b) **Partially excluded assistance.** State College Work Study and all other educational assistance including educational loans with deferred payments, are excluded to the extent they are made available to, earmarked for, or used by the student for expenses incidental to attending a:~~

~~(1) recognized institution of post-secondary education:~~

~~(2) school for the handicapped;~~

~~(3) vocational education and/or training program; or~~

~~(4) program that provides for completion of a secondary school diploma or obtaining the equivalent thereof.~~

~~(c) **Allowable educational expenses.** All student expenses incidental to attending the school, institution, or program are considered allowable educational expenses and include:~~

~~(1) tuition:~~

~~(2) mandatory fees:~~

~~(3) rental or purchase of any equipment:~~

~~(4) materials, supplies or books:~~

~~(5) origination fees and insurance premiums on student loans;~~

~~(6) transportation; and~~

~~(7) miscellaneous personal expenses other than living expenses.~~

340:50-7-26. Money received for third parties

Money received and used for the care and maintenance of a third party beneficiary who is not a household member is not considered. If the intended beneficiaries of a single payment are both household and non-household members, any identifiable portion of the payment intended and used for the care and maintenance of the non-household member is excluded. If the non-household member's portion cannot be readily identified, as in ~~AFDC~~ Temporary Assistance for Needy Families (TANF) payments, the payment is evenly prorated among intended beneficiaries and the exclusion applied to the non-household member's pro rata share or the amount actually used for the non-household member's care and maintenance, whichever is less.

340:50-7-28. Other types of excluded income

(a) **Loans.** All loans, including loans from private as well as commercial institutions, ~~other than educational loans where repayment is deferred~~ are excluded. Verification that the income is a loan is required.

(b) **Irregular income.** ~~Any~~ Exclude any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated which is not in excess of $30 per quarter.

(c) **Non-recurring lump sum payments.** ~~Money~~ Exclude money received in the form of non-recurring lump sum payments, including but not limited to: income tax refunds; rebates; credits; retroactive lump sums from Social Security, Supplemental Security Income (SSI), ~~Public Assistance~~ public assistance, Railroad Retirement ~~Pensions~~ pensions, or other payments; or retroactive lump sum insurance settlements~~, State Emergency Payments (Z's) for families in need of temporary financial assistance who have suffered a personal emergency such as, but not limited to, burn out, flood, tornado or eviction~~. These payments are counted as resources.

(d) **Cost of self-employment.** ~~The~~ Exclude the cost of producing self-employment income.

(e) **Income of non-household members.** The income of ~~non-household~~ non-household members who have not been disqualified or are not ineligible aliens is not considered available to the household.

(f) **Charitable contributions.** ~~Cash~~ Exclude cash contributions to a household from one or more private non-profit charitable organizations, not to exceed $300 in a Federal fiscal year quarter. ~~This provision applies retroactively to February 1, 1988.~~ For the purposes of this provision a quarter includes these specific months ~~as follows~~:

(1) October, November, December;

(2) January, February, March;

(3) April, May, June; and

(4) July, August, September.

340:50-7-29. Income inclusions

(a) **Earned income.** Earned income is ~~that~~ income which a household receives in the form of wages, self-employment, or training allowances and for which an individual puts forth daily, physical labor. The types of earnings listed in (1) ~~-~~ through (5) of this subsection, including money from the sale of whole blood or blood plasma, are considered income.

(1) **Wages.** All wages and salaries for services performed as an employee including sick pay paid by the employer to an employee who plans to return to work when recovered are considered as earned income. Wages that are garnisheed or diverted and paid to a third party for a household's expenses are also included.

(2) **Self-employment.** The total gross income from a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business but excluding the cost of producing the income

and payments from roomers or boarders and rent from rental property are considered self-employment income. Income from rental property is considered earned income only if a member of the household is actively engaged in management of the property an average of at least 20 hours a week.

(3) **Training allowances.** Training allowances for vocational and rehabilitative programs recognized by the federal, state, or local governments such as the Work Incentive Program and programs authorized by the Comprehensive Employment and Training Act, are considered income to the extent they are not reimbursement. The individual must be actively involved in some type of work.

(4) **Title I Payments of Domestic Volunteer Services Act.** Payments under Title I of the Domestic Volunteer Services Act of 1973 as amended [P.L. 93-113] are considered as income unless excluded ~~under Section 22 of this Subchapter~~ in OAC 340:50-7-22. This includes income to volunteers in Volunteers in Service to America (VISTA), University Year for Action, and similar volunteer payments.

(5) **On-the-job training.** Income earned in on-the-job training positions is considered earned income. This includes on-the-job training provided under Section 204(b)(1)(c) or Section 264(c)(1)(A) of the Workforce Investment Act for individuals 19 years of age or ~~over~~ older.

(b) **Unearned income.** In general, unearned income is that income which a household receives and is not in the form of wages, self-employment, or training allowances and for which an individual does not put forth any daily, physical labor. The types of income listed in (1) - through (6) of this subsection, while not all inclusive, are considered unearned.

(1) **Assistance payments.** Assistance payments from a federally aided public assistance program, such as Supplemental Security Income (SSI), or Temporary Assistance for Needy Families (TANF), or assistance programs based on need, such as State Supplemental Payments are considered as unearned income.

(A) A household's food stamp benefit amount does not increase when the benefit received from another program is reduced, suspended, or terminated because of a penalty imposed for an intentional failure to comply with a requirement of that program. The other program must be a means-tested, federal, state, or local welfare or public assistance program which is governed by welfare or public assistance laws or regulations and which distributes public funds.

(i) When a ~~social services specialist~~ worker is not able to obtain the necessary information and cooperation from another federal, state, or local means-tested welfare, or public assistance program to comply with the provision in (A) of this paragraph, ~~the Agency~~ Oklahoma Department of Human Services (OKDHS) is not held responsible. The ~~social services specialist~~ worker must make a good faith effort to get the needed information and record the details and results of this effort in the case file.

(ii) The household's current food stamp benefit amount is not reduced, suspended, or terminated when the benefits under another assistance program are decreased.

(iii) When eligible members are added to the food stamp case the benefit must be adjusted regardless of whether or not the household is prohibited from receiving benefits for the additional member under another federal, state, or local welfare or public assistance means-tested program.

(iv) Changes in the household circumstances which are not related to the penalty imposed by another federal, state, or local welfare or public means-tested assistance program are not affected by the provision in (A) of this paragraph.

(v) The application of the provision in (A) of this paragraph applies for the duration of the imposed penalty.

(B) The provision in (A) of this paragraph does not apply to individuals or households subject to disqualification from the Food Stamp Program for noncompliance with a comparable work requirement under Title IV of the Social Security Act or an unemployment compensation work requirement.

(2) **Pension and Social Security.** Annuities, pensions, retirement, Veterans' or disability benefits, workers' or unemployment compensation, survivors' or Social Security benefits, and strike benefits are unearned income.

(3) **Support and alimony.** Support and alimony payments that are made directly to the household from non-household members, money deducted or diverted from court-ordered support or alimony payments, or other binding written support or alimony agreement, to a third party for a household expense must be considered as income when the court order directs that the payment be made to the household.

~~(4) **Education grants.** Scholarships, educational grants, fellowships, deferred payment loans for education, federal education benefits, and the like in excess of the amounts excluded in Section 25 of this Subchapter are considered as income.~~

(~~5~~4) **Grants and interest payments.** Payments from government sponsored programs, such as Agricultural Stabilization and Conservation Service Programs, dividends, interest, royalties, and all other direct money payments from any source which can be construed to be a gain or profit are considered as income. Income from royalties is treated as unearned, self-employment income. ~~Only the exclusions outlined in Section 30 of this Subchapter are allowed.~~

(~~6~~5) **Monies which are withdrawn or dividends which are or could be received by a household from trust funds.** Dividends which the household has the option of either receiving as income or reinvesting in the trust are considered as income in the month they become available to the household.

(c) **Income of disqualified or ineligible household members.** A complete list of reasons for disqualification of household members is found in OAC 340:50-5-10.1. Income of disqualified individuals and unqualified aliens is counted as indicated in ~~paragraphs (1) and (2) of this subsection~~ OAC 340:50-7-9(c)(1) and (2).

(1) **Income of an individual disqualified for failure to comply with food stamp employment and training requirements or willful misrepresentation, fraud.** All income of an individual disqualified for failure to comply with food stamp employment and training requirements or willful misrepresentation, fraud, is counted as available to the remaining household members. Utility, medical, dependent care, and excess shelter deductions continue to apply to the remaining household members.

(2) **Income of individuals disqualified for reasons other than willful misrepresentation or failure to comply with employment and training requirements.** Income of individuals disqualified for reasons other than those stated in paragraph (1) of this subsection is prorated among all household members. A pro rata share of the income of a disqualified individual is considered as income available to the remaining members. This pro rata share is calculated by first subtracting the allowable exclusions from the disqualified member's income and dividing the income evenly among the household members, including the disqualified member. All but the disqualified member's share is considered as income available to the remaining household members. The earned income deduction from ~~DHS~~ OKDHS Appendix C-3, Maximum Coupon Allotments and Standards for Deductions, Maximum Income, and Utilities, applies to the prorated income attributed to the household if it was earned by the disqualified member. That portion of the household's allowable shelter and dependent care expenses which are either paid by or billed to the disqualified member is divided evenly among the household members, including the disqualified member. When the household is using the utility standard, it too is evenly prorated. All but the disqualified member's share is considered as a deductible shelter expense for the remaining household members.

(3) **Determining eligibility and benefit level.** The needs of a disqualified or ineligible household member are not considered when determining the household's size for purposes of assigning a benefit level to the household or for purposes of comparing the household's monthly income with the income eligibility standard.

340:50-7-31. Deductions

Deductions from income are allowed for the expenses listed in paragraphs (1) ~~-~~ through (6) of this subsection. That portion of the household's allowable shelter and dependent care expenses, which are either paid by or billed to a disqualified household member, is divided evenly among the household members, including the disqualified member. When the household is using the utility standard, it is also evenly prorated. All except the disqualified member's share is considered as a deductible shelter expense for the remaining household members.

(1) **Standard deduction.** The appropriate standard deduction as shown in ~~DHS~~ Oklahoma Department of Human Services (OKDHS) Appendix C-3, Maximum Coupon Allotments and Standards for Deductions, Maximum Income and Utilities, is deducted from the household's income.

(2) **Earned income deduction.** The appropriate amount of earned income deduction from ~~DHS~~ OKDHS Appendix C-3 is deducted from the gross earned income to cover the cost of state and local income taxes, pensions, union dues, and work related expenses. The earned income deduction is not allowed on any portion of income earned under a work supplementation or support program that is attributable to public assistance. No other deduction is allowed from the gross earned income.

(3) **Medical expense deduction.** Medical expenses exceeding $35 per month incurred by any elderly or disabled household members are deductible. The $35 is subtracted from medical expenses only once per household even though the household has more than one elderly or disabled member.

(A) Households report and verify medical expenses at certification and each recertification. Households are not required to report changes in medical expenses during the certification period. When a household voluntarily reports a change in medical expenses that will reduce the food stamp allotment, no verification is needed. However, the change does require notice of adverse action. When a household voluntarily reports a change in medical expenses that will increase the food stamp allotment, the change must be verified before the change is made. If ~~the Agency~~ OKDHS finds out about a change from a source other than the household, the change is acted on if it is considered verified upon receipt. The household is not contacted for additional information. When the change requires contacting the household for additional information or verification, no change is made.

(B) If a household reports an anticipated medical expense at the time of certification, but is unable to provide the verification at that time, the household is told the expense will be allowed when the verification is provided during the certification period. Upon verification, a household may elect to have a one-time medical deduction or have the expense averaged over the remaining months of the certification period. Allowable costs are:

(i) medical and dental care, including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by state law or other qualified health professional;

(ii) hospitalization or outpatient treatment, nursing care, and nursing home care, including payments by the household for an individual who was a household member immediately prior to

entering a hospital or nursing home provided by a facility recognized by the state;

(iii) prescription drugs and other over-the-counter medication, including insulin, when approved by a licensed practitioner or other qualified health professional. Costs of medical supplies, sick-room equipment, including rentals, or other prescribed equipment are also included;

(iv) health and hospitalization policy premiums;

(v) Medicare premiums, and any cost-sharing or spend-down expenses incurred by Medicaid recipients;

(vi) dentures, hearing aids, and prosthetics;

(vii) eye glasses prescribed by a licensed practitioner, and securing and maintaining a seeing eye or hearing dog including the cost of dog food and veterinarian bills;

(viii) reasonable cost of transportation and lodging to obtain medical treatment or services; and

(ix) maintaining an attendant, homemaker, home health aid, child care services, or housekeeper due to age, infirmity, or illness. If this expense also qualifies as a dependent care expense as described in paragraph (4) of this subsection, it is considered as a medical expense rather than a dependent care expense. Additionally, if the household furnishes a majority of the caretaker's meals, an amount equal to one allotment is added to the medical expense for meals provided. The allotment used is the amount in effect at certification.

(C) Cost for special diets or health and accident insurance policies such as those payable in lump sum settlements for death or dismemberment, or income maintenance policies such as those that continue mortgage or loan payments while the beneficiary is disabled are **not** allowable medical costs. The ~~social services specialist~~ worker must verify the amount of any deductible medical expenses. Verification of other factors, such as the allowability of services provided or the eligibility of the person incurring the cost, is required only if questionable.

(4) **Dependent care.** Dependent care is payment for the actual cost for the care of a child or other dependent when necessary for a household member to seek, accept, or continue employment or to attend training or education preparatory to employment. This deduction is applicable whether or not the household member is subject to the Food Stamp Employment and Training requirements. If this expense also qualifies as a medical expense, it is considered as a medical expense rather than a dependent care expense. See ~~DHS~~ OKDHS Appendix C-3 for the maximum dependent care deduction allowable. ~~[7 CFR, Section 273.10]~~ Dependent care is only verified when the expenses claimed would actually result in a deduction and other information available to the ~~social services specialist~~ worker is inconsistent with the household's claim that it incurs a dependent care expense or that the household incurs the expense for reasons of employment, seeking employment or training, or education for employment.

(5) **Legally-binding child support.** A deduction is allowed for verified legally-binding child support payments paid by a household member to or for a non-household member, including payments made to a third party on behalf of the non-household member.

(6) **Shelter costs.** A deduction is made for monthly shelter cost in excess of 50% of the household's income after all of the deductions are allowed. The shelter deduction alone cannot exceed the maximum amount as shown in ~~DHS~~ OKDHS Appendix C-3, unless the household has an elderly or disabled member. Households with an elderly or disabled member receive an excess shelter deduction for the monthly cost that exceeds 50% of the household's income after all of the deductions listed in paragraphs (1) ~~-~~ through (6) of this subsection have been allowed. All homeless households who incur or can expect to incur a shelter cost during the month are entitled to use the estimated homeless shelter deduction to determine food stamp eligibility and benefit level. This estimate covers all shelter costs as described in this paragraph. If a homeless household is living in a vehicle for which they are making payments, the monthly payment may be allowed as a shelter cost. If the household's actual verified shelter cost exceeds the estimated amount, the larger amount is used. Shelter costs include only:

(A) continuing charges for the shelter occupied by the household, including rent, mortgage, or other continuing charges leading to the ownership of the shelter, such as loan repayments for the purchase of a mobile home, including interest on such payments. The charges for renting or buying the land on which a mobile home is located is also considered shelter cost;

(B) property taxes, state and local assessments, and insurance on the structure itself except the separate costs for insuring furniture or personal belongings. The cost of vehicle registration or tag for a mobile or motor home is not a shelter expense. A mobile home is taxed as part of the property tax when the land is owned or being purchased. This is considered as a shelter expense. Unregistered mobile homes on rented land are taxed as personal property. The personal property tax for the mobile home is considered a shelter expense. No other personal property tax is considered a shelter expense;

(C) charges for heating, cooling, or cooking fuel; electricity; water, sewage, garbage, and trash collection fees; the basic service fee for one telephone including tax on the basic fee, and fees charged by the utility provider for initial installation of the utility. ~~one-time~~ One-time deposits are not included as shelter costs.

(i) The utility standard is a single standard based on annual averages that include costs for heating, cooling, and cooking fuel; electricity;

basic telephone service; and water, sewage, and garbage.

(ii) Households may elect to use the utility standard rather than verify actual expense if costs for heating or cooling are billed separately from rent or mortgage. Cooling costs are limited to operation of room air conditioners and central air conditioning systems. Households that cannot use the utility standard and are required to provide verification for the amount actually billed for utilities in order to have these costs included in calculating the shelter deduction are those:

(I) responsible only for the portion of heating or cooling costs which exceed a set amount included in rent or mortgage such as is common in public housing units; or

(II) who do not have a cost for heating or cooling.

(iii) Households eligible for and electing to use the standard utility deduction receive the total amount of the utility standard specified in ~~DHS~~ OKDHS Appendix C-3 unless the household lives with and shares utility cost with another household. Multiple households living in the same residence are allowed only one utility standard which is prorated equally among the households that contribute to meeting any utility cost included in the standard whether or not each household receives food stamps.

(iv) The utility standard can be used as long as the household is billed for heating or cooling during the year. Households billed less often than monthly for heating costs such as butane or propane may continue to use the utility standard between billing months. Households are allowed to switch between the utility standard and actual utilities only at ~~re-certification~~ recertification.

(v) A household with utility expenses which are reimbursed or paid by an excluded payment such as a vendor payment, Housing and Urban Development (HUD) or Farmers Home Administration (FmHA) payment may use the standard utility allowance when the heating or cooling cost exceeds the amount of the excluded payment.

(vi) The ~~social services specialist~~ worker must verify household utility expenses if the household ~~wishes~~ chooses to use actual expenses rather than the state's standard utility allowance and when the expense would actually result in a deduction~~.~~;

(D) the shelter costs for the home even when not actually occupied by the household because of employment or training away from home, illness, or abandonment of the home due to disaster or casualty loss. For the cost of a vacated home to be included in shelter costs, the household must intend to return to the home. The current occupants of the home, if any, must not be claiming the shelter costs during the absence of the household and the home must not be rented or leased during the absence of the household. If a deductible expense must be verified and obtaining the verification may delay the household's certification, the ~~social services specialist~~ worker advises the household that the household's eligibility and benefit level may be determined without providing a deduction for the claimed but unverified expense. The utility standard is used if the household is entitled to claim it. If actual expenses can be used but cannot be verified within 30 days of the date of application, the ~~social services specialist~~ worker determines eligibility and benefit level without providing a deduction for the unverified expense.

SUBCHAPTER 9. ELIGIBILITY AND BENEFIT DETERMINATION PROCEDURES

340:50-9-4. Determining cause for processing delays

If the worker cannot make an eligibility determination within the 30 days provided for completion of an application, the worker determines the cause of delay, using the ~~following~~ criteria in (1) through (2) of this subsection, and manually issues a notice ~~(Appendix H of this Chapter)~~ to the client explaining the delay.

(1) **Household fault.** A delay is considered the fault of the household if the household has failed to complete the application process and the worker has taken all the action that is required to assist the household.

(2) **Worker fault.** The worker must ~~have taken~~ take the ~~following~~ actions in (A) through (D) of this paragraph before a delay can be considered the fault of the household.

(A) For households that ~~have failed~~ fail to complete an application form, the worker must ~~have offered~~ offer, or ~~attempted~~ attempt to offer, assistance in its completion.

(B) If one or more members of the household ~~have failed~~ fail to register for work, the worker must ~~have informed~~ inform the household of the need to register for work and ~~given~~ give the household at least ~~10~~ ten days from the date of notification to register.

(C) In cases where verification is incomplete, the worker must ~~have provided~~ provide assistance when required, and ~~have allowed~~ allow the household sufficient time to provide the missing verification. Sufficient time is at least ~~10~~ ten days from the date of the worker's initial request for the particular verification that is missing.

(D) If the household fails to appear for an interview, but requests another appointment within 30 days of the date the application was filed, the rescheduled appointment date must be within the same 30 day period.

SUBCHAPTER 13. FAIR HEARINGS

340:50-13-3. Quality control

There is a review of a scientific sample of applications and case actions relating to the Food Stamp Program by the Administrative Review Unit (ARU) in the same manner as for public assistance and medical assistance actions. The sample is selected by ~~Research, Evaluation and Statistics~~ the Office of Planning, Policy, and Research. The county records for all cases in the sample are requested by ~~the Administrative Review Unit~~ ARU where the cases are scheduled and verification of conditions of eligibility is determined. Any defects are referred to the Family Support Services Division (FSSD), who notifies the county of corrective action indicated on the individual case. Quarterly reports from ~~the Administrative Review Unit~~ ARU are used for supervisory purposes, ~~and for~~ follow-up training, and clarification of policies.

(1) At any point in the quality control review a household fails to cooperate with the quality control reviewer, the quality control reviewer contacts the local Oklahoma Department of Human Services office and a prompt joint ~~(local worker and quality control reviewer)~~ interview is conducted with the household, if needed.

(2) If, following the interview or during the joint interview, the household refuses to cooperate, ~~the Administrative Review Unit~~ ARU ~~advises the appropriate program section in FSSD who~~ notifies the county office and FSSD of the household's refusal to cooperate with the quality control reviewer. FSSD sends a "Notice of Refusal to Cooperate with Quality Control" to the county office instructing that open food stamp benefits must be closed at the next effective date. The county office is then responsible for taking immediate action to notify the household ~~with OAC 340:10, Appendix G, Notice to Client,~~ that food stamp benefits will be terminated for ~~failure~~ refusal to cooperate with the quality control ~~reviewer~~ review. A household who has been terminated for ~~failure~~ refusal to cooperate with a quality control ~~reviewer~~ review may reapply and be certified for participation in the program ~~provided~~ only when the household cooperates fully and completely with ARU in ~~supplying full verification of all information prior to certification~~ the completion of the quality control review.

SUBCHAPTER 15. OVERPAYMENTS AND FRAUD

PART 1. OVERPAYMENTS

340:50-15-5. Right to appeal

If there is a disagreement with the overpayment decision, the household may request a hearing within 90 days of the date on Form FSP-S-18, Notification of Food Stamp Overpayment. Upon notification from the Appeals Unit of receipt of ~~Appendix G of Chapter 2~~ Form H-1, Request for A Fair Hearing, the Family Support Services Divison (FSSD) Overpayment Section postpones reduction in food stamp benefits pending the hearing decision.

PART 3. FRAUD

340:50-15-27. Other penalties for misuse of ~~coupons~~ benefits

~~State Law at 56 O.S. 1981, § 243, as amended at HB 1187, November 1, 1985,~~ Section 43 of Title 56 of the Oklahoma Statutes provides for state penalties due to misuse of food stamps for those recipients who receive them fraudulently. ~~The law stipulates any person who receives food stamps in a fraudulent situation, shall be guilty of a misdemeanor if the amount of food stamps or coupons is $500 or be imprisoned at the discretion of the (state) court. Also, if one is found guilty of a felony, food stamps or coupons obtained or transferred in excess of $500 and upon conviction shall be fined not more than $5,000 or be imprisoned for not more than two years or by both such fine and imprisonment at the discretion of the court. In addition, federal law provides grounds for potential federal prosecution of coupon abuse.~~ Federal penalties for misuse of food stamp benefits are found in Section 15 (b) and (c) of the Food Stamp Act [7 U.S.C. § 2024]. ~~stipulates that a person who abuses coupons or Authorizations to Purchase (ATPs) valued at $100 or more is guilty of a felony and, if convicted, is subject to a fine of not more than $10,000, imprisonment for not more than five years, or both fine and imprisonment. If found guilty of abusing coupons or ATPs valued at less than $100, the individual is guilty of a misdemeanor punishable by fine of not more than $1,000, imprisonment of not more than one year, or both.~~

APPENDIX B. LIST OF NEEDED VERIFICATIONS [REVOKED]

STATE OF OKLAHOMA
DEPARTMENT OF HUMAN SERVICES

NAME _____

ADDRESS _____
_____
_____

WORKER NUMBER _____

SUPERVISOR NUMBER _____

CASE NUMBER _____

Dear _____

Because you needed food stamp benefits right away, we postponed asking you to give us certain information. We now need you to furnish us proof of the following information to determine eligibility for continued food stamp benefits. Please return this form with your proof by _____.

_____ EARNED INCOME(Check stub which includes date, name or social security number, and total income before deductions. A signed statement from your employer will be proof if the statement is dated and includes the address and phone number of the person signing the statement. It will be necessary for you to provide proof of all earned income (including tips, bonuses, etc.) for the last ___ months.)

_____ SELF EMPLOYMENT(Copy of last year's tax return or current record books of your earnings and expenditures)

_____ UNEMPLOYMENT

_____ SOCIAL SECURITY INCOME(Copy of your current award letter or check)

_____ RETIREMENT OR PENSION

_____ VETERAN'S BENEFITS(Copy of your current award letter or check)

_____ CHILD SUPPORT AND/OR ALIMONY(Divorce decree and proof of the support)

_____ CONTRIBUTIONS AND GIFTS

_____ TAX REFUNDS(Federal/State refunds and earned income tax credit)

_____ MOTOR VEHICLES(Copies of titles and/or mortgages

_____ OTHER(SPECIFY)_____

_____ CHECKING AND/OR SAVINGS ACCOUNTS (Bank statements, trust funds, IRS, bonds, certification of deposits, stocks, etc.)

_____ INSURANCE POLICIES(life, health/ accident, burial. Company name and policy # are required.

_____ DEEDS AND/OR LEGAL DESCRIPTION OR REAL PROPERTY AND/OR MINERAL RIGHTS

_____ SHELTER COST(Rent receipt, landlord's name and phone #, name of mortgage, utility bills, property taxes and home insurance policy if not included in mortgage)

_____ PERSONS CURRENTLY LIVING IN YOUR HOME

_____ DAY CARE EXPENSES

_____ MEDICAL EXPENSES(Monthly health insurance premium, prescription cost, payments to doctors, hospitals, etc.)

_____ BIRTH VERIFICATION

_____ SOCIAL SECURITY AND/OR MEDICARE CARD

STATEMENT OF UNDERSTANDING: The requirement for the proof of items checked above has been explained to me. I understand the explanation and agree to provide the requested proof by the date above.

_____
Date

_____
Client/Authorized Signature

_____
Worker's Signature

Okla. DHS Issued 10-01-88

Adm-93a

LIST OF NEEDED VERIFICATIONS Adm-93a

Purpose of Form

This form is given to the recipient of Food Stamps in the form of an EOATP or Expedited Services to inform him of verifications needed to determine continued Food Stamp eligibility. It may also be mailed as an attachment to Form Adm-92, County Client Contact Form.

Instructions for Preparation of Form

The form is prepared in duplicate.

Enter DHS Name and Number.

Enter Supervisor/District Number.

Please return this form with your proof by...Enter appropriate date by which verification is to be returned to county staff.

Check the types of verifications required. (If more specific instructions are required they may be entered by worker).

Statement of Understanding...If this form is completed when the client is in the office, explanation is given concerning the requirements for verification of information requested. The signature of the client will acknowledge that explanation has been given and understood.

Client/Authorized Signature...Signature of client for whom verification is requested if the client is in the office.

Date...Enter date mailed or given to the client.

Name and Title...Signature of person requesting information.

Routing of Form

The original is given or mailed to client and a copy is retained in case record.

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APPENDIX C. APPLICATION FOR FOOD STAMPS [REVOKED]

For Office Use Only

Case Number _____

Date Received _____

PART I

Step 1. Complete Page 1

To begin to apply for food stamps and establish your application date to receive food stamps, you may complete both sides of this page, tear it off and give it to us today. However, if you just fill in your name, address and signature we can establish your filing date. We are required to verify information you provide and to take action on your application within 30 days from the date you give us this completed first page, unless you qualify for food stamps right away. If you qualify to get food stamps right away, we are required to take action on your application within 5 days from the date you gave us this first page. **The entire application must be filled out before you can receive food stamp benefits, including emergency expedited services.** The social worker will tell you what information needs to be verified and the items to provide.

****

Your Name _____ Telephone number where you can be reached _____ Social Security Number _____

Mailing Address _____
Street City State Zip Code

Do you live in an apartment ? [ ] Yes [ ] No.

Are you a roomer ? [ ] Yes [ ] No.

Do you live in a house ? [ ] Yes [ ] No.

Are you a boarder ? [ ] Yes [ ] No.

Sign Here _____ **Today's Date** _____

****

YOU WILL GET FOOD STAMPS WITHIN FIVE DAYS IF YOUR HOUSEHOLD:

* Has monthly shelter expenses including rent/mortgage and utilities of more than your household's combined gross monthly income and liquid resources; or
* Has gross monthly income of less than $150 and your household's resources, such as cash or checking/savings accounts, are $100 or less; or
* Has no place of its own to live; or
* Is a migrant or seasonal farmworker household.

INCLUDE AS HOUSEHOLD MEMBERS, THE FOLLOWING PEOPLE WHO LIVE TOGETHER:

* Parents and children under age 60.
* Brothers and/or sisters under age 60.
* Parents or brothers and/or sisters age 60 or older if they live and eat meals with other household members.
* Others who live or eat with you (not roomers/boarders).

How many people live in your home and eat with you, including yourself ? _____

Is anyone in your household on strike ? [ ] Yes [ ] No.

Is anyone in your household a migrant or seasonal farm worker ? [ ] Yes [ ] No.

If anyone in your household was a migrant or seasonal farm worker at any time during the current migration season, was your household approved for food stamps with a postponement of verification requirements ? [ ] Yes [ ] No.
If yes, when and where ? _____

Is anyone in your household receiving Supplemental Security Income (SSI) benefits, Government Disability Retirement benefits, Railroad Disability Retirement benefits, Social Security Disability payment, or is anyone a Veteran with a disability or a disabled spouse or child of a deceased Veteran ? [ ] Yes [ ] No.

Did your household's only income recently stop ? [ ] Yes [ ] No. Is anyone in your household 60 or older ? [ ] Yes [ ] No.

How much do the members of your household have in cash and savings ? (Give best estimate of the total amount) $ _____ .

What is the total amount of income you expect your household to receive this month ? $ _____ .

How much is your rent or mortgage ? $ _____ How much are your utilities ? $ _____

TURN THIS PAGE OVER AND COMPLETE THE BACK

FACE-TO-FACE INTERVIEW

A face-to-face interview may be scheduled for a future date unless you are entitled to expedited services. Your appointment will be scheduled for the earliest time available unless you have a problem coming in to the office.

If you miss your appointment, it will be your responsibility to reschedule. You must contact us within 30 days of your application date. If you do not reschedule, your application will be denied on the 30th day and you must reapply if you still want Food Stamps.

A. Check here if you want us to schedule your interview for the next available appointment. [ ]

B. If you have a problem such as family illness, transportation difficulties, conflict with work hours, etc., please explain and then check below what time of day and which days would be best for your appointment.

_____

_____

C. [ ] Morning or [ ] Afternoon

[ ] Monday [ ] Tuesday [ ] Wednesday [ ] Thursday [ ] Friday (check more than one, if possible).

Unless you contact us, we will not reschedule your missed appointment nor will you be notified to reschedule.

AUTHORIZED REPRESENTATIVE

Remember, if you cannot come in you can send an authorized representative who has knowledge of your circumstances. You may designate such an individual below. You will be held liable for any overissuances which result from incorrect information given by your authorized representative.

I want _____ to act as my authorized representative. Telephone _____

Address _____

Signed _____ Date _____

Step 2. Answer the questions on the application.

The entire application must be completed and a face-to-face interview is required to see if you are eligible for food stamps. Try to fill out as much as possible now. If you choose to take the application home to answer the questions, you can speed up the application process by returning the application to us, either in person or by mail, prior to your scheduled interview. During the interview your worker will help you with the questions you don't understand.

****

Office Use Only:

Date received _____ Date screened for Expedited Services _____

Was the household entitled to Expedited Services ? ☐ Yes ☐ No Name of person who screened app. _____

Date of Face-to-Face interview_____ Interview conducted in [ ] County Office [ ] Client's home

Identity verification _____ Residence verification _____ Interviewer _____

TERMINAL CHECK

List maiden names, former names or aliases used by anyone on Application	Case No.	Co. Loc.	Case Status	DLF
Cross Reference Numbers:				

Client Number

1. _____ 5. _____
2. _____ 6. _____
3. _____ 7. _____
4. _____ 8. _____

FOR OFFICE USE ONLY

Case Number _____

Date Received _____

APPLICATION FORM FOR FOOD STAMPS —PART 2

The entire application must be completed and a face-to-face interview is required to see if you are eligible for food stamps. Answer the following questions honestly and completely. If you know but refuse on purpose to give any needed information your household won't be eligible for food stamps. You, another household member or a friend may take this application home to fill out. However, try to fill out as much as possible now. If you do take it home to fill out you can speed up the application process by returning the application to our office, either in person or by mail, prior to your scheduled interview. During the interview your social worker will help you with the questions you don't understand.

Your Name _____ Telephone number where you can be reached _____

Mailing Address _____ City _____ State _____ Zip Code _____

If you don't have a street address, or if your street address is different from your finding address, tell us how to get to your home.

Are you a roomer ? [ ] Yes [ ] No. Are you a boarder ? [ ] Yes [ ] No.

HOUSEHOLD MEMBERS

LIST THE FOLLOWING PEOPLE WHO LIVE TOGETHER

- Parents and children under age 60.
- Brothers and/or sisters under age 60.
- Parents or brothers and/or sisterss age 60 or older if they live and eat meals with other household members.
- Others who live and eat with you (except roomers/boarders).

Is anyone in your household 60 or older ? [ ] Yes [ ] No.

DOES EVERYONE IN YOUR HOUSEHOLD RECEIVE PUBLIC ASSISTANCE (AFDC) OR SSI ? [ ] Yes [ ] No.

You must give us the Social Security Number (SSN) for all household members. This is required under the Food Stamp Act of 1977 as amended by P.L.97-98. Your SSN, as well as other information you give us, will be subject to verification by Federal, State and Local officials using the State Income and Eligibility Verification System, other computer matching and program reviews or audits to make sure your household is eligible for food stamps, and by other Federal assistance programs and Federally assisted State programs, such as School Lunch, AFDC and Medicaid.

All SSN's will be used to check the identity of household members, to prevent duplicate participation and to facilitate mass changes. This may involve our contacting your employer, bank or other parties. Knowingly providing false information may result in criminal or civil action and/or administrative claims.

PERSONS IN HOUSEHOLD

NAME FIRST	M.I.	LAST	RELATIONSHIP	SEX	RACE	INDIAN TRIBE	BIRTHDATE MO. DA. YR.	GRADE	SOCIAL SECURITY NUMBER	CHECK IF DISABLED	MARITAL STATUS
1.											
2.											
3.											
4.											
5.											
6.											
7.											
8.											
9.											
10.											

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Does everyone listed on this application buy food and eat together ?
[ ] Yes [ ] No. If no, please explain _____

_____

Did anyone in the household receive Food Stamps or Indian Commodities in the past 12 months ?
Food Stamps [ ] Yes [ ] No. Indian Commodities [ ] Yes [ ] No.

Name _____ Date _____

CITIZENSHIP/ALIENAGE

Is everyone who lives in your home (listed on page 3 of this application)a citizen of the United States ? [ ] Yes [ ] No. If no, list name(s) of the member(s) who is not a citizen of the United States.

_____ _____ _____
_____ _____ _____

For each member who is not a citizen, you will need to show an alien registration card or other official documentation of their alien status.

EARNED INCOME

Does any household member work for himself/herself ? [ ] Yes [ ] No

Tips Received ? [ ] Yes [ ] No

Does he/she have any business expense(s) ? [ ] Yes [ ] No

Will you provide verification of business expense(s) ? [ ] Yes [ ] No

Please furnish last year's federal tax forms for self-employed household members.

Please list each household member with a full or part-time job. If a member has more than one job, list each job separately. For members currently on strike, enter income before strike, as well as current income.

Name of Person	Name of Employer or Source of Income Address/Telephone	Earnings before Deductions	How Often Received	Date Employment Began	Date Employment Ended

Has any household member quit a job in the past 60 days ? [ ] Yes [ ] No.

Does Voluntary Quit provision apply ?
[ ] Yes [ ] No.
If yes, explain.

Name _____

Is any household member on strike ? [ ] Yes [ ] No.

Name _____

Has any household member applied for unemployment benefits ? [ ] Yes [ ] No.

Name _____ Date _____

Office Use Only

UNEARNED INCOME

Unearned income is all money received for which you do not work. This income can be received weekly, monthly, yearly. Proof of this income will be required.

Please answer the following questions with regard to the unearned income of each household member, including minor children. Each question must be answered with "Yes" or "No" being marked. **If Yes, complete the rest of the question.**

A. Does any household member receive Social Security Benefits ? [ ] Yes [ ] No.

Name(s) _____ receives $_____ every _____

B. Does any household member receive Supplemental Security Income (SSI) benefits ? [ ] Yes [ ] No.

Name(s) _____ receives $_____ every _____

C. Does any household member receive Unemployment or Worker's Compensation Benefits ? [ ] Yes [ ] No.

Name(s) _____ receives $_____ every _____

D. Does any household member receive child support and/or alimony payments ? [ ] Yes [ ] No.

Name(s) _____ receives $_____ every _____

E. Does any household member receive income from rental property, roomers, boarders, etc. ? [ ] Yes [ ] No.

Name(s) _____ receives $_____ every _____

F. Does any household member receive Welfare Assistance payments ? (AFDC, Aid to Aged, Disabled or Blind) [ ] Yes [ ] No.

Name(s) _____ receives $_____ every _____

G. Does any household member receive money from persons outside the household ? [ ] Yes [ ] No. (Include gifts, contributions, etc.)

Name(s) _____ receives $_____ every _____ from _____

H. Does any household member receive Veterans benefits ? [ ] Yes [ ] No.

Name(s) _____ receives $_____ every _____

I. Does any household member receive Retirement benefits ? [ ] Yes [ ] No.

Name(s) _____ receives $_____ every _____ from _____

J. Does any household member receive interest or dividends ? [ ] Yes [ ] No.

Name(s) _____ receives $_____ every _____ from _____

K. Does any household member receive money from any other source ? [ ] Yes [ ] No.

Name(s) _____ receives $_____ every _____ from _____

CAPITAL RESOURCES

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Please answer the following questions with regard to each household member, including minor children.

A. Does any household member own or are payments being made on real estate other than the home ? [ ] Yes [ ] No. If yes, you may need to bring information about the value of the property, amount owed, and how the property is used. Your worker will give you a list of the verifications you need and discuss it with you.

B. Does any household member own mineral rights which are not on the home property ? [ ] Yes [ ] No. If "Yes", describe.

C. Has any household member given away, sold or deeded away anything of substantial value during the last three months ? [ ] Yes [ ] No. If yes, describe.

_____

_____

D. What bank(s), savings and loan, credit union, etc., does the family use for paying bills or for savings ? _____

_____

E. Does any household member have a checking account(s) ? [ ] Yes [ ] No.

Name_____ Amount _____

F. Does any household member have a savings account(s) ? [ ] Yes [ ] No.

Name_____ Amount _____

G. Does any household member have Certificate(s) of Deposit, IRA, KEOGH or other ? [ ] Yes [ ] No.

Name_____ Amount _____

H. Does any household member have Savings Bonds, Stocks, Bonds or other ?
[ ] Yes [ ] No.

Name_____ Amount _____

I. Does any household member have monies held in trust ? [ ] Yes [ ] No.

Name_____ Amount _____

Trustee's Name _____

J. Does any household member's name appear on another person's property deed, checking or savings account, car title or other record(s) involving resources ? [ ] Yes [ ] No. If "Yes", explain. _____

_____

K. Does any household member have a Safety Deposit Box ? [ ] Yes [ ] No.

Name _____ Location _____

L. Does any household member have cash on hand ? [ ] Yes [ ] No.

Name_____ Amount _____

M. Does any household member have other resources ? [ ] Yes [ ] No.

Name_____ Amount _____

CAPITAL RESOURCES

Does any family member own a car, pickup truck and/or other vehicles ?

[ ] Yes [ ] No. If yes, complete: Make, Model and Year _____

_____ Amount of mortgage _____ Amount of equity _____

Name(s) listed on title: _____

Make, Model and Year _____

Amount of mortgage _____ Amount of equity _____ Name(s) listed on title: _____

* If you own additional vehicles, list above information on a separate sheet and attach.

STUDENTS INCOME AND EXPENSES

Does any household member between the ages of 18 and 60 attend an institution of higher education, such as a college, vocational school or any other training program beyond high school ? [ ] Yes [ ] No. If yes, complete the following.

Were they placed in this school or program through the Job Training Partnership Act (JTPA) ? [ ] Yes [ ] No.

Name of Student _____

School/Prog. _____ Class Hrs./Wk. _____

Does the student receive educational grants, loans, scholarships or veteran's benefits ? [ ] Yes [ ] No. If yes, complete below:

Source _____ Amount $_____

Months _____ Covered from _____ to _____

If there are additional students, list the above information on a separate sheet and attach.

The social worker will explain and also give you a list of what you need to verify your income from grants and loans.

SHELTER

Does anyone outside your household pay or help you pay any of the shelter or utility bills ? (Include rental assistance) [ ] Yes [ ] No.

If yes, which bills do they pay ? _____

Who helps pay these bills ? _____

How much do they pay ?$_____

Are these payments made directly to the household ? [ ] Yes [ ] No.

Are these payments made directly to the provider/landlord ? [ ] Yes [ ] No.

Name and telephone number of landlord or mortgage holder _____

_____

	Amount	How Often is Each Payment Due ?
Rent or Mortgage Payment	$_____	_____
Insurance on Home (If not included in Mortgage)	$_____	_____
Property Taxes (If not included in Mortgage)	$_____	_____

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UTILITIES

Check the box next to the utility costs paid by your household and list the amount you are billed. If a Standard Utility Allowance is offered and you qualify for it, you may choose to claim the Standard Utility Allowance or your actual utility costs. If you use actual expenses, you must verify the cost. Your social worker will talk to you about this.

		Amount	How Often Do You Get the Bill ?
Telephone (Basic Rate)	[ ]	$_____	_____
Water and Sewage	[ ]	$_____	_____
Garbage and Trash	[ ]	$_____	_____
Initial Installation Of Utilities	[ ]	$_____	_____
Electricity	[ ]	$_____	_____
Gas and Oil for Heating and Cooking	[ ]	$_____	_____
Other (Coal, Wood)	[ ]	$_____	_____

Does your household pay heating and/or cooling costs separately from your rent or mortgage ? [ ] Yes [ ] No.

If yes, what method(s) of heating/cooling are used ? _____

MEDICAL

Please list, at the top of the next page, medical expenses for any household member who is: (1) 60 or over; (2) receiving Supplemental Security Income or Social Security Disability payments; (3) receiving Veteran's Disability benefits because they are a disabled veteran; (4) a disabled spouse or child of a deceased veteran; (5) receiving Government Disability Retirement benefits; or (6) receiving Railroad Disability retirement benefits.

Please list the names of household members who have these expenses.

1. _____
2. _____
3. _____
4. _____

Your application can be completed without verification of medical expenses. However, if you wish to receive a medical deduction, all expenses deducted must be verified. Please check below to indicate your choice.

[ ] I do NOT wish to verify and receive a medical deduction.

[ ] I will provide verification of medical expenses and insurance reimbursements.

Office Use Only

MEDICAL (cont'd.)

Do Not List Expenses Paid by Medicaid, Other Insurance or Others Outside Your Home.

	Amount	How Often is Payment Due ?
Medical and dental service	$ _____	_____
Hospital or nursing care	$ _____	_____
Health Insurance & Medicare Payments	$ _____	_____
Drugs prescribed by a doctor	$ _____	_____
Dentures, hearing aids and eyeglasses	$ _____	_____
Transportation cost to get medical care	$ _____	_____
Services of an attendant or nurse	$ _____	_____
Other (explain)	$ _____	_____

DEPENDENT CARE

Does anyone in your household pay for someone to babysit or care for a child or disabled adult so that a member can work, attend training or look for a job ? [ ] Yes [ ] No.

If yes, who provides this care ?

Name _____

Address _____

Telephone Number _____

How much do you pay for each individual's care ?

NAME	AMOUNT	HOW OFTEN
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

If you need additional space, attach separate sheet of paper.

FOOD STAMP ISSUANCE

Check "coupons" if you want your food stamps mailed to you or "ATP" if you want to receive an Authorization to Participate (ATP) card which can be exchanged for food stamps. [ ] Coupons [ ] ATP

NOTE: We do not send over $149 in food stamp coupons through the mail. You will be sent an Authorization to Participate (ATP) for every allotment over $149.

YOUR RACIAL-ETHNIC HERITAGE

Although you aren't required to provide this information, your cooperation will help determine compliance with the Federal Civil Rights Law. In no instance will this information be used in considering your application. If you decline to provide this information, it will in no way affect consideration of your application. We are authorized to ask for this information under Title VI of the Civil Rights Act of 1964. If you do not provide this information the social worker will make his/her determination as to your racial-ethnic heritage for statistical purposes.

[ ] Black (not of Hispanic origin) [ ] Hispanic [ ] Asian or Pacific Islander

[ ] White (not of Hispanic origin) [ ] American Indian or Alaskan Native Tribe

RIGHTS, RESPONSIBILITIES, AND PENALTY WARNING

A. I understand that members of my household age 18 through 59 are required to register for work unless they are exempt as explained to me by my worker. The household members required to register are being registered by me when I sign this Food Stamp Application. I further understand that the registered household member(s) may be required to do Employment and Training activities, seek and accept employment. If any household member refuses to follow the Employment and Training requirements when contacted to do so, the entire household may be disqualified from the Food Stamp Program.

B. I understand that I or my representative may request a fair hearing, either orally or in writing, if I disagree with any action taken on my case, and that my case may be presented at the hearing by any person of my choice. I understand that this application will be considered without regard to race, color, sex, age, handicap, religion, national origin or political belief.

C. I UNDERSTAND THAT **THE INFORMATION PROVIDED ON THIS FORM WILL BE SUBJECT TO VERIFICATION BY FEDERAL, STATE AND LOCAL OFFICIALS AND THROUGH THE STATE INCOME AND ELIGIBILITY VERIFICATION SYSTEM. THIS INFORMATION MAY ALSO BE SUBMITTED TO THE IMMIGRATION AND NATURALIZATION SERVICE FOR VERIFICATION. IF ANY IS FOUND INACCURATE, I MAY BE DENIED FOOD STAMPS AND/OR BE SUBJECT TO CRIMINAL PROSECUTION FOR KNOWINGLY PROVIDING FALSE INFORMATION. ANY MEMBER OF MY HOUSEHOLD WHO INTENTIONALLY BREAKS ANY OF THE FOLLOWING RULES CAN BE BARRED FROM THE FOOD STAMP PROGRAM FOR 6 MONTHS AFTER THE VIOLATION, 12 MONTHS AFTER THE SECOND VIOLATION AND PERMANENTLY FOR THE THIRD VIOLATION. THE INDIVIDUAL CAN ALSO BE FINED UP TO $10,000, IMPRISONED UP TO 5 YEARS OR BOTH. A COURT CAN ALSO BAR AN INDIVIDUAL FOR AN ADDITIONAL 18 MONTHS FROM THE FOOD STAMP PROGRAM. THE INDIVIDUAL MAY ALSO BE SUBJECT TO FURTHER PROSECUTION UNDER OTHER APPLICABLE FEDERAL LAWS.**

PENALTY WARNING: **DO NOT** give false information, or hide information to get or continue to get food stamps.
DO NOT trade or sell food stamps or your Authorization to Participate card.
DO NOT alter Authorization to Participate cards to get food stamps you're not entitled to receive.
DO NOT use food stamps to buy ineligible items, such as alcoholic drinks and tobacco.
DO NOT use someone else's food stamps or Authorization to Participate card for your household.

D. **YOUR SIGNATURE** - I understand the questions on this application and the penalty for hiding or giving false information or breaking any of the rules listed in the Penalty Warning. I certify under penalty of perjury that my answers are correct and complete to the best of my knowledge. I understand and agree to provide documents to prove what I have said. I understand AND agree that the Food Stamp Office may contact other persons or organizations to obtain the necessary proof of my eligibility and level of benefits. I also attest under penalty of perjury that the information regarding alien or citizenship status given on pages 3 and 4 is correct.

_____

Your Signature Today's Date Witness if you signed with a X

****

I do hereby attest that I have, to the best of my ability, ascertained the accuracy of all information covered in this application and established the validity of all eligibility therein.

[ ] Eligible for assistance [ ] Ineligible for assistance

Worker's Signature _____ Date Signed _____

APPENDIX N. HEAD OF HOUSEHOLD DESIGNATION [REVOKED]

CASE NAME _____ CASE NUMBER _____ DATE _____

You have the right to pick the head of household for your family. If there are children in your food stamp household, you can pick either: (1) an adult parent of the children any age, or (2) an adult who has parental control over children under age 18.

If you pick an adult parent or an adult with parental control, all of the other adults in your family have to agree. Your signature on this appendix shows that all adult household members have agreed.

If all the adults cannot agree on which adult parent or parent with parental control to pick, you can pick another member of the family to be the head of household. Or, your worker can pick the head of household for you.

You can pick the head of household each time you are approved to get food stamps or when there is a change in your family. Remember, it is your responsibility to report any change in your family.

SECTION 1. THE HEAD OF HOUSEHOLD FOR OUR FAMILY IS_____
THIS PERSON IS:

1. [ ] AN ADULT PARENT OF CHILDREN (ANY AGE) IN THE FOOD STAMP HOUSEHOLD
2. [ ] AN ADULT WHO HAS PARENTAL CONTROL OVER CHILDREN UNDER AGE 18
3. [ ] ANOTHER MEMBER OF THE HOUSEHOLD

ALL ADULT MEMBERS OF THE FAMILY AGREE.

Signature of Applicant _____

SECTION 2. THE SOCIAL WORKER HAS NAMED THE HEAD OF HOUSEHOLD BECAUSE:

[ ] THERE IS NO ADULT PARENT OF CHILDREN (ANY AGE) OR ADULT WITH PARENTAL CONTROL OVER CHILDREN UNDER AGE 18 IN MY HOUSEHOLD;
[ ] THE ADULTS IN MY HOUSEHOLD CANNOT AGREE ON A HEAD OF HOUSEHOLD;
[ ] I DO NOT WANT TO NAME A HEAD OF HOUSEHOLD.

THE HEAD OF HOUSEHOLD NAMED BY THE SOCIAL WORKER IS _____

SECTION 3. THIS HEAD OF HOUSEHOLD HAS BEEN NAMED AT:

[ ] Certification [ ] Recertification [ ] Change in Family Members

Signature of Social Worker _____

Okla. DHS Issued

PURPOSE OF APPENDIX

This appendix acts as written notice to the food stamp household of their right to select an adult parent of children (any age) or an adult who has parental control of a child (under 18 years old). This completed appendix also records proof of the identity of the selected head of household.

INSTRUCTIONS FOR PREPARATION OF APPENDIX

This appendix is completed in original only unless the client requests a copy.

The social worker and a representative of the household completes this appendix at each certification. The worker and household also completes this appendix whenever there is a change in household composition, provided all adult household members agree to select a different head of household.

The worker enters the case name, case number and date in the appropriate blanks at the top of the appendix.

SECTION 1. This section may be completed and signed by a responsible household member or the authorized representative. This individual must have knowledge of which household member the other adult members agree should e considered head of household.

SECTION 2. This section is completed by the social worker when the household does not want to name a head of household, cannot agree, or there is no adult parent of children (any age) or adult with parental control of children (under the age of 18).

SECTION 3. This section is completed and signed by the social worker.

Under no circumstances is a case closed or an application denied because a head of household has not been selected or this appendix has not been signed by a household member.

ROUTING OF APPENDIX

The completed appendix is filed with the most recent application in the case record. A copy is given to the client, if requested.

Okla. DHS Issued

[OAR Docket #03-492; filed 3-27-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 65. PUBLIC ASSISTANCE PROCEDURES

[OAR Docket #03-493]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Eligibility for Benefits
340:65-3-1. [AMENDED]
340:65-3-5. [AMENDED]
Subchapter 5. Procedures Relating to Case Changes
Part 1. General Provisions
340:65-5-6. [AMENDED]
(Reference APA WF # 02-26 and 02-38)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; 56 O.S. § 230.50; 56 O.S. § 230.52; and 56 O.S. § 230-55; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [Pub. L. 104-19].
DATES:
Comment period:
December 16, 2002 through January 15, 2003
Public hearing:
None requested
Adoption:
January 28, 2003
Submitted to Governor:
January 30, 2003
Submitted to House:
January 30, 2003
Submitted to Senate:
January 30, 2003
Gubernatorial approval:
March 17, 2003
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 26, 2003.
Final adoption:
March 26, 2003
Effective:
June 1, 2003
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 3. Eligibility for Benefits
340:65-3-5. [AMENDED]
(Reference APA WF # 02-26)
Gubernatorial approval:
December 5, 2002
Register publication:
20 Ok Reg 300
Docket number:
02-1594
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
340:65-3-1 is revised by adding rules for requesting information or verification from the client. 340:65-3-5 is revised by removing language requiring Temporary Assistance for Needy Families (TANF) households to meet all conditions of eligibility for the month of certification as well as the date of authorization. 340:65-5-6 is revised by adding language to clarify when reconsideration of an administrative action is required.
CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2003.

SUBCHAPTER 3. ELIGIBILITY FOR BENEFITS

340:65-3-1. Determination of eligibility

(a) The determination of eligibility is a continuous process which encompasses all activities beginning with an application to the final disposition of the application and all subsequent activities related to continuing eligibility. The application is the beginning of the eligibility determination. The application is denied if sufficient facts are available to substantiate ineligibility.

(1) The applicant has the right and the responsibility to participate in the eligibility determination and is relied on as the first source of information. Although the applicant is the first source of information, the applicant is not the only source, and all information relating to eligibility must be verified by documents furnished by the applicant or from information supplied by collateral sources. When requesting information or verification from the client, the worker uses Form ADM-92, County Client Contact and Information Request, and gives the client at least ten days to respond to the request. [OAC 340:65-3-2.1]

(2) If the applicant is unable to participate in the eligibility determination because of physical or mental disability, inability to speak English, or other difficulties, the ~~social services specialist~~ worker is responsible for contacting other persons who may be able to help in establishing eligibility.

(3) The applicant is informed of the information needed to establish each condition of eligibility and of the assistance the ~~Agency~~ Oklahoma Department of Human Services (OKDHS) can give in establishing eligibility. The applicant is also informed that by signing the application he or she is giving ~~the Agency~~ OKDHS permission to obtain information from sources other than the applicant.

(b) **Explanation of ~~Agency~~ OKDHS responsibilities.** ~~An~~ The worker explains to the applicant ~~is given an explanation of the Agency's~~ OKDHS' responsibility for reaching a decision and notifying the applicant of eligibility or ineligibility within the appropriate time limits. The applicant is advised of the right to a fair hearing if there is a delay beyond the established time limits. When a decision is made on the application, the applicant is advised by a computer-generated notice of the action, the reason for the action, and his or her appeal rights. The applicant is also advised of the right to legal counsel at the hearing which may be provided by his or her private attorney or by free legal help. The notice includes information concerning free legal help, where and how to file an appeal, and gives the time frame in which an appeal must be filed.

(c) **Explanation of applicant's responsibilities.** During the application process the applicant is advised of the legal responsibility for reporting all facts pertinent to eligibility. The responsibility to report all changes within ten calendar days and the penalty for failure to report changes is explained.

(d) ~~**Application processing**~~ **Signatures.** The application form is completed and signed by the applicant using the name ~~which~~ as it appears on his or her Social Security card. When an applicant and spouse are living together, both must sign the application form ~~as their names appear on their Social Security cards~~. ~~The application is denied if sufficient facts are available to substantiate ineligibility.~~ The applicant may voluntarily withdraw the request for assistance or services either before or after signing the application form.

(e) **Requirement for Social Security number (SSN).** Federal regulations require ~~an~~ a SSN or application for ~~an~~ a SSN for every individual whose needs are included for benefits. The ~~social services specialist~~ worker accepts the applicant's statement to document the SSN unless the information is inconsistent or there are other facts or observations which cause the ~~social services specialist~~ worker to question the statement. Persons for whom a SSN is required but not available must be referred to the appropriate Social Security Administration (SSA) office for SSN enumeration. Form ADM-101, SSN Enumeration Referral, is used to refer persons to the SSA office for a SSN application. The return of Form ADM-101 to the county ~~DHS~~ OKDHS office validates the application(s) or indicates which persons have not provided appropriate original evidence of age, identity, and citizenship to SSA. Parents of newborns who participate in Enumeration at Birth (EAB) receive Form SSA-2853-OP3, Message From Social Security, from hospital personnel. This receipt form is verification the newborn was enumerated at birth. An application for assistance is denied or the individual's needs are not included for benefits if the individual fails or refuses to furnish or to apply for a SSN.

(1) For Temporary Assistance for Needy Families (TANF) purposes, the individual's needs are included; however, a 25% payment standard reduction penalty is imposed until an application for or a SSN is provided.

(2) For food stamp and Medicaid purposes, only the needs of the individual for whom a SSN is not provided or applied for are not included.

(3) For child care purposes, only the needs of a child for whom a SSN is not provided or applied for are not included.

340:65-3-5. Certification process

Each application is processed by a certification of eligibility or ineligibility unless denied at the applicant's request.

(1) **Application processing time limits.** An application must be processed within certain time limits. ~~When information is to be provided by the applicant, the request must be in writing and must allow the applicant sufficient time to obtain the information.~~ If near real-time (NRT) benefit processing time frames are used, application processing must be completed within two working days of the date required verification is provided.

(A) When it is not possible to process the application timely, the applicant is notified in writing of the specific reasons for the delay. The applicant is also informed of his or her right to request a fair hearing and the procedures for requesting the hearing. An application is completed timely if the first month's benefits or notice of eligibility or ineligibility is processed within ~~the~~ specified time limits ~~listed in (i)-(xvii) of this subparagraph~~. The time limits are:

(i) Temporary Assistance for Needy Families (TANF) - 30 days;

(ii) Title IV-E Foster Care - 30 days;

(iii) Energy Crisis Assistance Program (ECAP) - 48 hours;

(iv) Food ~~Stamps~~ Stamp Program - 30 days;

(v) Medical Assistance and ~~Categorically Related to Pregnancy Related Services~~ categorically related to pregnancy related services - 20 days;

(vi) Presumptive ~~Eligibility for Pregnant Women~~ eligibility for pregnant women - 5 working days;

(vii) Medical Assistance and ~~Categorically Related~~ categorically related to Aid to the Aged - 30 days;

(viii) Medical Assistance and ~~Categorically Related~~ categorically related to Aid to the Blind or Disabled - 60 days;

(ix) Medical Assistance only and ~~Categorically Related~~ categorically related to Aid to Families with Dependent Children - 20 days, or 30 days if establishing incapacity;

(x) Medical Assistance for Optional Tuberculosis (TB) Coverage group - 45 days;

(xi) Medical Assistance ~~Long Term Care~~ long-term care request on active State Supplemental Payment or Medical Assistance case - 45 ~~Days~~ days;

(xii) Children with Special Health Care Needs - 45 days;

(xiii) Diversion Assistance - 7 working days;

(xiv) TANF Emergency Assistance - 5 working days;

(xv) Low Income Home Energy Assistance Program (LIHEAP) - 30 days;

(xvi) Refugee Medical Assistance - 30 days; and

(xvii) Child Care Services - ~~30 days~~ 2 working days from the date required verification is provided.

(B) An application is not denied when it cannot be processed timely due to:

(i) circumstances beyond the control of the applicant which result in failure or delay on the part of the applicant to provide needed information;

(ii) failure or delay on the part of an examining physician to supply needed information;

(iii) failure or delay on the part of the Social Security Administration in making a decision on disability; or

(iv) administrative or other emergency that could not reasonably be controlled by the county office.

(2) **Certification of eligibility for cash assistance.** The county does not delay certification of eligibility for cash assistance pending a decision on a request for non-hospital medical care.

(A) If all conditions of TANF eligibility are established for the month of application, certification is effective the date of application and benefits are prorated from the date of application.

(B) Certification cannot be effective prior to the application date.

(C) When an application is taken and all other conditions of eligibility are determined prior to a child's entry to the home, the certification date cannot be prior to the actual date of entry.

(D) ~~To be certified for TANF the case must meet all conditions of eligibility for the month of certification as well as the date of authorization. The date of authorization is the date the certification is processed. If current eligibility exists,~~ A retroactive payment can be authorized for any month eligibility is established. ~~A certification is valid even if a month of ineligibility is determined between application and authorization.~~ An application denied in error must have payment authorized for the period eligibility is established ~~without regard to eligibility at the time of authorization~~. ~~Also, the~~ The applicant is not penalized if the ~~authorization~~ certification is delayed beyond the time ~~limits~~ limit for disposition due solely to ~~Agency~~ Oklahoma Department of Human Services (OKDHS) failure to take ~~the~~ timely action. In this case, the payment is authorized for the period eligibility is established ~~without regard to eligibility at the time of the delayed authorization~~.

(E) A certification is valid even if a month of ineligibility is determined between application and authorization. An applicant who is ineligible for the month of application but is eligible for a subsequent month, is certified effective the first day of the subsequent month.

(3) **Certification of ineligibility.** When an applicant is ineligible, a computer-generated notice is sent to the applicant giving the effective date and explaining the reason for ineligibility. If the applicant is dissatisfied with the action taken, the applicant may request a fair hearing within the period of time specified in the notice.

(4) **Proration of TANF benefits.** The proration of TANF benefits applies when a new assistance case is determined eligible during the month of application. Certification is made effective from the date of application. Proration also applies when an individual is added to an existing case.

(A) For the month of application only, the TANF benefits are prorated from the date of application. The TANF benefits that the recipient would be eligible to receive if proration did not apply must be determined prior to the computation.

(B) The formula used for the prorated amount is: 31 - application date x TANF money benefit ÷ 30 = the prorated payment. The prorated payment is rounded down to the lower dollar amount.

(C) This proration policy is applied regardless of whether the family received assistance the prior month. If the prorated benefit is below $10, the family is not eligible for a money payment but is eligible for medical benefits for the entire month. When food stamps are ~~being~~ requested in the TANF case for the month the TANF payment is prorated, the food stamp unearned income is automatically updated to show the TANF benefit before proration. The notification to the client is computer-generated and shows the amount for the initial month and following month. When proration is applied to the TANF benefit the family is eligible for medical benefits for the entire month and receives a medical card. The family is eligible for the full TANF benefit effective the following month.

SUBCHAPTER 5. PROCEDURES RELATING TO CASE CHANGES

PART 1. GENERAL PROVISIONS

340:65-5-6. Reconsideration of administrative action

(a) Corrective action is required on any administrative action which results in withholding of benefits, an underpayment for which the client was later determined eligible, or an overpayment of benefits the client was not eligible to receive. A reconsideration of the administrative action is required when:

(1) computer down time prevents action being taken timely~~,~~;

(2) policy and procedures were not administered correctly~~,~~; or

(3) ~~when~~ new or additional information is received within 30 days of the:

(A) ~~effective~~ date action was taken to deny the application ~~was denied~~; or

(B) ~~the~~ effective date benefits were terminated.

(b) A retroactive payment is authorized to correct an administrative action which resulted in a payment being discontinued, an application denied, or an underpayment.

(1) **Payments discontinued for Temporary Assistance for Needy Families (TANF) and State Supplemental ~~Payments~~ Payment (SSP).** When the county office reconsiders its previous action and finds the payment was discontinued in error, a payment is made for the current month and prior months, provided the amount authorized was improperly discontinued in these months and does not exceed the standard on DHS Appendix C-1, Schedule of Maximum Income, Resource, and Payment Standards.

(2) **Application denied for TANF and SSP.** When an application is denied and the county office subsequently reconsiders its previous action and finds the applicant is eligible, a benefit is issued for whatever period the client is

determined eligible but no earlier than the date of application.

(3) **Underpayments determined for TANF and SSP.** When a benefit was issued for less than the amount for which the client was eligible, an underpayment is authorized by Form F-17, Terminal Disposition and Issuance, for whatever period of time that underpayment was made.

[OAR Docket #03-493; filed 3-27-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE

[OAR Docket #03-479]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
Part 1. Scope and Applicability
340:75-1-9. [AMENDED]
340:75-1-16. [AMENDED]
340:75-1-20. through 340:75-1-21. [AMENDED]
Subchapter 3. Child Protective Services
340:75-3-5. [AMENDED]
340:75-3-10.1. [AMENDED]
Subchapter 6. Permanency Planning
Part 11. Permanency Planning and Placement Services
340:75-6-85. through 340:75-6-86. [AMENDED]
Subchapter 15. Adoptions
Part 14. Post Adoption Services
340:75-15-128. [AMENDED]
340:75-15-128.2. through 340:75-15-128.3. [AMENDED]
340:75-15-128.6. [AMENDED]
340:75-15-128.7. [REVOKED]
(Reference APA WF # 02-23, 02-28, and 02-30)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Senate Bill 1661; Senate Bill 1329, which includes amendments to Sections 7003-2.1 and 7004-3.4 of Title 10 of the Oklahoma Statutes; Sections 7510-1.1 et seq. of Title 10 of the Oklahoma Statutes; 45 Code of Federal Regulations 1356.40; and Administration for Children and Families (ACF) Child Welfare Manual.
DATES:
Comment period:
December 16, 2002 through January 15, 2003
Public hearing:
None held or requested
Adoption:
January 28, 2003
Submitted to Governor:
January 30, 2003
Submitted to House:
January 30, 2003
Submitted to Senate:
January 30, 2003
Gubernatorial approval:
March 17, 2003
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 26, 2003.
Final adoption:
March 26, 2003
Effective:
May 12, 2003
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 1. General Provisions
Part 1. Scope and Applicability
340:75-1-9. [AMENDED]
340:75-1-16. [AMENDED]
340:75-1-20. through 340:75-1-21. [AMENDED]
Part 7. Case Plans
340:75-6-85. through 340:75-6-86. [AMENDED]
(Reference APA WF # 02-23)
Gubernatorial approval:
October 16, 2002
Register publication:
20 Ok Reg 90
Docket number:
02-1398
Superseded rules:
Subchapter 15. Adoptions
Part 14. Post Adoption Services
340:75-15-128. [AMENDED]
340:75-15-128.2. through 340:75-15-128.3. [AMENDED]
340:75-15-128.6. [AMENDED]
340:75-15-128.7. [REVOKED]
(Reference APA WF # 02-28)
Gubernatorial approval:
December 5, 2002
Register publication:
20 Ok Reg 302
Docket number:
02-1580
Superseded rules:
Subchapter 3. Child Protective Services
340:75-3-5. [AMENDED]
340:75-3-10.1. [AMENDED]
(Reference APA WF # 02-30)
Gubernatorial approval:
January 21, 2003
Register publication:
20 Ok Reg 539
Docket number:
03-172
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The proposed revisions to Subchapters 1, 3, 6, and 15 of Chapter 75 comport with state and federal mandates and rule format guidelines and incorporate amendments to statute.

340:75-1-9 is revised to clarify that filing a petition for termination, in cases where a child has been in out-of-home care 15 of the most recent 22 months, is done prior to the end of the 15th month, and that permanency hearings are held every 12 months.

340:75-1-16 is revised to include foster parent(s) in the order of placement preferences.

340:75-1-20 is revised to include the requirement that six-month judicial reviews begin no later than six months after a child has been in out-of-home placement.

340:75-1-21 is revised to include the requirement that when the child is alleged to be deprived the case is reviewed by the post adjudication review board after the child has been in out-of-home care for six months.

340:75-3-5 is revised to reflect a change in the responsibilities of the Office of Client Advocacy (OCA) regarding the investigation of alleged child abuse and neglect by a community services worker.

340:75-3-10.1 is revised to reflect the new protocol for the placement of an infant who is at-risk and new criteria for removal of a child from an educational or child care facility by a Child Welfare (CW) worker.

340:75-6-85 is revised and clarified by deleting paragraph (f)(1) regarding written notice of removal, and moving paragraph (f)(2), regarding the foster parent(s)' objection to the child's removal, to 340:75-6-86.

340:75-6-86 is revised to include clarification that: notification to foster parent(s) and court occurs five judicial days before removal, except in cases of emergency; the court is notified when a child is removed from foster care; and a foster parent(s)' objection to the child's removal is filed with the court within five judicial days.

340:75-15-128 and 75-15-128.2 are revised to incorporate amendments to the Oklahoma Adoption Assistance Act.

340:75-15-128.3 modifies eligibility for state funded adoption assistance per legislative amendment. The revision defines a child as one who at the

time of adoptive placement has not attained the age of 18 years; was in the court-ordered custody of OKDHS or a federally recognized Indian tribe as defined by the federal Indian Child Welfare Act and the Oklahoma Indian Child Welfare Act, and meets the definition of a child with special needs. A significant revision is that children placed by licensed private nonprofit agencies are no longer eligible for state funded adoption assistance.

340:75-15-128.6 revises the process regarding denials and fair hearings; adds the requirement for a Notice of Intent to Deny Adoption Assistance and Final Notice to Deny Adoption Assistance; and sets forth how theses notices are used. This rule revision reflects the revisions to Form H-4, Resource Family Request for a Fair Hearing, and how the form is used.

340:75-15-128.7 is revoked.

CONTACT PERSON:

Dena Thayer, Programs Manager, Office of Planning, Policy and Research, Oklahoma Department of Human Services, 2400 N Lincoln Blvd., Oklahoma City, OK 73105, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2003.

SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. SCOPE AND APPLICABILITY

340:75-1-9. Legal base and authority

(a) **Authority.** The authority of the Department of Human Services (DHS) to administer a Child Welfare (CW) program is based on the Oklahoma Social Security Act [Section 176 of Title 56, Oklahoma Statutes] which authorizes ~~the Department~~ DHS to provide . . . *for the protection and care of homeless, dependent and neglected children, and children in danger of becoming delinquent.*

(1) The Oklahoma Children's Code, Chapter 70 of ~~in~~ Title 10 of the Oklahoma Statutes, provides the legal base for the care and custody of children.

(2) Federal laws and regulations under Titles IV-B, IV-E, V, VI, XIX, and XX of the Social Security Act, as amended, as well as decisions made by the Oklahoma Commission for Human Services, further define the scope and authority of services provided by CW.

(b) **The Multiethnic Placement Act of 1994 and the Interethnic Adoption Provisions of 1996.** The Multiethnic Placement Act of 1994 (MEPA), as amended by the Interethnic Adoption Provisions of 1996 (IEP), was enacted to eliminate discrimination on the basis of race, color, or national origin, in the placement of children in foster ~~care~~ and ~~adoption~~ adoptive resources, decrease the length of time that children wait to be adopted, and facilitate the identification, recruitment, and retention of foster and adoptive parents who can meet the distinctive needs of children awaiting placement. The MEPA/IEP prohibits states or agencies receiving federal funds from delaying or denying the placement of any child on the basis of the race, color, or national origin of the child or the prospective foster or adoptive parent.

(1) **Placement considerations.** Any consideration of race or ethnicity is narrowly tailored to advancing the child's best ~~interest~~ interests and is made as an individualized determination for each child. ~~The Department~~ DHS may not delay or deny the placement of a child for adoption or foster care on the basis of the race, color, or national origin of the child or the adoptive or foster parent. A child who meets the definition of an "Indian child" as per the Indian Child Welfare Act is placed according to the placement preferences. [OAC 340:75-7-10 and 340:75-19-14]

(2) **Recruitment.** MEPA/IEP requires that ~~the Department~~ DHS engage in active recruitment of potential foster and adoptive parents who reflect the racial and ethnic diversity of the children in care needing placement. A comprehensive recruitment plan is developed and updated annually. [OAC 340:75-15-82 and 340:75-7-10~~(c)~~]

(c) **The Adoption and Safe Families Act of 1997.** The Adoption and Safe Families Act of 1997 (ASFA) was enacted to amend Title IV-B and Title IV-E of the Social Security Act. The act focuses on promoting child safety, timely decision making as to permanency, and clarifying "reasonable efforts." Key provisions of the law include:

(1) a clarification of "reasonable efforts," including a provision that reasonable efforts to reunify a child with his or her birth parent(s) are not required if a court has determined that any of the conditions exist as set out in Section 7003-4.6 of Title 10 of the Oklahoma Statutes;

(2) mandatory termination of parental rights in certain circumstances, including a requirement directing the initiation of termination proceedings prior to the end of the 15th month when a child has ~~for all children who have~~ been in out-of-home care ~~for~~ 15 of the most recent 22 months; and

(3) a requirement that a permanency hearing is held no later than every 12 months after a child is placed in out-of-home care or 30 days after a court determines that reasonable efforts to reunite a family are not required and every 12 months thereafter.

340:75-1-16. Custody hearing

(a) The procedures for custody hearings are described in (1) and (2) of this subsection.

(1) When a child is taken into emergency or protective custody as an alleged deprived child, the child's ~~parents~~ parent(s), legal ~~guardians~~ guardian(s), or ~~custodians~~ custodian(s) are entitled to an emergency custody hearing within two judicial days following the child being taken into emergency or protective custody, and thereafter at such intervals as determined by the court. The court conducts a hearing to:

(A) determine whether the child is placed or remains in custody if continuation of the child in the child's home is contrary to the health, safety, or welfare of the child;

(B) determine whether the child is released to the ~~parent~~ parent(s), legal ~~guardian~~ guardian(s), ~~custodian~~ custodian(s), or other responsible adult with or without conditions as the court finds reasonably necessary to insure the health, safety, or welfare of the child.

(i) If a child has been removed from the custodial parent and, in the best interests of the child, the court is unable to release the child to the custodial parent, the court shall give priority for placement of the child with the noncustodial parent of the child unless such placement would not be in the child's best interests.

(ii) If the court cannot place the child with the noncustodial parent, custody is awarded consistent with the preferences set forth in Section 21.1 of Title 10 of the Oklahoma Statutes which are: grandparent, person indicated by deceased parent, relative, the person in whose home the child has been living in a wholesome and stable environment, including, but not limited to, a foster parent(s), or any other person deemed suitable by the court and able to provide adequate and proper care and guidance for the child. If custody of the child cannot be made pursuant to these preferences, the reason for such determination is documented in the court record~~.~~; and

(C) obtain information from the parent, legal guardian, or custodian necessary to identify and locate kinship placement resources.

(2) The court may order the Department of Human Services (DHS) to provide supervision of the child if the court returns the child to the custody of a parent, relative, or other responsible party. The purpose of the emergency custody hearing is to show cause why the child was taken into custody or why custody should not return to the ~~parents~~ parent(s). An order for removal of a child from the home must make a determination that continuation of the child in his or her home is contrary to the child's health, safety, or welfare or is in the child's best ~~interest~~ interests and whether reasonable efforts to prevent removal were made or in the absence of preventive efforts, if removal of the child is due to an emergency and is for the child's safety. [10 O.S. § 7003-2.4(G)(1)(a) through (d)] The emergency custody hearing order cannot remain in effect for more than 60 days absent a showing that future extension is necessary to ensure the health, safety, or welfare of the child and is in the best interests of the child. The judge may also enter an order that reasonable efforts are not required. [OAC 340:75-1-18.4]

(b) At any hearing where a child is to be released from the state's custody, whether protective, emergency, or temporary custody, the district attorney or the child's attorney may give verbal notice of an objection and intention to seek review of the court's order. The court then stays the order pending the filing of an application by the objecting attorney, which must be filed within three judicial days from the order. When the application is filed timely, the presiding judge assigns a juvenile judge within the judicial district for review. The review addresses only whether releasing the child from state custody is contrary to the health, safety, or welfare of the child. If the reviewing judge finds that releasing the child from state custody is contrary to the health, safety, or welfare of the child, the court issuing the original order must enter a different order. If the finding is that the original order is not contrary to the health, safety, or welfare of the child, the stay is lifted and the child released per the court's order. [10 O.S. § 7003-6.2]

(c) At any hearing under the Oklahoma Children's Code [10 O.S. § 7003-6.2(A)] for the purpose of determining whether a child in the state's custody, whether protective, emergency, or temporary custody, is to be released from such custody, the court provides an opportunity for a representative from ~~the Department~~ DHS, the current foster ~~parent~~ parent(s), guardian ad litem, and child, if of sufficient age, to present sworn testimony regarding this release. The Child Welfare (CW) worker may be cross-examined by the court and the parties to the case. These hearings are on the record and the court must issue a written finding. ~~The Department~~ DHS does not have the same right to be heard when the district attorney is declining to file a petition and the child is released by operation of law.

340:75-1-20. Six month judicial review

~~A~~There must be a review of every ~~dispositional order~~ case regarding ~~a~~ an alleged or adjudicated deprived child ~~occurs every six months~~. Section 7003-5.6 of Title 10 of the Oklahoma Statutes requires that a review hearing be held ~~within~~ no later than six months after the ~~first dispositional hearing~~ date of the child's out-of-home placement and at least every six months thereafter until such time as the child is returned to the custody of the parent(s), legal guardian(s), or custodian(s) and the conditions which caused the child to be adjudicated deprived have been corrected, permanent care and custody has been awarded to a suitable ~~custodian~~ custodian(s) or kinship ~~guardian~~ guardian(s), or the ~~parents'~~ parent(s)' rights have been terminated and final adoption decreed. This requirement applies to a child removed from the home of the lawful parent(s), legal guardian(s), or custodian(s) of the child after the child has been returned to that home until such time as the court orders the case closed.

(1) **Judicial review report.** The report is prepared by the legal ~~custodian~~ custodian(s) of the child. When the Department of Human Services (DHS) has court-ordered supervision of the child, ~~the Department~~ DHS is responsible for preparing the report. The report includes a summary of the ~~parents'~~ parent(s)' current situation, the physical, mental, and emotional condition of the child, the conditions existing in the home or institution where the child has been placed, the child's adjustment, a report on the child's progress in school, and visitation exercised by the child's ~~parents~~ parent(s) or other persons authorized by the court. For youth 16 years or older the independent living services that have been provided since the last court hearing or court review must be addressed. When ~~the Department~~ DHS is the legal custodian of the child, the report includes any efforts on the part of the ~~parent or parents~~ parent(s) to correct the conditions which caused the child to be adjudicated deprived. The court's determination is based upon the report; therefore, it must specifically address, recommend, and provide reasons, whether:

(A) the child should be returned to the child's ~~parent~~ parent(s) or placed with willing and suitable kinship relations;

(B) the child should continue in out-of-home placement for a specified period. The court projects a likely date by which the child may be returned to and safely maintained in the home, placed with a suitable ~~guardian~~ guardian(s) or ~~custodian~~ custodian(s), or placed for adoption or other permanent arrangement;

(C) the rights of the ~~parents~~ parent(s) of the child should be terminated and the child placed for adoption, placed with a ~~guardian~~ guardian(s) or ~~custodian~~ custodian(s), or provided with another permanent arrangement;

(D) the child, because of exceptional circumstances, should remain in long-term out-of-home placement as a permanent plan or with a goal of independent living;

(E) reasonable efforts have been made to provide for the safe return of the child to the child's home;

(F) reasonable efforts are being made to place the child in a timely manner in accordance with the permanency plan and to complete the steps necessary to finalize permanent placement for the child if the court determines or has previously determined that reasonable efforts are not required or that the continuation of reasonable efforts to reunite the child with the child's family is inconsistent with the permanency plan;

(G) where appropriate, when the child is 16 years of age or older, services are being provided that will assist the child in making the transition from ~~foster~~ out-of-home care to independent living;

(H) the nature and extent of the services being provided to the child and parent(s) ~~of the child~~ ensure the safety of the child and protection from further physical, mental, or emotional harm, and if necessary, order additional services be provided to correct the conditions that led to the child's adjudication; and

(I) to modify the existing individual treatment and service plan as the court determines it is in the best interests of the child and necessary for the correction of the conditions that led to the adjudication of the child.

(2) **Review hearing.** At the review hearing the Child Welfare (CW) worker provides information similar to that offered at the initial dispositional hearing, with special emphasis on the progress or lack of progress on the court-ordered treatment plan. The court ~~is to receive~~ receives all evidence helpful in determining the issues before the court, including but not limited to, oral and written reports, which may be admitted and relied upon to the extent of their probative value, even though not competent for purposes of an adjudicatory hearing.

(3) **Notice of hearing.** Written notice of review hearings to the pre-adoptive ~~parents~~ parent(s), ~~relatives~~ relative(s), and current foster ~~parents~~ parent(s) is the responsibility of ~~the Department~~ DHS. The opportunity to be heard is provided by the court to each party, including the current foster parent(s) of the child, any pre-adoptive parent(s) or ~~relatives~~ relative(s) providing for the care of the child, and the guardian ad litem. Such notice and opportunity to be heard is not to be construed as requiring any foster parent, pre-adoptive parent, or relative to be made a party to such deprived proceedings, if not currently a party to the action.

340:75-1-21. Post Adjudication Review Board (PARB)

(a) Section 1116.3 and succeeding Sections of Title 10 of the Oklahoma Statutes, mandate the establishment of review boards for each judicial district to review the case of every child adjudicated or alleged to be deprived and held in out-of-home placement. The child's court file is reviewed by the ~~board~~ local PARB at least once every six months until the court case is dismissed. The ~~board's~~ PARB's findings and ~~recommendation~~ recommendations are submitted to the court within ten days of ~~the~~ any review hearing. ~~[OAC 340:75-1-16]~~ The review includes consideration and evaluation of the appropriateness of the:

(1) ~~the~~ goals and objectives of the treatment plan;

(2) ~~the~~ services provided to the child, ~~parent~~ parent(s), ~~stepparent~~ stepparent(s), or other ~~adult~~ adult(s) living in the home or legal ~~guardian~~ guardian(s) or ~~custodian~~ custodian(s); and

(3) ~~the~~ goals and objectives of the permanency plan and permanency planning.

(b) In situations where the child is alleged to be deprived and held in out-of-home placement, the PARB reviews these cases six months after removal and every six months thereafter until adjudication occurs or the child is released from out-of-home placement. The PARB's findings and recommendations are submitted to the court within ten days of any scheduled review hearing. The review includes consideration and evaluation of:

(1) whether the continued out-of-home placement is in the best interests of the child in light of the child's need for permanency and recognizing that permanency is in the best interests of the child;

(2) the appropriateness of continued out-of-home placement; and

(3) in the absence of a court-approved treatment and service plan, the appropriateness of the services provided to the child and any other family ~~members~~ member(s) or other ~~adult~~ adult(s) living in the home of the child.

(c) A ~~review board~~ PARB member may attend any court hearing concerning the case of any child subject to review by the PARB.

(d) The State Post Adjudication Review Advisory Board (State PARB), as set out in Section 1116.6 of Title 10 of the Oklahoma Statutes, oversees the implementation of the state ~~PARB~~ post adjudication review program in coordination with the Oklahoma Commission on Children and Youth (OCCY). The State ~~Advisory Board~~ PARB makes recommendations to the courts, OCCY, the Governor, the Legislature, Department of Human Services (DHS), Office of Juvenile Affairs (OJA), and other state agencies providing services to children, regarding statutory revisions, amendments to court rules and regulations, permanency planning, foster care, and ~~child welfare~~ Child Welfare (CW) service delivery policies, guidelines, and procedures.

(e) ~~The Department~~ DHS provides the State PARB a listing of the ~~Child Welfare (~~CW~~)~~ cases that have adjudicated

deprived children who have been in ~~the Department's~~ DHS custody and in out-of-home care for 15 of the most recent 22 months and identifies the cases for which ~~the Department~~ DHS has determined that a petition to terminate parental rights is not required based upon the exceptions. ~~[OAC 340:75-1-23]~~ The State PARB disseminates the listings to local PARBs for review. In those cases where the local or State PARB disagrees with ~~the Department~~ DHS' determination, the local or State PARB provides the district attorney with a recommendation of additional cases for which a petition to terminate parental rights should be filed. The State PARB forwards a copy of the recommendation to ~~the Department~~ DHS.

(f) For every child adjudicated deprived pursuant to the laws of another state or territory, when the child is currently residing in Oklahoma and ~~the Department of Human Services~~ DHS has agreed to provide services to the child pursuant to the Interstate Compact on the Placement of Children or other agreement concerning the child, the PARB reviews the case. The PARB reports its findings to ~~the Department~~ DHS and may report these findings to the agency or court in the state having jurisdiction. The child and the custodian of the child may be required to be present at the ~~review board's~~ local PARB's meeting regarding the child.

(g) Any person participating in a judicial proceeding as a PARB member is presumed to be acting in good faith and in so doing, immune from any civil liability that otherwise might be incurred or imposed.

SUBCHAPTER 3. CHILD PROTECTIVE SERVICES

340:75-3-5. Relationship of Child Protective Services (CPS) to other entities with responsibility in the investigation of child abuse and neglect

(a) **Responsibility.** The responsibility of other entities in the investigation of child abuse and neglect is given in this subsection.

(1) The ~~Department's~~ Department of Human Services (DHS), Office of Client Advocacy (OCA) is responsible for the investigation of any allegation of abuse or neglect of a child in any ~~Department of Human Services~~ DHS facility, or in a public or private residential facility, including but not limited to ~~Specialized Community Homes~~ specialized community homes, jails or detention centers, hospitals, psychiatric facilities and treatment programs, day treatment programs, and any residential child care facility, whether licensed or unlicensed. Additionally, OCA is responsible for the investigation of alleged child abuse, neglect, sexual abuse, and sexual exploitation by a community services worker as defined by Section 1025.1 of Title 56 of the Oklahoma Statutes. Reports of suspected abuse or neglect of a child are made to ~~that office~~ OCA as prescribed in OAC ~~340:2-3-6~~ 340:2-3-33. ~~The Office of Client Advocacy~~ OCA does not investigate allegations of abuse or neglect of a child in a foster home, including therapeutic foster homes, or in a kinship home placement.

(2) ~~The Department's~~ DHS, Division of Child Care (DCC) is responsible for implementing the Oklahoma Child Care Facilities Licensing Act. [10 O.S. § 401 et seq.] Child care standards applicable to the operation of a child care facility are designed to ensure the safety of children. ~~The Division of Child Care~~ DCC and CPS, therefore, have concurrent responsibilities regarding alleged physical abuse, sexual abuse, and neglect in child care centers and homes. Whenever possible, investigations are conducted jointly by ~~the Division of Child Care~~ DCC and CPS. This does not include violations of licensing standards; these are handled by ~~the Division of Child Care~~ DCC.

(b) **Child Protective Services' protocol for inter-agency relationships.** CPS functions as one component of the multi-faceted system established to protect children from abuse and neglect. The system for protecting abused or neglected children, in addition to CPS, includes law enforcement, individuals within the court system, and other social services agencies or organizations. CPS is one component of a larger Child Welfare (CW) services continuum which also includes preventive and protective services, foster care and placement services, and adoption services.

(c) **Role of Child Protective Services.** The role of CPS is to evaluate reports of abuse or neglect, to assess risk of harm and the need for protective services, and to provide and coordinate services. Assessing risk is social work based with a rehabilitative focus.

(d) **Role of law enforcement.** Law enforcement officials investigate a report of child abuse or neglect as a crime. Generally, reports that require joint involvement of CPS and law enforcement are handled as investigations rather than assessments. The focus is on identifying and arresting the ~~offender~~ offender(s), ~~on~~ gathering court admissible evidence, and ~~on~~ protecting the integrity of the evidence so that, if a crime was committed, the ~~offender~~ offender(s) can be prosecuted in criminal court.

(1) In situations requiring crisis intervention, protection by law enforcement may be necessary to protect the child, other family members, and the CW worker. Additionally, when ~~children are~~ the child is in danger, law enforcement officials may take the child into protective custody and authorize immediate medical treatment, if necessary to protect the child's health. [10 O.S. § ~~7003-2~~ 7003-2.1] CW staff are responsible for coordinating with law enforcement officials.

(2) In some instances, a law enforcement official conducting a criminal investigation may ask CW not to interview certain individuals or to delay its investigation. While it is possible that the criminal investigation will supersede the CPS investigation, it is made clear to the other investigating agency that ~~the Department~~ DHS may not relinquish its responsibility. Staff attempt to work with the law enforcement agency to develop a plan which allows CW to fulfill its responsibilities while not interfering with the criminal investigation.

(e) **Role of the district attorney in deprived matters.** The district attorney has the responsibility to determine if the filing of a petition is warranted based on information obtained during the CPS investigation. DHS has the responsibility to make a written recommendation even if the district attorney has verbally indicated that he or she may not file a deprived petition. Consultation, coordination, and a good working relationship between the CW worker and the district attorney are essential to ensure appropriate use of juvenile court for the protection of children.

(f) **Role of the district attorney in criminal prosecutions.** While CW makes recommendations to the district attorney regarding deprived actions, CW workers do not make recommendations for criminal prosecution. It is the district attorney who has the expertise in this area and it is the district attorney's responsibility to decide whether ~~or not~~ criminal charges ~~will be~~ are filed against the alleged ~~perpetrator~~ perpetrator(s). Because the CPS investigation is limited to what is necessary to protect children, the district attorney may need further evidence to meet the standard of proof necessary for a criminal conviction. This evidence is obtained by law enforcement officials conducting a criminal investigation.

(g) **Role of the attorney for the child.** In deprived actions a separate attorney is appointed for the child. [10 O.S. § 7003-3.7] In criminal actions brought under Section 7115 of Title 10 of the Oklahoma Statutes, the child victim may be appointed an attorney. The role of the attorney for the child is to represent the child and any expressed interests of the child. The attorney for the child meets with the child as soon as possible after appointment. Except for good cause, the attorney meets with the child not less than 24 hours prior to any proceeding. The attorney for the child is given access to all reports, records, or any other information relevant to the case and to any reports of examination of the child's ~~parents~~ parent(s), legal ~~guardian~~ guardian(s), or ~~custodian~~ custodian(s). The attorney is advised of the child's location and how best to contact the child according to OAC 340:75-6-48.1. The CW worker, as an advocate for the child, coordinates and consults with the attorney to ensure the protection and well-being of the child.

(h) **Role of the person serving as the child's guardian ad litem.** In addition to an attorney being appointed to represent the child, the judge may also appoint a person to serve as the child's guardian ad litem. The focus of the guardian ad litem, who may be a court-appointed special advocate (CASA), is to advocate for and monitor the child's best interests. CASA has the same meaning as guardian ad litem under the Oklahoma Children's Code. The guardian ad litem or CASA does not prosecute the case and is usually not an attorney, but looks into the child's situation, and makes reports and recommendations to the court. The guardian ad litem or CASA also conducts interviews with parents, foster parents, providers, CW workers, and others with knowledge of the case in accordance with the best interests of the child. Close coordination and cooperation between the lay guardian ad litem or CASA and the CW social worker is essential to ensure the best services are ~~being~~ provided for the child. [10 O.S. § 7003-3.7 and 7112]

(i) **Role of the judge in deprived matters.** The judge's primary responsibility is to preside over court hearings. ~~In situations in which~~ When a child is in need of immediate protection, the judge may, upon application by the district attorney, issue a court order to place the child in emergency custody. [10 O.S. § 7003-2.1(A)(2)] The judge is responsible for ensuring that fair and proper court procedures are observed and, except when jury trials are held, hears the evidence presented during the hearing and decides whether the child ~~will be~~ is adjudicated. Additionally, the judge decides whether the child ~~will be~~ is placed in the custody of the ~~person~~ person(s) responsible for the child ~~(PRFC)~~ (PRFC(s)), with ~~relatives~~ a relative(s), DHS, or with another agency and usually orders the ~~PRFC~~ PRFC(s) and child to participate in a court-ordered treatment plan.

(j) **Role of the judge in matrimonial or child custody actions.** If a judge, during an action for divorce, annulment, custody of a child, appointment of a ~~guardian~~ guardian(s) for a child, or in subsequent proceedings, determines that there is evidence of abuse or neglect of a child, statutes require that the referring court notify the DHS county office. The court may also enter an order to have the child taken into emergency custody if evidence presented to the referring court indicates a child is in surroundings that ~~are such as to~~ endanger the welfare of the child. [10 O.S. § 7002-1.2]

(k) **Role of other social services agencies.** CW cannot fulfill its responsibilities without interaction with other social services agencies. CW often refers families for counseling, health care, and other identified services, including involvement of one or more of these agencies with a family as part of a treatment plan. The CW worker is also responsible for obtaining information from social service agencies regarding the child's and family's use of the services and progress in working out the difficulties that place the ~~child(ren)~~ child at risk of abuse or neglect. ~~Refer to Section OAC 340:75-1-42 for policy~~ Rules regarding confidentiality of case record information are followed in accordance with OAC 340:75-1-42.

340:75-3-10.1. Safety determination and responses

(a) **Evaluating the safety of a child is a discrete Child Protective Services (CPS) function.** ~~Children~~ A child may be unsafe because of existing family conditions. These conditions must be evaluated to identify a service response which will control risk and ensure the child's safety. Safety refers to the present security and well-being of a child who ~~has been~~ is assessed ~~to be~~ at risk of abuse or neglect. Safety is determined by how controllable the child and family situation is, whether the child's safety is an immediate concern, and what the abuse or neglect is or its results might be.

(b) **Determining the need for a protective custody recommendation ~~and examples of serious abuse and neglect~~.** ~~Listed in (1) - (16) of the Instructions to Staff of this subsection are examples of~~ There are situations in which the Child Welfare (CW) worker must evaluate whether a recommendation for protective custody is appropriate. ~~This is not an all inclusive list but these are~~ These situations include serious abuse and neglect in which the child ~~may be~~ is at risk of serious physical harm.

(c) **Safety planning decisions in cases of serious abuse or neglect.** When an alternative to protective custody is considered in situations in which ~~significant~~ serious physical harm ~~has been~~ is documented, the CW supervisor is consulted. The alternatives to protective custody are discussed and each alternative is evaluated to determine if the child's safety ~~can be assured~~ is ensured. ~~If for~~ For example, if a parent aide or visiting nurse can be arranged for the family but cannot be arranged for several weeks, this is not an acceptable safety plan. The safety plan must be discussed and agreed to by the ~~PRFC~~ person(s) responsible for the child PRFC(s).

(d) **Safety planning risk factors.** When a safety plan is considered, other than protective custody, for ~~those~~ cases in which a child has been seriously harmed or is at risk of serious harm, it is critical to evaluate any risk associated with the safety plan.

(1) In cases of sexual abuse and serious physical abuse or neglect, it is imperative that the ~~perpetrator~~ perpetrator(s) is not ~~be~~ allowed to have unmonitored contact with the child victim(s) until the treatment process has begun and there is progress in reducing risk.

(2) In the early stages of working with a family, denial may be a big deterrent to ~~assuring~~ ensuring protection from the ~~perpetrator~~ perpetrator(s). ~~It may be too soon to expect~~ When it cannot be ensured by the family members ~~to assure~~ that there ~~is~~ will be no unmonitored contact with the perpetrator~~. In these situations~~, a recommendation for short term protective custody is ~~likely~~ considered ~~to be~~ a safer option for the child.

(e) **Safety planning and court involvement.** The implementation of a safety plan, instead of protective custody recommendation, when there has been serious abuse or neglect as outlined in OAC 340:75-3-10.1(b), does not mean that court involvement cannot or should not be requested. A safety plan is voluntary without court intervention. It is important in serious cases of abuse or neglect to ~~assure~~ ensure that the family ~~becomes~~ is involved in a treatment plan and that the safety of the ~~child(ren)~~ child is monitored. These cases generally require very specific goal directed treatment that may require many months to complete. In most cases, a voluntary agreement does not provide sufficient structure for the family to ensure protection for the child. In order to ~~assure~~ ensure that a family follows through with all that is required ~~to assure~~ so that the child can be safe in the home, court intervention may be necessary. ~~See OAC 340:75-3-11 Instructions to Staff for options in making recommendations to the district attorney.~~

(f) **Removal of a child from the home.** Whenever possible, a decision to recommend removal of a child from the home is made in collaboration with the CW supervisor. When prior supervisory collaboration is not feasible, the case is reviewed with the CW supervisor as soon as possible.

(g) **Procedures for removal of a child ~~from his home~~ not in the custody of the Department of Human Services (DHS).** According to Oklahoma ~~Statutes~~ statutes and ~~Federal~~ federal law a child ~~should be~~ is removed from the home only when continued placement in the home ~~would be~~ is contrary to the welfare of the child. In addition, reasonable efforts ~~must be~~ are made to prevent removal or a documented emergency ~~must exist~~ exists which requires removal. [10 O.S. § 7003-2.4 and 42 U.S.C. § 671]

(1) A child, whose surroundings endanger the child's welfare, can be removed from the home by law enforcement without a court order ~~as described in (1) - (7) of the Instructions to Staff of this subsection~~.

(2) Under very limited circumstances a child may be removed from an educational or child care facility by a CW worker. The criteria in (A) through (F) are met prior to removal of a child by a CW worker.

(A) It is established by the CW worker and supervisor that the removal is necessary to protect the child from risk of endangerment. Risk of endangerment is a serious abuse or neglect situation.

(B) Law enforcement is contacted and declines to remove the child.

(C) The CW worker prepares an affidavit to the district attorney who obtains a written emergency custody court order that includes a statement that the child may be removed from the educational or child care facility by a CW worker in order to protect the child from risk of endangerment.

(D) A determination is made by the CW worker's supervisor and county director that the removal from the facility can occur without disruption to the facility, humiliation to the child, and any hostility or risk of reprisal from any party.

(E) A copy of the written emergency custody court order is provided by the CW worker to the educational or child care facility at the time of the removal.

(F) The CW worker notifies the PRFC(s) of the removal the same day and provides the PRFC(s) with a copy of the written emergency custody order as soon as possible. If the notification will place the worker in danger, the assistance of law enforcement is requested.

(h) **Procedures for removal of a child currently in the custody of DHS.** A CW worker may remove a child directly from his or her own home if continued placement in the home is contrary to the welfare of the child and the child is already in the current legal custody of DHS. However, to ensure the safety of the child and the CW worker, assistance from law enforcement is requested in these situations.

(~~h~~i) **Preparation for the child and family when removal occurs.**

(1) Removal of a child from his or her home is, by its very nature, an extremely traumatic experience for the child, the family, and the worker. When the decision ~~has been~~ is made to remove a child from his or her home, it is incumbent upon the worker to make every effort to reduce the inevitable trauma for the child and family ~~as much as possible~~.

(2) Providing proper preparation to the child and family can reduce the stress for all persons involved.

(~~i~~j) **Placement considerations when the child is removed from the home.**

(1) **Placement planning.** Once a child has been removed from his or her home, it is critical to make any

placement decisions with the long term best interests of the child in mind. Placements are made in accordance with OAC 340:75-6-85~~, CW worker placement decisions and responsibilities~~. ~~The placement that is made at the time of the child's initial removal from the home can have a significant impact on the safety of the child and ultimately the possibility for successful reunification with the family or alternative permanent plans for the child. Many placements that were intended to be short term placements can actually turn into placements that last for many months or even years, so it is critical to consider this in making any placement plan for a child.~~

(2) **Placement with relatives or kin.** While placement with relatives or kin is considered whenever possible, it is important to assess relative or kinship placements, not only in terms of safety as per OAC 340:75-3-10.1(e), but in terms of the long term needs of the child. Relatives or kin are only considered when:

(A) the child will be safe with the ~~relative~~ relative(s) or kin as per OAC 340:75-3-10.1(e)~~, Safety Plan Assessment~~. The history of the family is explored extensively, ~~not only~~ with the child's ~~PRFC~~ PRFC(s) ~~but with~~ as well as the ~~relative~~ relative(s) or kin ~~being~~ considered for placement~~. If a child has been seriously abused or neglected, the perpetrator may have been a victim of abuse or neglect within his or her own family. The perpetrator's relatives may also have been victims of abuse or neglect or impacted by the abuse or neglect within the family. This kind of family history could place the child at risk in the relative or kin's home~~;

(B) ~~relatives~~ a relative(s) or kin can provide a home that does not pose an obstacle to reunification plans as demonstrated by the ~~relative~~ relative(s)' or kin's willingness to work with ~~the agency~~ DHS and the family ~~towards~~ toward reunification;

(C) ~~relatives~~ a relative(s) or kin ~~are~~ is willing to accept placement of ~~siblings~~ a sibling(s) so that the siblings ~~do~~ are not ~~have to be~~ separated or the ~~relative~~ relative(s) or kin is willing to facilitate contact between the siblings; and

(D) ~~relatives~~ a relative(s) or kin could potentially provide long term care for the child. It is particularly important to consider the age of ~~relatives~~ the relative(s) or kin in relationship to the child and the commitment of the ~~relatives~~ relative(s) or kin to the child should the placement become long term.

(3) **Placement in ~~Foster Family Care~~ foster family care.** If it is determined that foster family care is the best placement option for the child, considerations are:

(A) the foster ~~family are~~ parent(s) is an age appropriate ~~caretakers~~ provider(s) for the child in case the placement becomes long term;

(B) the other ~~children~~ child(ren) placed in the foster family home ~~do~~ does not pose a safety threat to the child ~~being~~ considered for placement;

(C) the foster family is able to accept placement for ~~siblings~~ a sibling(s) or facilitate contact between the siblings; and

(D) if a foster family placement is made as an emergency, then the emergency placement is evaluated quickly and arrangements made to make a more appropriate placement as ~~quickly~~ soon as possible.

(4) **Placement of an infant who is at-risk.**

(A) Factors that determine whether an infant who is in the custody of DHS is at-risk include:

(i) prematurity;

(ii) history of respiratory distress;

(iii) oxygen dependency;

(iv) a diagnosis requiring special care beyond routine infant care;

(v) under six weeks of age; and

(vi) medical conditions or illnesses that may result in increased episodes of illness, prolonged hospitalization, and increased cost for care.

(B) An appropriate placement for an infant who is at-risk includes an approved foster or kinship family care resource, health care facility, or children's shelter which meets the criteria in (i) through (vi).

(i) The placement provider(s) for the infant has undergone all necessary training required to meet the medical needs of the infant.

(ii) The placement setting has all of the necessary equipment required to meet the medical needs of the infant, the placement provider(s) knows how to use the equipment, and the equipment is in operating condition.

(iii) The placement provider(s) is willing and able to follow all medical requirements and orders as given by the infant's physician(s).

(iv) The placement provider(s) is willing and able to transport the infant to all medical appointments.

(v) The placement provider(s) is willing and able to keep the infant's CW worker fully apprised of the infant's condition.

(vi) The CW worker provides, at the time of placement, to the placement provider(s) all medical and other related information about the condition of the infant and updates the placement provider(s) concerning any new information as it occurs.

(~~j~~k) **Release of a child from protective custody.** Unless there is a standing order of the court that allows for disposition of children taken into protective custody, a child ~~cannot be~~ is not released from protective custody without authorization and as specified by the court. ~~See OAC 340:75-1-16 for specific~~ Specific procedures ~~to be utilized~~ are followed when a child is ~~to be~~ released from protective custody by the court. If the child is released from protective custody, the child ~~can~~ is only ~~be~~ released to the court-ordered ~~custodian~~ custodian(s) as described in OAC 340:75-1-16.

SUBCHAPTER 6. PERMANENCY PLANNING

PART 11. PERMANENCY PLANNING AND PLACEMENT SERVICES

340:75-6-85. Child Welfare (CW) worker placement decisions and responsibilities

(a) **CW responsibilities.** The CW worker is responsible for the placement of a child who is removed from the home and placed in the ~~Department's~~ custody of the Department of Human Services (DHS) by law enforcement and court order. ~~The Department~~ DHS follows the provisions of the Multi-ethnic Placement Act of 1994 and the Interethnic Adoption Provisions of 1996 [OAC 340:75-1-9] unless the court has made a finding that the Indian Child Welfare Act applies to the child. In determining any placement for a child who has been removed from the custody of the custodial parent and placed with ~~the Department~~ DHS in emergency or protective custody, priority is given by ~~the Department~~ DHS to placement with the noncustodial parent unless such placement is not in the best interests of the child. If a determination is made by ~~the Department~~ DHS that placement with the noncustodial parent is not in the best interests of the child, the order of placement preference is consistent with Section 21.1 of Title 10 of the Oklahoma Statutes preferences, such as grandparent, person indicated by deceased parent, relative, the person in whose home the child has been living in a wholesome and stable environment, including, but not limited to, foster parent, or any other person deemed suitable by the court. If custody of the child cannot be made pursuant to these preferences,or any other person deemed suitable by the court. If custody of the child cannot be made pursuant to these preferences, the reason for such determination is specified in the agency records concerning the child. In addition, such records are made known to the court by ~~the Department~~ DHS. This responsibility includes ensuring the provision of food, clothing, shelter, medical care, education, basic care, protection, and safety for the child. [10 O.S. § 7003-7.1; and OAC 340:75-6-85.1 through 340:75-6-85.4]

(b) **Appropriate placement.** ~~The Department~~ DHS has the responsibility to determine whether a placement is an appropriate placement for a DHS custody child, and to remove a child from a placement when it is in the best interests of the child. [10 O.S. § 7202(10)(a)] Every effort is made to place the child within his or her own community, school district, or both in order to minimize the disruption for the child and ensure consistency with education. The Federal Indian Child Welfare Act (FICWA), Section 1915 of Title 25 of the United States Code, and the Oklahoma Indian Child Welfare Act (OICWA), Section 40.6 of Title 10 of the Oklahoma Statutes, define placement preferences for Indian children. [OAC 340:75-19-14] If a child is placed with a noncustodial parent, the noncustodial parent's home is considered the child's home community. Additionally, consideration is given to the ~~parents'~~ parent(s)' wishes as to the religious preference in the selection of a placement provider for the child. In order to promote stability and healthy growth of the child, it is the intent of ~~the Department~~ DHS to limit the number of times a child is moved in out-of-home placement. Consideration is given so that if reunification is not feasible or is delayed the placement made is the best available placement to provide permanency for the child. A request by a placement provider for immediate removal of a child is examined and assessed as to whether the situation can be resolved in order to prevent disruption of the placement.

(c) **Prescribed standards.** All placements utilized by ~~the Department~~ DHS are approved or licensed by specified procedures and meet prescribed standards. A custody child is not placed in a home, however temporary or closely related, prior to the provider meeting the standards as described in ~~Children and Family Services Division (CFSD)~~ DHS rules. Financial and social information is gathered, and driving and criminal background records are checked. Placements must be safe, have sufficient space to allow the child privacy, and the provider must support and participate in the child's case plan goals. All placements adhere to DHS rules such as not using physical discipline, and supporting and cooperating with the child's preferred religion and cultural choices. ~~[10 O.S. § 7209(D)(2)]~~

(d) **Child's placement preference.** The child's statements and placement preferences are considered in making case decisions and are recorded ~~in the court report~~ on Form CWS-KIDS-11, Court Report, when the child's age and developmental abilities allow. Although the child's preferences are not the sole consideration in determining placements and case plan decisions, they are evaluated as to their reasons or causes, degree of consistency and implications for the case plan goal, and permanency planning.

(e) **Court decisions regarding the child's placement.** The court cannot place a child in the custody of an individual who is subject to the Sex Offenders Registration Act or an individual living with someone subject to the Sex Offenders Registration Act. The term "individual" does not include a parent, legal guardian, or custodian of the child. The court also must inquire, prior to placing custody of a child with an individual, whether the individual has been convicted of a felony or a relevant misdemeanor, including assault and battery, alcohol or drug offenses, domestic abuse, and other charges, or has any charges pending. Prior to the custody order being issued, the individual must present an affidavit or sworn testimony to the court and must provide an Oklahoma criminal history background check. [10 O.S. § 7003-8.1~~(A) and (B)~~ (E)(3)]

(f) **Foster home placements.** The criteria in (1) through (~~9~~7) of this subsection apply to placements in a kin, paid or non-paid, foster, or therapeutic foster home.

(1) **Preplacement visit.** Whenever possible a preplacement visit for any child five years of age or older is held with the ~~placement provider~~ foster parent(s) ~~at the placement location~~. The worker involved in the preplacement visit makes every effort to discuss with the child how the care, supervision, and guidance, including, but not limited to, parental substitute authority, will be achieved.

~~(2) **Written notice of removal.** Except in emergencies, when a child has been in a foster home for three months or more, written notice is provided to the foster parents, including paid and non-paid kinship providers,~~

~~five calendar days prior to the child being removed from the placement.~~

(~~3~~2) **Foster parents may submit reports or present testimony in court.** Foster parents are entitled to provide the court with written reports or verbal testimony concerning the strengths, needs, behavior, important experiences, relationships regarding the child, and may provide information requested by the court.

~~(4) **Foster parent objections to removal of a child.** When a child has been in the same foster home for more than six months, the foster parent has the legal right to file a written objection to the child's removal from the foster home. This objection must be filed with the court and served on the Department within five days after receipt of the notice to remove the child. Timely filing and service of the objection shall stay removal of the child pending review of the court unless DHS' stated reason for removal is:~~

~~(A) substantial noncompliance by the placement provider with applicable DHS standards and agreements;~~

~~(B) pending investigation of allegations of abuse or neglect of the child by a placement provider or other person residing in the placement provider's home; or~~

~~(C) reunification with a parent with prior approval of the court.~~

(~~5~~3) **Foster parents informed of hearings.** Foster ~~parents~~ parent(s) and the child are given adequate prior written notice by the CW worker of all court hearings, including the date, time, place of hearing, name of judge, docket number, and the right to participate~~, if the child has resided in the foster home three months or more~~. [OAC 340:75-1-20] The foster ~~parents~~ parent(s) ~~are~~ is advised of the decisions made by the court ~~in~~ with respect to the child.

(~~6~~4) **Foster parents preferred placement.** When a ~~former foster~~ child reenters out-of-home care and a relative or kin placement is unavailable, the foster ~~parent~~ parent(s) who previously cared for the child is the preferred placement option if the placement is in the best interests of the child as well as the best interests of the other children in the foster home.

(~~7~~5) **Foster parents informed of review meetings, permanency planning meetings, and special staffing.** Foster parents are advised of any review meetings, permanency planning meetings, and special staffing, including CW's scheduled permanency planning review meetings, and their right to participate.

(~~8~~6) **Previous placement information.** Foster parents are provided the opportunity to contact and communicate with a previous foster ~~parents~~ parent(s) for the child in order to share information about the child, if authorized by the previous foster ~~parents~~ parent(s). Foster parents are informed of the number of times a ~~foster~~ child has been moved and the reasons why.

(~~9~~7) **Court approved treatment plan.** Foster parents are provided a copy of the court approved treatment plan.

(g) **Respect for the foster parents or placement ~~provider~~ providers**. ~~The CW worker's relationship with the placement provider is one of mutual respect, exchange of pertinent information, and clarity of the differences in roles and responsibilities each has with the child.~~ The foster ~~parent~~ parent(s) or placement ~~provider~~ provider(s) is ~~considered~~ a professional member of the CW team and is treated with dignity, respect, and consideration. ~~The placement provider keeps the CW worker informed~~ A mutual exchange of information, including, but not limited to, ~~about~~ the child's physical and emotional development, significant statements and behaviors which could affect the child's permanent plan and progress, ~~and events in~~ school events, and any other concern, is essential between the CW worker and the foster parent(s) or placement provider(s).

(h) **Foster parents' relationship to the child.** Foster parents provide the child's basic needs such as food, clothing, and shelter; and the child's need for nurturing, emotional support, and direction and guidance for the child's growth and development. These relationships are often close and lasting and are recorded through photographs, Life Books, the exchange of gifts and, in some cases, contact after the placement is completed. State statutes recognize foster parents as essential participants in the decisions related to the growth, development, care, protection, and treatment of a child placed in their home with whom they have established a familial relationship. [OAC 340:75-7-37]

(i) **Least restrictive.** Placements are made in the least restrictive or most home-like setting that will meet the child's individual needs and provide for the child's safety. [OAC 340:75-6-85 through 340:75-6-85.4] Section ~~7004-1.1.d.~~ 7004-1.1(2)(c) of Title 10 of the Oklahoma Statutes prohibits a deprived child from being placed in an institution. The least to the most restrictive placements are:

(1) kinship home which includes:
  (A) relative home; and
  (B) close family relationship;
(2) regular foster home;
(3) therapeutic foster home;
(4) group home or residential child care facility; and
(5) residential psychiatric facility.

(j) **Close proximity.** Placements are made in "close proximity," that is within 40 miles from the child's parents when reunification is the case plan goal. [10 O.S. § 7003-5.3(D)(5)(b)] Exceptions can be made when the child's individual needs and safety cannot be met in a placement within the prescribed distance of his or her own home and arrangements for transportation are made to ensure regular family visits.

340:75-6-86. Changes in child's living arrangements

(a) **Notice of changes in a child's living arrangement.** Section 7003-5.4a of Title 10 of the Oklahoma Statutes requires that ~~whenever~~ when a ~~DHS custody~~ child in the custody of the Department of Human Services (DHS) is moved from one location to another, ~~the Department~~ DHS must notify the:

(1) court of jurisdiction;
(2) child's attorney;
(3) district attorney;
(4) Post Adjudication Review Board (PARB); and
(5) court-appointed special advocate (CASA).

(b) **Notification to parents.** ~~Parents~~ The parent(s), legal ~~guardians~~ guardian(s), or ~~custodians~~ custodian(s) involved with the child and court case ~~are~~ is informed of all changes in the child's living arrangements, but may or may not be informed of the address of the placement depending on the case circumstances. The child's location is also provided when needed for scheduled family visits or correspondence.

(c) **Prior court approval required to change placements after a hearing.** Child Welfare may not move a child from one placement to another without court approval if the child has already moved once since the last court hearing. A child may be moved due to an emergency, but a hearing may be conducted if requested in writing within ten days of moving the child. Court approval is not required for movement to or from a shelter due to an emergency, including a placement failure, placement disruption or other similar cause. [10 O.S. § ~~7003-5.4a.B~~ 7003-5.4a(B)(1) through (3)]

(d) **Removal from foster care and required notification.** ~~In circumstances when a child is being removed from a foster home and the foster parent has requested a hearing, the worker informs the court at the hearing of the reason why the foster child is being removed from the foster home and the number of times the foster child has been moved within the foster family system. The court, in the court record, explains the reasons why the removal of a foster child from the foster home is in the best interests of the foster child.~~ Except in an emergency, when a child has been in a foster home for three months or more, written notice is provided to the foster parent(s), including tribal, emergency, therapeutic, Developmental Disabilities Services Division (DDSD), regular and kinship care, and to the court five judicial days prior to the child being removed from the placement. The length of time applies to placement in each individual therapeutic or emergency foster care home and not placement with the therapeutic or emergency foster care agency. ~~The Department~~ DHS will not remove the ~~foster~~ child from the foster home solely on the grounds that a foster ~~parent~~ parent(s) has exercised substitute parental authority.

(1) **Foster parents' objection to removal of a child.** When a child has been in the same foster home for more than six months, the foster parent(s) has the legal right to file a written objection to the child's removal from the foster home. [10 O.S. § 7208(D)] This objection must be filed with the court and served on DHS within five judicial days after receipt of the notice to remove the child. Timely filing and service of the objection shall stay removal of the child pending review of the court unless DHS' stated reason for removal is:

(A) reunification with a parent(s) with prior approval of the court; or

(B) based upon an emergency situation, that includes:

(i) the child's need for emergency medical or mental health treatment;

(ii) substantial noncompliance by the foster parent(s) with applicable contract requirements and agreements; or

(iii) a pending investigation of allegations of abuse or neglect of a child by a foster parent(s) or other person residing in the foster family home.

(2) **Hearing on foster parents' objection to removal of a child.** In circumstances when a child is being removed from a foster home and the foster parent(s) has filed an objection, an informal hearing on the objection is held. At the hearing the worker informs the court of the reason(s) the child is being removed from the foster home and the number of times the child has been moved within the foster family system. If the court finds DHS' decision to remove the child was arbitrary or inconsistent with the child's treatment and service plan, the court may order that the child remain in or be returned to the objecting foster parent(s)' home. If DHS' removal decision is upheld, the court explains, in the court record, why the removal of the child from the foster home is in the best interests of the child.

SUBCHAPTER 15. ADOPTIONS

PART 14. POST ADOPTION SERVICES

340:75-15-128. Adoption ~~subsidy assistance~~ Assistance Program

~~The Adoption Assistance Program was established to provide permanency for eligible children with special needs in public and tribal foster care by providing ongoing financial and medical assistance on their behalf to the families who adopt them. Title IV-E at Section 473 of the Social Security Act provides for a federal adoption assistance program to assist states in providing assistance to eligible special needs children. If a special needs child is not eligible for federally funded adoption assistance, the child may be eligible for state funded assistance under the Subsidized Adoption Act, Section 7510-1.1 et seq. of Title 10 of the Oklahoma Statutes.~~

(a) The purpose of the Adoption Assistance Program is to help secure and support safe and permanent adoptive families for children with special needs. Adoption assistance is designed to provide adoptive families of any economic stratum with needed social services, and medical and financial support to care for children considered difficult to place. Unlike the foster care program, adoptive parents are primarily responsible for the child's support. Benefits provided through the Adoption Assistance Program are designed to supplement the resources of the adoptive family.

(b) The Department of Human Services (DHS) promotes the Adoption Assistance Program by providing information to families who apply for adoption through DHS about the availability of adoption assistance for eligible children with special needs.

(1) DHS provides information to Oklahoma licensed child-placing agencies and federally recognized Indian tribes about the availability of adoption assistance for eligible children with special needs.

(2) DHS does not have the responsibility to seek out and inform individuals who are unknown to DHS about the possibility of adoption assistance for children with special needs who are also unknown to DHS.

(c) Title IV-E at Section 473 of the Social Security Act provides for a federal adoption assistance program to assist states in providing assistance to eligible children with special needs. If a child with special needs is not eligible for federally funded adoption assistance, the child may be eligible for state funded assistance under the Oklahoma Adoption Assistance Act, Section 7510-1.1 et seq. of Title 10 of the Oklahoma Statutes.

340:75-15-128.2. Eligibility requirements for Title IV-E ~~general~~ adoption assistance

(a) **The child.** The requirements for a child to be eligible for Title IV-E adoption assistance are outlined in paragraphs (1) ~~-~~ through (4) of this subsection.

(1) The child is Aid to Families with Dependent Children (AFDC) eligible and meets the definition of a child with special needs.

(A) This eligibility requirement includes a determination on the method of removal from the child's home. If the child was removed from the home pursuant to a:

(i) judicial removal, such determination must be made in the first hearing that sanctions the removal and must indicate that it was contrary to the child's welfare to remain in the home;

(ii) voluntary relinquishment~~.~~, ~~The~~ the relinquishment may be considered a judicial removal only if the child is voluntarily relinquished to the Department of Human Services (DHS), a tribe with whom DHS has a Title IV-E agreement, or to a private, nonprofit agency, and there is a petition to the court to remove the child from the home within six months of the time the child lived with a specified relative, and there is a subsequent judicial determination to the effect that remaining in the home would be contrary to the child's welfare; or

(iii) voluntary placement agreement, the child must have actually received Title IV-E foster care payments, and DHS or a tribe with whom DHS has a Title IV-E agreement must have responsibility for placement and care of the child in order for the child to be eligible for Title IV-E adoption assistance.

(B) The child must meet the AFDC eligibility criteria both at the time of removal and in the month the adoption petition is filed.

(C) The special needs determination must be made prior to the finalization of the adoption.

(2) The child is eligible for Supplemental Security Income (SSI) benefits at the time the adoption petition is filed and meets the definition of a child with special needs prior to finalization of the adoption. How the child was removed from his or her home or whether the state has responsibility for the child's placement and care is irrelevant.

(3) The child is eligible as a child of a minor parent and meets the definition of a child with special needs.

(A) This eligibility requirement is met if:

(i) the child's parent is in foster care and receiving Title IV-E foster care maintenance payments that cover both the minor parent and the child at the time the adoption petition is initiated; and

(ii) the special needs determination is made prior to finalization of the adoption.

(B) There is no requirement that the child must have been removed from home as a result of a judicial determination or pursuant to a voluntary placement agreement.

(C) If the child and minor parent have been separated in foster care prior to the time of the adoption petition, the child's eligibility for Title IV-E adoption assistance must be determined based on the child's current and individual circumstances.

(4) The child is eligible due to prior Title IV-E adoption assistance eligibility and meets the definition of a child with special needs.

(A) When a child is adopted and receives Title IV-E adoption assistance, but the adoption later dissolves or the adoptive ~~parents~~ parent(s) ~~die~~ dies, the child may continue eligibility for Title IV-E adoption assistance in a subsequent adoption.

(B) The manner of a child's removal from the adoptive home is irrelevant.

(b) **The adoptive family.** There is no means test for the ~~family~~ prospective adoptive parent(s) to determine eligibility for adoption assistance. A prospective adoptive parent who has a felony conviction at any time for child abuse or neglect; spousal abuse; crimes against children, including child pornography; or crimes involving violence, including rape, sexual assault, or homicide is not eligible for Title IV-E adoption assistance. A prospective adoptive parent who has a felony conviction for physical assault, battery, or a drug related offense committed in the past five years is not eligible for Title IV-E ~~general or non-recurring~~ adoption assistance.

340:75-15-128.3. Eligibility requirements for state ~~option~~ funded adoption assistance

(a) A child may be determined by the Department of Human Services (DHS) eligible for state ~~option~~ funded adoption assistance if he or she does not meet the eligibility requirements for Title IV-E adoption assistance~~, but~~ and at the time of adoptive placement:

(1) ~~was a resident of the state of Oklahoma~~ has not attained the age of 18 years;

(2) was in the court-ordered custody of ~~the~~ Oklahoma ~~Department of Human Services~~ DHS~~, a licensed private nonprofit child-placing agency~~ or a federally recognized Indian tribe as defined by the federal Indian Child Welfare Act and the Oklahoma Indian Child Welfare Act; and

(3) met the definition of a child with special needs as set forth in OAC 340:75-15-128.4.~~; and~~

~~(4) had been removed from his or her home as a result of:~~

~~(A) a judicial determination to the effect that remaining in the home would be contrary to the child's welfare, or~~

~~(B) a voluntary placement by the parents if there has been a judicial determination within the first 180 days of the placement that the placement is in the best interest of the child.~~

(b) The adoption assistance benefits an eligible child may receive are set forth in OAC 340:75-15-128.1. If DHS determines a child is eligible for an adoption assistance payment, the payment amount is determined by DHS within the range of rates set forth in OAC 340:75-15-128.1(a)(2) based on the needs of the child and circumstances of the adoptive parent(s). The other provisions of OAC 340:75-15-128.1 regarding overpayments, termination or modification, death of adoptive parent(s), or dissolution of the adoption, and relocation by adoptive parent(s) to another state also apply to state funded adoption assistance.

(c) The provisions of OAC 340:75-15-128.5 apply to state funded adoption assistance except as specifically indicated otherwise.

(~~b~~d) Adoptive parents who have a history of conviction(s) for felony offense(s) as described in OAC 340:75-15-88(d)(4)(D) may be determined eligible for state ~~option~~ funded ~~general~~ adoption assistance on a case by case basis in consultation with the State Office, Children and Family Services Division (CFSD), Adoption Assistance Section. [OAC 340:75-15-88(e)]

(~~c~~e) The only exception to the requirement in OAC 340:75-15-128.5(d) that Form DCFS-68, Adoption Assistance Agreement, must be signed by the adoptive parent(s) and DHS before finalization of the adoption is when ~~Assistance may be approved after finalization of the adoption if~~ the child is determined to have a causative pre-existing condition which was not identified or known prior to the ~~legal~~ finalization of the adoption ~~and~~ which has resulted in a severe medical or psychiatric condition that requires extensive treatment, hospitalization, or institutionalization. The child must also meet the definition of a child with special needs. [OAC 340:75-15-128.4]

(1) The application procedure is the same as for Title IV-E applications made after finalization~~.~~ as set forth in ~~[~~OAC ~~340:75-15-128.5(d)(4)~~ 340:75-15-128.5(f)(4)~~]~~. There is no requirement that the ~~family~~ adoptive parent(s) prevail at a fair hearing.

(2) The benefits are the same as for ~~Title IV-E~~ state funded adoption assistance approved prior to finalization of the adoption. ~~[OAC 340:75-15-128.3]~~

(3) If eligible for a monthly adoption assistance payment, the ~~adoptive parents~~ child may also be entitled to receive retroactive payments for the two months prior to the date the adoption assistance was approved, if requested and documentation is produced that shows the child was receiving ~~verified~~ treatment or assessment during those two months~~, and the parent(s) request the retroactive payment~~.

340:75-15-128.6. Denial and fair hearing

(a) **~~Denial~~ Notice of intent to deny adoption assistance.** The application for adoption assistance may be denied if the child does not meet eligibility criteria. Form DCFS-99, Notice of Intent to Deny Adoption Assistance, is sent to the adoptive parent(s) by certified mail.

(b) **Additional review.** Following ~~denial of the application~~ issuance of Form DCFS-99, the adoptive ~~parents~~ parent(s) ~~are~~ is given 30 days from the date on Form DCFS-99 to provide additional proof of eligibility by filing Part B of Form DCFS-50, Request for Review of Denial, ~~including~~ and attaching additional information or documentation that might affect the approval of the original application. If the ~~family~~ adoptive parent(s) provides additional information, the application is reviewed by the Adoption Assistance Review Committee, and a final determination is delayed, pending the review. If the Adoption Assistance Review Committee denies the application, Form DCFS-100, Final Notice of Denial of Adoption Assistance, is sent to the adoptive parent(s) by certified mail.

(c) **Request for fair hearing.** ~~The adoptive family may request a fair hearing in writing regarding any adoption assistance decision once they have completed the request for review of denial process per (b) of this Section and received a second denial letter. The family may request a fair hearing in writing at initial denial if they do not have additional information for consideration, but believe the child qualifies for adoption assistance benefit.~~

(1) There is an opportunity for an administrative fair hearing for any adoptive parent(s) whose:

(A) application for adoption assistance has been:

(i) denied or not acted upon with reasonable promptness; or

(ii) approved in an amount less than requested; or

(B) Form DCFS-68, Adoption Assistance Agreement, has been:

(i) modified without the concurrence of the adoptive parent(s); or

(ii) terminated by the Department of Human Services (DHS). [OAC 340:2-5-91(b)]

(2) The adoptive parent(s) may request a fair hearing:

(A) upon receipt of Form DCFS-99 if he or she does not have additional information or documentation to submit for further consideration by the Adoption Assistance Review Committee, but believes the child is eligible for adoption assistance benefits; or

(B) if the adoptive parent(s) has requested a review of denial pursuant to subparagraph (b) of this Section and received Form DCFS-100 and still believes the child is eligible for adoption assistance benefits.

(3) The request for a fair hearing is submitted in writing to DHS using ~~The family files OAC 340:2, Appendix G,~~ Form H-4, Resource Family Request for a Fair Hearing, within 30 days of the date of:

(A) ~~the written notice of denial~~ Form DCFS-99; or

(B) Form DCFS-100, if a review of denial process is requested.

340:75-15-128.7. Non-recurring adoption assistance [REVOKED]

~~(a) **Reimbursement expenses.** The term "non-recurring adoption expenses" is defined as the reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child with special needs, which are not incurred in violation of state or federal law, and which have not been reimbursed from other sources or funds. Financial reimbursement is available to the adoptive family for:~~

~~(1) adoption fees;~~

~~(2) court costs;~~

~~(3) attorney fees;~~

~~(4) adoptive home study fee;~~

~~(5) costs incurred to obtain health and psychological reports on family members;~~

~~(6) supervision of the adoptive placement by another agency;~~

~~(7) transportation, food, and lodging for the adoptive parents and child during the placement process; and~~

~~(8) cost of fingerprinting paid by the adoptive parent.~~

~~(b) **Eligibility.** The child must meet the eligibility criteria for a child with special needs. [OAC 340:75-15-128.5] The child does not have to be in the custody of the Department or a federally recognized tribe at the time of finalization of the adoption. The child does not have to meet the Title IV-E eligibility requirements.~~

~~(c) **Benefits.** The benefits of non-recurring adoption assistance are listed in (1) through (3) of this subsection.~~

~~(1) **Finalized adoptions.** Assistance is limited to documented actual expenses incurred up to a maximum of $2,000 per child if the adoption is finalized.~~

~~(2) **Non-finalized adoptions.** Potential adoptive parents whose trial adoption disrupts prior to finalization on or after January 1, 1999 may be eligible for a maximum of $1,000 per child in non-recurring adoption assistance.~~

~~(3) **Payment.** Reimbursement is made directly to the adoptive family for those services for which verification has been submitted indicating the charges have been paid. All other outstanding expenses are paid directly to the vendors.~~

~~(d) **Approval.** The non-recurring adoption assistance must be approved and the Adoption Assistance Agreement, Form DCFS-68, signed by all parties prior to finalization of the adoption.~~

[OAR Docket #03-479; filed 3-27-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE

[OAR Docket #03-480]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General ProvisionsPart 15. Training for Child Welfare Workers
340:75-1-241. [NEW]
(Reference APA WF # 02-34)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Section 162 of Title 56 of the Oklahoma Statutes.
DATES:
Comment period:
December 16, 2002 through January 15, 2003
Public hearing:
None held or requested
Adoption:
January 28, 2003
Submitted to Governor:
January 30, 2003
Submitted to House:
January 30, 2003
Submitted to Senate:
January 30, 2003
Gubernatorial approval:
March 17, 2003
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 26, 2003.
Final adoption:
March 26, 2003
Effective:
May 12, 2003
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The proposed revision to Subchapter 1 of Chapter 75 adds Section 241 which details the educational practicums in county offices available to students in social work or related fields and offers guidance to those interested in a Child Welfare (CW) career.
CONTACT PERSON:
Dena Thayer, Programs Manager, Office of Planning, Policy and Research, Oklahoma Department of Human Services, 2400 N Lincoln Blvd., Oklahoma City, OK 73105, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2003.

SUBCHAPTER 1. GENERAL PROVISIONS

PART 15. TRAINING FOR CHILD WELFARE WORKERS

340:75-1-241. Educational practicums

Child Welfare (CW), in recognition of the value of practicum experiences, offers educational practicums in county offices for students in social work or related fields. Students in CW practicum placements are provided office space, supplies, support, and travel reimbursement for visits from the office to various assignments. Practicum placements are requested for qualified students by colleges and universities with accredited social work and other human services curriculums. Each college and university is responsible for the recruitment of non-Oklahoma Department of Human Services (OKDHS) staff interested in a career in public child

welfare. When students graduate from accredited social work programs, hiring is expedited through the College Recruitment Program. [OAC 340:2-17-3]

[OAR Docket #03-480; filed 3-27-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE

[OAR Docket #03-481]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 6. Permanency Planning
Part 7. Case Plans
340:75-6-40.1. [AMENDED]
340:75-6-40.6. [AMENDED]
Subchapter 13. Other Child Welfare Services and Medical Services for Children in Substitute Care
Part 7. Medical Services
340:75-13-83. [NEW]
(Reference APA WF # 02-35)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and State Plan - Under Title XIX of the Social Security Act.
DATES:
Comment period:
December 16, 2002 through January 15, 2003
Public hearing:
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Adoption:
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January 30, 2003
Submitted to Senate:
January 30, 2003
Gubernatorial approval:
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Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 26, 2003.
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March 26, 2003
Effective:
May 12, 2003
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The revisions to Subchapters 6 and 13 of Chapter 75 incorporate Oklahoma's Title XIX Child Welfare Targeted Case Management (CWTCM) Program and associated activities. The CWTCM program was implemented based on Title XIX State Plan Amendment, TN# 97-10, June 29, 1998. The revisions are made to provide a rules-based program description and additional documentation for the program.

340:75-6-40.1 is revised to reflect references to CWTCM services and activities.

340:75-6-40.6 is revised to update and clarify language and terms.

340:75-13-83 is added to specify the provision of CWTCM services under Oklahoma's Medicaid State Plan. Under the plan, Oklahoma Department of Human Services (OKDHS) is designated as a TCM provider for children in voluntary, emergency, temporary, or permanent custody of OKDHS and who are in out-of-home care or trial adoption.

CONTACT PERSON:
Dena Thayer, Programs Manager, Office of Planning, Policy and Research, Oklahoma Department of Human Services, 2400 N Lincoln Blvd., Oklahoma City, OK 73105, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2003.

SUBCHAPTER 6. PERMANENCY PLANNING

PART 7. CASE PLANS

340:75-6-40.1. Placement Plan Report~~, Form CWS-KIDS-8~~

~~The~~ Form CWS-KIDS-8, Placement Plan Report, is completed for the initial and all subsequent changes of placement of a ~~DHS custody~~ child in the custody of the Oklahoma Department of Human Services (OKDHS) except own home and shelter. ~~The Placement Plan Report~~ Form CWS-KIDS-8 is completed within 30 days of removal of a child in ~~DHS~~ the custody or supervision of OKDHS and in out-of-home placement, and updated when changes occur. Changes are submitted to the court at review and dispositional hearings. The report is filed with the court in conjunction with ~~the treatment plan~~ Form CWS-KIDS-10, Treatment Plan. Information included in ~~the Placement Plan Report~~ Form CWS-KIDS-8 assists the judge in determining whether continuation of the child in the home is contrary to the health, safety, or welfare of the child, whether reasonable efforts were made to prevent removal, or whether an emergency existed that required the removal of the child, and whether independent living services are appropriate, if applicable. [OAC 340:75-6-40.4] In part, the report contains the:

(1) reason for removal;

(2) reason placement outside the home was necessary and return to the home not appropriate;

(3) services offered to the family to prevent removal, if applicable, or if services were not provided or appropriate, the emergency that existed that required removal of the child;

(4) description of the safe and proper placement setting and the safety and appropriateness of the placement to meet the child's special needs;

(5) least restrictive placement, consistent with the best interests and special needs of the child, including efforts to place with relatives or kin;

(6) independent living services, if appropriate;

(7) whether the placement is in close proximity to the child's family; and

(8) services provided to the child and to the placement provider to ensure safe and proper care and meet the needs of the child.

340:75-6-40.6. Case contacts

The case contacts screen in KIDS contains the chronological history of ~~the~~ Child Welfare (CW) worker contacts with clients and collaterals and is a permanent part of the case record. Information contained in the contacts is essential to evaluating the case circumstances for making permanent plan case decisions. The report consists of the date of contact, name of the client or collateral contacted, other participants, purpose, location, and comments about the content of the contact or meeting.

SUBCHAPTER 13. OTHER CHILD WELFARE SERVICES AND MEDICAL SERVICES FOR CHILDREN IN SUBSTITUTE CARE

PART 7. MEDICAL SERVICES

340:75-13-83. Child Welfare Targeted Case Management

Oklahoma's Medicaid State Plan was amended August 1, 1997 to include Targeted Case Management (TCM). Under the plan, the Oklahoma Department of Human Services (OKDHS) is designated as a TCM provider for children under the age of 18 who are in the voluntary, emergency, temporary, or permanent custody of OKDHS and who are in out-of-home care or trial adoption. Specific TCM services are those that assist these children to access needed medical, educational, social, and other services. The Child Welfare (CW) worker:

(1) selects TCM services when completing the child's placement plan; [OAC 340:75-6-40.1]

(2) provides TCM services during contacts with the child or with other persons on behalf of the child; and [OAC 340:75-6-48]

(3) documents TCM services on the KIDS Contacts screen. [OAC 340:75-6-40.6]

[OAR Docket #03-481; filed 3-27-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 100. DEVELOPMENTAL DISABILITIES SERVICES DIVISION

[OAR Docket #03-494]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
340:100-1-2 [AMENDED]
340:100-1-4 [REVOKED]
Subchapter 3. Administration
Part 1. General Administration
340:100-3-6 [AMENDED]
340:100-3-14 [NEW]
Part 3. Operations
340:100-3-27 [AMENDED]
340:100-3-27.1 through 340:100-3-27.5 [NEW]
340:100-3-28 [AMENDED]
340:100-3-33.1 [NEW]
340:100-3-38 [AMENDED]
340:100-3-38.1 through 340:100-3-38.11 [NEW]
Subchapter 5. Client Services
Part 3. Service Provisions
340:100-5-22.1 [AMENDED]
340:100-5-22.4 through 100-5-22.5 [NEW]
340:100-5-26 [AMENDED]
340:100-5-26.1 [NEW]
340:100-5-31 [RESERVED]
340:100-5-32 through 340:100-5-33 [NEW]
Part 5. ~~Individualized~~Individual Planning
340:100-5-50 through 340:100-5-53 [AMENDED]
340:100-5-55 [REVOKED]
340:100-5-56 through 340:100-5-57 [AMENDED]
340:100-5-57.1 [NEW]
340:100-5-58 [AMENDED]
Subchapter 6. Group Home Regulations
Part 15. Medication Storage and Administration
340:100-6-70 [AMENDED]
(Reference APA WF # 02-20, 02-21, 02-25, 02-31, 02-40)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Section 1415.1 of Title 10 of the Oklahoma Statutes.
DATES:
Comment period:
December 16, 2002 through January 15, 2003
Public hearing:
None requested
Adoption:
January 28, 2003
Submitted to Governor:
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Submitted to House:
January 30, 2003
Submitted to Senate:
January 30, 2003
Gubernatorial approval:
March 17, 2003
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 26, 2003.
Final adoption:
March 26, 2003
Effective:
June 1, 2003
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 3. Administration
Part 3. Operations
340:100-3-27 [AMENDED]
340:100-3-27.1 through 340:100-3-27.5 [NEW]
340:100-3-38 [AMENDED]
340:100-3-38.1 through 340:100-3-38.11 [NEW]
Subchapter 5. Client Services
Part 3. Service Provisions
340:100-5-22.1 [AMENDED]
340:100-5-26 [AMENDED]
340:100-5-26.1 [NEW]
340:100-5-31 [RESERVED]
340:100-5-32 through 340:100-5-33 [NEW]
Part 5. ~~Individualized~~Individual Planning
340:100-5-50 through 340:100-5-53 [AMENDED]
340:100-5-55 [REVOKED]
Subchapter 6. Group Home Regulations
Part 15. Medication Storage and Administration
340:100-6-70 [AMENDED]
(Reference APA WF # 02-20)
Gubernatorial approval:
July 16, 2002
Register publication:
19 Ok Reg 2948

Docket number:
02-1280
Superseded rules:
Subchapter 3. Administration
Part 3. Operations
340:100-3-33.1 [NEW]
(Reference APA WF# 02-21)
Gubernatorial approval:
July 31, 2002
Register publication:
19 Ok Reg 2991
Docket number:
02-1313
Superseded rules:
Subchapter 1. General Provisions
340:100-1-2 [AMENDED]
340:100-1-4 [REVOKED]
Subchapter 3. Administration
Part 1. General Administration
340:100-3-6 [AMENDED]
340:100-3-14 [NEW]
Subchapter 5. Client services
Part 5. Individualized Planning
340:100-5-56 through 340:100-5-57 [AMENDED]
340:100-5-57.1 [NEW]
340:100-5-58 [AMENDED]
(Reference APA WF # 02-25)
Gubernatorial approval:
October 16, 2002
Register publication:
20 Ok Reg 98
Docket number:
02-1401
Superseded rules:
Subchapter 5. Client Services
Part 3. Service Provisions
340:100-5-22.4 through 100-5-22.5 [NEW]
(Reference APA WF # 02-31)
Gubernatorial approval:
January 21, 2003
Register publication:
20 Ok Reg 544
Docket number:
03-154
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
340:100-1-2 is revised to include new definitions to support new and revised rules, and definitions of words that are no longer found in Chapter 100 are deleted. 340:100-1-4 is revoked. 340:100-3-6 is revised, clarifying and strengthening the responsibilities of the Human Rights Committees. 340:100-3-14 is a new section addressing responsibilities of the Statewide Behavior Review Committee to ensure that protective intervention plans comply with Department of Human Services (DHS) rules on the use of restrictive or intrusive procedures. 340:100-3-27 is revised to include a requirement that the contract provider employ sufficient program coordination staff to provide one program coordinator for each ten individuals receiving residential supports when a violation(s) of program coordination requirements found in 340:100-5-22.1 remains uncorrected 60 days following the provider's receipt of a written report of the findings; and divide the inordinately long Section into shorter Sections, 100-3-27.1 through 100-3-27.5. 340:100-3-28 is updated to correspond with current DHS rules. 340:100-3-33.1 is established to provide guidelines for determination by DDSD staff of the necessity of services to be provided. 340:100-3-38 is revised to specify different training requirements for different job functions in DDSD and in the community service system and divide the inordinately long Section into shorter, more specific Sections, 340:100-3-38.1 through 100-3-38.11. 340:100-3-38.1 and 340:100-3-38.3 are revised to remove the confusing and no-longer relevant rule that residential services were considered to be in place if the household received more than 84 hours of staff support per week. 340:100-3-38.2 is revised to correct the inadvertent omission of staff providing community-based employment services from the rule. 340:100-3-38.4 is revised to require on-going annual training, as required for all other providers, for persons providing specialized foster care. 340:100-3-38.6 is revised to require that case management supervisors take the training required for the case managers they supervise. 340:100-3-38.7 is revised to remove a confusing duplication regarding behavior support training. 340:100-3-38.10 is revised to correct an error that stated the same information two times using somewhat different language. 340:100-5-22.1 is revised to provide qualifications and work requirements for staff supervising direct support staff in contract residential programs and remove the confusing and no-longer relevant rule that residential services were considered to be in place if the household received more than 84 hours of staff support per week. 340:100-5-22.4 is established to reflect the various residential options available for members of the Homeward Bound class. 340:100-5-22.5 specifies state-funded services provided for class members receiving supported living services and agency companion services. 340:10-5-26 is revised to remove rules regarding use of psychotropic medications and for cleanup. 340:100-5-26.1 establishes new rules governing the individual's Personal Support Team (Team) responses when psychotropic medication is prescribed. 340:100-5-32 establishes new rules regarding requirements for medication administration in community programs. 340:100-5-33 establishes new rules to provide guidance for contract service providers in the event of a medication error. 340:100-5-50 through 100-5-53 are revised to refine the development of each person's Individual Plan and the operation of the Team. 340:100-5-55 is revoked. 340:100-5-56 is revised to address safety issues in each person's life. 340:100-5-57 is revised to address planning for any sort of identified risk, rather than addressing only challenging behavior. 340:100-5-57.1 is a new section addressing requirements for reporting and monitoring the use of restrictive or intrusive procedures. 340:100-5-58 is updated including new restrictions on the use of physical management and physical restraint in community programs. 340:100-6-70 is revised to indicate that group home providers now follow rules at 340:100-5-32.
CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

DUE TO EXCESSIVE LENGTH OF THESE RULES (AS DEFINED IN OAC 655:10-7-12), THE FULL TEXT OF THESE RULES WILL NOT BE PUBLISHED. THE RULES ARE AVAILABLE FOR PUBLIC INSPECTION AT THE DEPARTMENT OF HUMAN SERVICES, SEQUOYAH BUILDING, OKLAHOMA CITY AND AT THE SECRETARY OF STATE'S OFFICE OF ADMINISTRATIVE RULES. THE FOLLOWING SUMMARY HAS BEEN PREPARED PURSUANT TO 75 O.S., SECTION 255(B):

SUMMARY:
340:100-1-2 is revised to include new definitions to support new and revised rules, and definitions of words that are no longer found in Chapter 100 are deleted. 340:100-1-4 is revoked. 340:100-3-6 is revised, clarifying and strengthening the responsibilities of the Human Rights Committees. 340:100-3-14 is a new section addressing responsibilities of the Statewide Behavior Review Committee to ensure that protective intervention plans comply with Department of Human Services (DHS) rules on the use of restrictive or intrusive procedures. 340:100-3-27 is revised to include a requirement that the contract provider employ sufficient program coordination staff to provide one program coordinator for each ten individuals receiving residential supports when a violation(s) of program coordination requirements found in 340:100-5-22.1 remains uncorrected 60 days following the provider's receipt of a written report of the findings; and divide the inordinately long Section into shorter Sections, 100-3-27.1 through 100-3-27.5. 340:100-3-28 is updated to correspond with current DHS rules. 340:100-3-33.1 is established to provide guidelines for determination by DDSD staff of the necessity of services to be provided. 340:100-3-38 is revised to specify different training requirements for different job functions in DDSD and in the community service system and divide the inordinately long Section into shorter, more specific Sections, 340:100-3-38.1 through 100-3-38.11. 340:100-3-38.1 and 340:100-3-38.3 are revised to remove the confusing and no-longer relevant rule that residential services were considered to be in place if the household received more than 84 hours of staff support per week. 340:100-3-38.2 is revised to correct the inadvertent omission of staff providing community-based employment services from the rule. 340:100-3-38.4 is revised to require on-going annual training, as required for all other providers, for persons providing specialized foster care. 340:100-3-38.6 is revised to require that case management supervisors take the training required for the case managers they supervise. 340:100-3-38.7 is revised to remove a confusing duplication regarding behavior support training. 340:100-3-38.10 is revised to correct an error that stated the same information two times using somewhat

different language. 340:100-5-22.1 is revised to provide qualifications and work requirements for staff supervising direct support staff in contract residential programs and remove the confusing and no-longer relevant rule that residential services were considered to be in place if the household received more than 84 hours of staff support per week. 340:100-5-22.4 is established to reflect the various residential options available for members of the Homeward Bound class. 340:100-5-22.5 specifies state-funded services provided for class members receiving supported living services and agency companion services. 340:10-5-26 is revised to remove rules regarding use of psychotropic medications and for cleanup. 340:100-5-26.1 establishes new rules governing the individual's Personal Support Team (Team) responses when psychotropic medication is prescribed. 340:100-5-32 establishes new rules regarding requirements for medication administration in community programs. 340:100-5-33 establishes new rules to provide guidance for contract service providers in the event of a medication error. 340:100-5-50 through 100-5-53 are revised to refine the development of each person's Individual Plan and the operation of the Team. 340:100-5-55 is revoked. 340:100-5-56 is revised to address safety issues in each person's life. 340:100-5-57 is revised to address planning for any sort of identified risk, rather than addressing only challenging behavior. 340:100-5-57.1 is a new section addressing requirements for reporting and monitoring the use of restrictive or intrusive procedures. 340:100-5-58 is updated including new restrictions on the use of physical management and physical restraint in community programs. 340:100-6-70 is revised to indicate that group home providers now follow rules at 340:100-5-32.

[OAR Docket #03-494; filed 3-27-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 105. AGING SERVICES DIVISION

[OAR Docket #03-495]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Aging Services Division
340:105-1-8. [AMENDED]
Subchapter 3. Adult Protective Services [REVOKED]
Part 1. Philosophy and Purpose [REVOKED]
340:105-3-1. through 340:105-3-3. [REVOKED]
Part 3. Reports of Alleged Abuse, Neglect or Exploitation [REVOKED]
340:105-3-20. through 340:105-3-25.1. [REVOKED]
340:105-3-25.4. through 340:105-3-37. [REVOKED]
Subchapter 10. Policies and Procedures Manual for Title III of the Older Americans Act of 1965, as Amended
Part 5. Area Agencies on Aging
340:105-10-32. [AMENDED]
Part 7. Program Standards for Services Funded Under Title III
340:105-10-51. through 340:105-10-52. [AMENDED]
340:105-10-72. through 340:105-10-74. [AMENDED]
340:105-10-86. [AMENDED]
Part 9. Fiscal and Administrative Policies for Area Agencies on Aging and Title III Projects
340:105-10-95. [AMENDED]
Subchapter 11. Statewide Long-Term Care Ombudsman Program
Part 37. Statewide Long-Term Care Ombudsman Program
340:105-11-255. [AMENDED]
(Reference APA WF# 02-29)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Older Americans Act (OAA), as amended 2000.
DATES:
Comment period:
December 16, 2002 through January 15, 2003
Public hearing:
None requested
Adoption:
January 28, 2003
Submitted to Governor:
January 30, 2003
Submitted to House:
January 30, 2003
Submitted to Senate:
January 30, 2003
Gubernatorial approval:
March 17, 2003
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 26, 2003.
Final adoption:
March 26, 2003.
Effective:
June 1, 2003
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Aging Services Division (ASD) rules are revised to provide clearer oversight and guidance to staff and contract providers; comply with mandatory requirements from the Older Americans Act (OAA) as amended in 2000; and correct spelling. Subchapter 3. Adult Protective Services (APS) is revoked, contigent upon approval of new rules in OAC 340:5. The responsibility for administering APS was transferred from ASD to the Family Support Services Division in an organizational restructuring. 340:105-1-8 is revised to require transportation contractors to provide additional information on equipment titles. 340:105-10-32 is revised to include consistency and clarity to Area Agency on Aging (AAA) advisory council functions. 340:105-10-51 is revised to include appropriate intake procedures. 340:105-10-52 is revised to include consistency and clarity to Title III project advisory council functions. 340:105-10-72 is revised to included nutrition consultant guidance. 340:105-10-73 is revised to include consistency and clarity to congregate meal project advisory council functions. 340:105-10-74 is revised to include procedures on documenting nutrition education. 340:105-10-86 is revised to include providing an analysis of data when opening a new meal site. 340:105-10-95 is revised to include Older Americans Act amendments of 2000. 340:105-11-255 is revised to correct spelling.
CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2003.

SUBCHAPTER 1. AGING SERVICES DIVISION

340:105-1-8. Transportation Equity Act (TEA-21), Section 5310

This program under the Transportation Equity Act (TEA-21), Section 5310 of the Federal Transit Administration as amended under Title 49 United States Code, Section 5310(a)(2) provides for the payment of 83 percent of the cost of capital equipment for transportation programs for the elderly and persons with disabilities. Private non-profit organizations are eligible applicants for participation in this program. All applications for such equipment are made to Aging Services Division (ASD). Certification of the organization's incorporation within ~~the State of~~ Oklahoma from the Secretary of State ~~must accompany~~ accompanies each application. If the

application is approved, ASD submits the request for purchase of the equipment to the Department of Central Services for acquisition through state bidding procedure. When acquired, the title to the equipment is vested in the name of the private non-profit organization with ASD on the title as the lien holder.

(1) Vehicles acquired under this program are graded for the purpose of providing transportation services to elderly and persons with disabilities. Use of the vehicle by any other group of riders is not permissible unless such use is infrequent and incidental to the regular use of the vehicle in its normal service. Vehicles acquired under this program ~~must be~~ are handicapped accessible unless the grantee can conclusively demonstrate that the existing transportation system:

(A) ~~is already meeting~~ meets all demands for service by disabled persons;

(B) ~~is providing~~ provides generally equal services to the disabled; and

(C) will continue to provide these services after the acquisition of a vehicle(s) under this program.

(2) If ~~all three of~~ these three conditions ~~can be clearly~~ are met, ASD considers issuance of a waiver of the requirement that the vehicle applied for ~~be~~ is accessible to the handicapped.

(3) To apply for funds under Section 5310, private non-profit organizations ~~must~~:

(A) determine in a general way ~~if~~ whether there is a transportation problem for the community's elderly and disabled citizens;

(B) identify a potential local private non-profit sponsor;

(C) contact ASD to discuss application procedures;

(D) contact local, regional, or state planning agencies for planning assistance;

(E) conduct coordination meetings with local transportation system operators;

(F) provide 17 percent local matching funds and prepare a preliminary application for review by ASD; and

(G) prepare and submit the final application to ASD.

SUBCHAPTER 3. ADULT PROTECTIVE SERVICES [REVOKED]

PART 1. PHILOSOPHY AND PURPOSE [REVOKED]

340:105-3-1. Introduction [REVOKED]

~~(a) Adult Protective Services (APS) is intended for incapacitated adults who are unable to take care of themselves and their needs and are vulnerable to abuse, neglect, or exploitation, or are suffering from self-neglect. A protective services investigation is initiated when a referral is received. Whenever possible, protective service plans are developed with the knowledge and approval of the adult victim. When it is determined that provision of services without consent is necessary to protect the life and well-being of an adult, such action is taken only with careful consideration of the effect on the adult's sense of autonomy. The adult protective services program is intended to:~~

~~(1) reestablish and maintain a stable level of functioning approaching the maximum potential of the adult victim of abuse, neglect, self-neglect, or exploitation;~~

~~(2) ensure that the adult desiring to receive services which afford proper care, necessary supervision, and protection from himself or herself and negative environmental circumstances harmful to his or her well-being, can in fact receive available services;~~

~~(3) ensure that the adult who lacks the capacity to consent receives involuntary services that are ordered by the court;~~

~~(4) assist the adult who is at risk to remain in the community; and~~

~~(5) assist the adult in obtaining appropriate institutional care if no less restrictive services are available.~~

~~(b) **Social work guidelines.** The right to self-determination is a basic principle of Adult Protective Services. Intervention is approached with sensitivity to the adult's perception of his or her situation and wishes, and an objective assessment of the circumstances and need for continued involvement is made. An important issue in the provision of protective services for adults is whether the resources available to remedy the problem offer a positive alternative to the current situation from the adult's point of view. Planning focuses on services to meet the adult's needs and have the least possible effect on the adult's chosen lifestyle and sense of independence. In some instances, adults who have chosen a lifestyle considered abnormal by the public are reported to be in need of protection. As long as such persons recognize and understand the consequences of their choices, their right to make their own decisions is respected.~~

~~(c) **Program coordination.** Aging Services Division has responsibility for program planning, staff training, technical assistance, quality assurance, and policy development. The APS program is implemented in the field through APS social workers in county DHS offices.~~

340:105-3-2. Definitions [REVOKED]

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

~~**"Adult Protective Services (APS)"** means a multifaceted service based on an awareness of the vulnerability of some persons age 18 and older to abuse, neglect, and exploitation. State law establishes a process whereby such persons may receive protective services intended to remedy their present situation and prevent further abuse, neglect, or exploitation. Protective services are those which are necessary to aid a vulnerable adult in meeting the essential requirements for his or her mental or physical health and safety and which such person is unable to provide for himself or herself.~~

~~**"Abuse"** means the intentional infliction of physical pain, injury, or mental anguish, or the deprivation of necessities of~~

~~life by a caretaker or other person responsible for providing these services.~~

~~**"Activities of daily living (ADLs)"** means basic self care activities such as toileting, transfer, feeding, bathing, and dressing.~~

~~**"APS social worker (worker)"** means a DHS social worker who has successfully completed APS New Worker Training or who is working under the oversight of a more experienced APS specialist.~~

~~**"Caretaker"** means a person who is responsible for the care of or financial management for a vulnerable adult as a result of family relationship or has assumed responsibility for care of the person voluntarily, by contract, or by friendship.~~

~~**"Exploitation"** means an unjust or improper use of the person or resources of a vulnerable adult for the profit or advantage of another person.~~

~~**"Guardian"** means one of the types of guardianship specified in the Oklahoma Guardianship Act. [Title 30, O.S.]~~

~~(A) **General guardian.** A general guardian is a person appointed by the court to serve as the guardian of an incapacitated person to ensure that the essential requirements for the health and safety of said person are met, to manage the estate of such person, or both.~~

~~(B) **Limited guardian.** A limited guardian is a person appointed by the court to serve as the guardian of a partially incapacitated person and is authorized by the court to exercise only certain powers of a guardian over said person, or estate or financial resources of said person, or both.~~

~~(C) **Special guardian.** A special guardian is a person appointed by the court to exercise certain specified powers to alleviate a situation in which there is a threat of serious impairment to the health or safety of an incapacitated or partially incapacitated person, or a situation in which the financial resources of said person will be seriously damaged or dissipated unless immediate action is taken.~~

~~**"Incapacitated Adult"** means any person 18 years of age or older who is impaired by a mental or physical illness or disability, dementia or related disease, mental retardation, developmental disability, or other cause, whose ability to receive and evaluate information effectively or to make and to communicate responsible decisions is impaired to such an extent that the person lacks the capacity to manage his or her financial resources or to meet essential requirements for the person's mental or physical health or safety without assistance. This determination is not made based on a person's eligibility for disability benefits from any source or on the incapacity being permanent, but solely on the adult's reported physical or mental condition at the time an APS referral is made and the APS social worker's assessment of that condition during investigation.~~

~~**"Instrumental Activities of Daily Living (IADLs)"** means abilities necessary for an adult to function independently in the community such as preparing meals, using the telephone, driving or arranging for transportation, shopping, and handling finances.~~

~~**"Neglect"** means:~~

~~(A) the failure to provide protection for a vulnerable adult who is unable to protect his or her own interest;~~

~~(B) the failure to provide adequate shelter, nutrition, medical care, or clothing; or~~

~~(C) the harming or threatening with harm through action or inaction by intent, lack of awareness, incompetence, or incapacity, which has resulted or may result in physical or mental injury.~~

~~**"Power of Attorney"** means authority granted by a legal document authorizing a person or other entity to act for the principal, subject to the extent of the power authorized. The power is revoked:~~

~~(A) upon written revocation of the principal;~~

~~(B) incapacity of the principal unless it is a durable power of attorney;~~

~~(C) death of the principal;~~

~~(D) upon a termination date if specified in the document; and~~

~~(E) usually with the appointment of a guardian.~~

~~**"Self Neglect"** means neglect brought about by a vulnerable adult's own actions or inactions.~~

~~**"Services which are necessary to aid an individual to meet essential requirements for mental or physical health and safety"** means services which include, but are not limited to:~~

~~(A) identification of adults in need of services;~~

~~(B) the provision of medical care for physical or mental health needs; and~~

~~(C) provision of assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards, protection from physical mistreatment, guardianship referral, outreach and transportation necessary to secure any of such needs. This excludes taking the individual into physical custody without the person's consent except through proper procedures for the provision of involuntary services.~~

~~**"Sexual Abuse"** means, according to Section 10-103 of Title 43A of the Oklahoma Statutes...*oral, anal, or vaginal penetration by or union with the sexual organ of another, or the anal or vaginal penetration of another by any other object or, for the purpose of sexual gratification, the touching or feeling of the body or private parts of another.*~~

~~**"Temporary Guardian"** means a person or other entity appointed by the court under Title 43A of the Oklahoma Statutes with authority only to consent on behalf of a vulnerable adult to the provision of protective services determined necessary to remove conditions creating an emergency need and other services approved by the court. A temporary guardian serves in that capacity only until the expiration of the order appointing him or her.~~

~~**"Vulnerable adult"** means an incapacitated adult who, because of physical or mental disability or other impairment, is at risk of abuse, neglect, or exploitation and is substantially impaired in his or her ability to independently:~~

~~(A) provide adequately for his or her own care or custody;~~

~~(B) manage his or her property and financial affairs effectively;~~

~~(C) meet essential requirements for mental or physical health or safety; or~~

~~(D) protect himself or herself from abuse, neglect, or exploitation without assistance.~~

340:105-3-3. Legal base [REVOKED]

~~Sections 10-101 through 10-111 of Title 43A of the Oklahoma Statutes, known as "The Protective Services for Incapacitated Adults Act," requires that the Department of Human Services perform certain activities for the protection of adults who are alleged to be abused, neglected, or exploited.~~

PART 3. REPORTS OF ALLEGED ABUSE NEGLECT, OR EXPLOITATION [REVOKED]

340:105-3-20. The report of a need for protective services [REVOKED]

~~Any person having reasonable cause to believe that an incapacitated adult is suffering from abuse, neglect, or financial exploitation is mandated by law to make a report to either the Department of Human Services or the office of the district attorney in the county in which the suspected incident occurred. The law provides that any person who knowingly and willfully fails to promptly report any abuse, neglect, or exploitation is, upon conviction, guilty of a misdemeanor. Any person who willfully or recklessly makes a false report or a report without a reasonable basis is liable in a civil suit for any actual damages suffered by any person named in the report and any punitive damages set by the court or jury. The law also provides that any person exercising good faith and due care in making a report of alleged abuse, neglect, or exploitation has immunity from any civil or criminal liability that might otherwise be incurred. Although every person in Oklahoma is a mandatory reporter, select groups who routinely have contact with vulnerable adults are specifically named in Oklahoma statutes, including social workers, physicians, drivers of emergency response vehicles, mental health professionals, law enforcement, staff of domestic violence programs, nursing home personnel, and other medical professionals.~~

~~(1) **Content of reports.** The law requires that all reports of alleged abuse, neglect, or exploitation of adults include the information in (A) - (C) of this paragraph. Other information which is generally useful in investigating a complaint and included on Form APS-1, Adult Protective Services Referral, is:~~

~~(A) the name and address of the incapacitated adult;~~

~~(B) the name and address of the caretaker, if any; and~~

~~(C) a description of the situation of the incapacitated adult.~~

~~(2) **Obtaining name of reporter.** Although the person making the report is not required by law to provide a name, address, or telephone number, such information is helpful in the event the APS social worker has further questions or needs to clarify any points of the complaint.~~

340:105-3-21. Abuse hotline 1-800-522-3511 [REVOKED]

~~The Department maintains a statewide, toll free hotline for the purpose of receiving reports of abuse, neglect, or exploitation of children and adults. The hotline is in operation 24 hours a day, 7 days a week. The hotline is staffed by Division of Children and Youth Services personnel who are trained in Adult Protective Services reporting procedures.~~

340:105-3-22. Reports received by the county office [REVOKED]

~~The county office is required to accept all complaints alleging abuse, neglect, or exploitation which are made to it, including anonymous referrals and reports made about an adult residing in a different county.~~

340:105-3-23. Reports regarding nursing facility residents [REVOKED]

~~Referrals alleging abuse, neglect, or exploitation of a nursing facility resident by someone who is not an employee or owner of the facility are investigated by county APS staff. Referrals alleging mistreatment by staff of the facility are handled differently.~~

340:105-3-24. Reports regarding residential care facilities and assisted living facilities [REVOKED]

~~Referrals received alleging mistreatment of adults in residential care facilities or assisted living facilities are investigated by the appropriate county office APS staff.~~

340:105-3-25. Reports involving residents of Northern and Southern Oklahoma Resource Centers [REVOKED]

~~The Office of Client Advocacy (OCA) has the primary responsibility for all investigations of alleged abuse or neglect of residents of Northern Oklahoma Resource Center (NORC) and Southern Oklahoma Resource Center (SORC) if the incident is alleged to have taken place at the facility and involves facility staff. The OCA also has primary responsibility for investigating reports involving a former resident of the Hissom Memorial Center.~~

340:105-3-25.1. Reports involving persons in hospitals, rehabilitation facilities, and private psychiatric hospitals [REVOKED]

~~Reports of abuse, neglect, or exploitation of persons in hospitals, rehabilitation hospitals, or private psychiatric hospitals are referred to the Oklahoma State Department of Health, Special Health Services if the complaint alleges mistreatment by facility staff.~~

340:105-3-25.4. Reports involving persons receiving non-hospital services from Department of Mental Health and Substance Abuse Services (DMHASAS) or its contracted service providers [REVOKED]

~~Reports of abuse, neglect, or exploitation of a vulnerable adult by staff of a public or private community mental health agency are referred to the Office of the Patient Advocate General at DMHASAS. If DMHASAS declines to participate in the investigation, a summary report is provided to that department upon completion of the APS investigation.~~

340:105-3-25.5. Reports involving Medicaid recipients other than nursing facility residents [REVOKED]

~~Reports of abuse, neglect, or exploitation of vulnerable adult Medicaid recipients by a Medicaid service provider are immediately called to the Medicaid Fraud Control Unit (MFCU) in the Office of the Attorney General. APS cooperates with any investigation by the MFCU or, if MFCU declines to investigate, performs the investigation and sends a summary report to the MFCU upon completion of the investigation.~~

340:105-3-25.6. Reports involving local, state, or federal facilities [REVOKED]

~~Reports of abuse, neglect, or exploitation of residents by staff of state or federal public hospitals, jails, prisons, or similar facilities are referred to the facility's regulatory department for investigation and to the local district attorney.~~

340:105-3-25.7. Reports involving other types of personal care providers [REVOKED]

~~(a) Adult protective services investigations of abuse, neglect, or exploitation include all persons in a care-taking relationship, regardless of organizational affiliation, except those noted in other Sections of this Subchapter. Personal care providers who are subject to adult protective services investigation include home health providers, habilitation aides, adult foster homes, adult day care centers, and independent living centers. These agency investigations include:~~

~~(1) interviewing agency staff and other residents or participants who may have knowledge of the reported incident;~~

~~(2) obtaining copies of applicable charts and records;~~

~~(3) reviewing medication lists and schedules;~~

~~(4) taking photographs;~~

~~(5) examining habilitation or other care plans;~~

~~(6) examining financial records and other money management documentation;~~

~~(7) reviewing time schedules and time sheets; and~~

~~(8) requesting any other information needed to complete the investigation.~~

~~(b) The agency director or board is notified of any substantiated elements of the investigation, and is expected to take appropriate corrective action. If the agency fails to cooperate in addressing the substantiated elements of the investigation, the licensing agency, any appropriate governing board, and the district attorney's office are notified of the failure to cooperate.~~

340:105-3-26. Complaints regarding a person with developmental disabilities [REVOKED]

~~APS coordinates with the Developmental Disabilities Services Division (DDSD) to ensure that allegations of abuse, neglect, or exploitation of adult individuals who have mental retardation or developmental disabilities are appropriately investigated and addressed.~~

340:105-3-27. Reports involving group homes and sheltered workshops for adults [REVOKED]

~~County APS social workers are responsible for investigating reports of abuse, neglect, or exploitation of residents of group homes and clients of sheltered workshops. However, when a report of abuse of one resident or client by another resident or client is received, it is investigated to determine if it was neglect by the caregiver that allowed the circumstances for the alleged abuse to occur. Title 43A of the Oklahoma Statutes defines abuse specifically as being perpetrated by a caregiver, therefore, mistreatment by a person who is not responsible for the care of the alleged victim is considered self neglect if caretaker neglect is ruled out.~~

340:105-3-28. Persons remanded to DHS [REVOKED]

~~APS no longer receives new remands. APS staff continue to carry open cases on persons remanded to DHS under Section 1175.6 of Title 22 of the Oklahoma Statutes.~~

340:105-3-29. Reports regarding a deceased person [REVOKED]

~~As protective services cannot be provided to a deceased person, the reporter is referred to the district attorney, medical examiner, or both.~~

340:105-3-30. Reports involving domestic violence [REVOKED]

~~Reports received in a county office regarding abuse, neglect, or exploitation of an adult by a spouse or other family or household member, are considered protective services requests if the alleged victim is incapacitated.~~

340:105-3-31. Reports involving DHS employees and immediate families [REVOKED]

~~When a report is received alleging abuse, neglect, or exploitation which involves a DHS employee or a member of an employee's immediate family as the alleged perpetrator or victim, the referral is discussed with APS program staff at Aging Services Division as soon as possible after the receipt, before any action is taken to investigate.~~

340:105-3-32. Reports involving substance abusers and persons with a mental illness [REVOKED]

~~Reports regarding alleged substance abusers or persons with a mental illness are appropriate for APS investigation. Upon investigation, if the APS social worker finds that the client's primary problem is that of substance abuse or dependency, or that the client is in need of mental health treatment, the social worker assists the client in obtaining appropriate mental health treatment. APS social workers may assist law enforcement officers when requested by providing behavioral assessments necessary to obtain involuntary mental health treatment, such as third party affidavits. Oklahoma law gives the Department of Mental Health and Substance Abuse Services (DMHASAS) primary responsibility for the mentally ill and substance abusers. DMHASAS actively treats seriously mentally ill persons until their condition is stabilized. Community mental health centers administered by or under contract to DMHASAS provide recommended aftercare services to patients who are discharged from state mental hospitals.~~

340:105-3-33. Reports involving members of Indian tribes residing on tribal land [REVOKED]

~~Investigations are completed on tribal members residing on tribal land in the same manner as for any other APS report. Voluntary services may be provided as indicated. However, if the alleged victim is found to lack the capacity to consent to services, DHS cannot petition the district court for an order to provide emergency protective services since the district court has no jurisdiction over tribal land.~~

340:105-3-34. Investigation and evaluation of report [REVOKED]

~~(a) **Statutory authority.** Sections 10-101 through 111 of Title 43A of the Oklahoma Statutes mandate DHS to investigate and evaluate reports of abuse, neglect, and exploitation of incapacitated adults and provide services by voluntary consent or in serious situations by court order to those who are found to be in need of protection. The statute specifies the population covered by the protective services law, the kinds of services which may be provided, and procedures to be followed in reporting alleged abuse, neglect, and exploitation, in evaluating complaints, and in obtaining authorization to provide services. The statute specifically requires that upon receiving a report of abuse, neglect, or exploitation, the Department of Human Services completes a prompt and thorough investigation to determine whether the alleged victim or incapacitated adult is in need of protective services.~~

~~(b) **Investigation rules.** Worker safety is of great importance in conducting APS investigations. APS social workers who have reasonable knowledge that they might be placing themselves in a dangerous situation, for example, a client or caregiver has access to a weapon or is known to be violent, or physical violence has been threatened, contact local law enforcement to request an escort. Also, when criminal activity is discovered in the course of an investigation, the information is turned over immediately to the appropriate law enforcement officials. APS social workers do not have authority to conduct criminal investigations, but cooperate fully with law enforcement in such cases.~~

~~(1) **Initiating investigations.** The investigation is initiated by a visit to the adult alleged to be in need of protective services. At least one home visit is required by law.~~

~~(2) **Time frame for initiating investigations.** Investigations of reports of abuse, neglect, or exploitation are initiated as soon as possible within 72 hours of receipt of the report in the county office. Investigations of situations which are reported or appear to be of an emergency nature are initiated immediately upon receipt of the report.~~

~~(3) **Elements of an investigation.** Although the investigation process may vary depending on the initial allegations and other factors, all APS investigations include:~~

~~(A) at least one visit to the alleged victim, and as many visits as necessary to determine if the person is incapacitated, and if the person is abused, neglected, or exploited and in need of protective services;~~

~~(B) photographs to document injuries or conditions which have resulted or may result in serious harm to the alleged victim;~~

~~(C) medical, physical, or psychiatric evaluations necessary to determine:~~

~~(i) if the person is abused, neglected, or exploited;~~

~~(ii) the person's incapacity;~~

~~(iii) if protective services are needed; and~~

~~(iv) what services are appropriate;~~

~~(D) consultation with collateral contacts, including the alleged perpetrator, who have knowledge of the person's circumstances;~~

~~(E) appropriate follow-up investigation and monitoring of the services;~~

~~(F) every reasonable effort to notify the next of kin of the alleged victim; and~~

~~(G) other relevant data.~~

~~(4) **Court-ordered entry, private interview, photographs, or access to records.** If, in the course of its investigation, the Department is denied entrance to the home of a person believed to be in need of protective services and it appears that entrance is necessary for completion of the investigation, the Department may petition the court for an order allowing entry. The APS social worker may also petition the court for a private interview with the alleged victim if a private interview is denied by a caretaker, photographs if the caretaker refuses to allow the social worker to take photographs, or for access to records relevant to the investigation if such access is refused.~~

~~(5) **Collateral contacts.** The APS social worker is required to obtain relevant information from persons who have knowledge of the alleged victim's circumstances. The consent of the alleged victim is not required for these contacts. Collateral contacts include the alleged perpetrator.~~

~~(6) **Determination of whether an adult is abused, neglected, or exploited.** Indicators of abuse, neglect, and exploitation are provided in DHS Appendix A-2, Indicators of Abuse. Form APS-10, Risk Assessment, is completed on all reports.~~

~~(7) **Confidentiality.** Confidentiality of APS records is described in (A) - (C) of this paragraph.~~

~~(A) When consulting persons knowledgeable of the circumstances of an alleged victim of abuse, neglect, or exploitation, or when making other contacts as part of the investigation or service planning process, the social worker may disclose information necessary to ensure that the client is protected and the client's needs are met. Information may be disclosed without a court order to specific persons acting in an official capacity with regard to the investigation, including:~~

~~(i) a district attorney or employees of the district attorney's office;~~

~~(ii) the attorney representing the person who is the subject of the investigation;~~

~~(iii) staff of an Oklahoma law enforcement agency or a law enforcement agency of another state;~~

~~(iv) physical or mental health care professionals involved in the evaluation or treatment of the vulnerable adult or the guardian, custodian, or other family members of the vulnerable adult; and~~

~~(v) other public or private agencies or persons authorized by the Department to diagnose, or provide care, treatment, supervision, or other services to a person who is the subject of an APS investigation.~~

~~(B) District attorneys, their staff, the attorney representing the alleged victim, and law enforcement agencies may receive information from or review the entire case record. All other disclosures are limited to summaries of information provided for a specific purpose. Some information from APS records may also be released for research purposes, however, research requests must go through State Office APS. County offices do not release case information for research purposes.~~

~~(C) In other situations, all APS information is considered confidential under Section 10-110 of Title 43A of the Oklahoma Statutes and may be disclosed only by court order. Confidentiality applies to members of the news media as well as the general public. News media representatives requesting details on a specific case may be referred to the county director, area director, State Office APS program staff, or the DHS Public Information Office for a detailed explanation of the Department's confidentiality rules.~~

~~(8) **Available services.** APS staff in each county office develops a coordinated working relationship with the local Department of Health, mental health facilities, court system, district attorney's office, law enforcement agencies, and other public or private agencies which may be helpful in facilitating the investigation process or in providing needed services.~~

~~(9) **Caretakers.** The APS social worker must determine if there is someone who is responsible, able, and willing to perform or obtain needed services for an adult alleged to be abused, neglected, or exploited. This caretaker might be a relative, friend, or neighbor.~~

~~(10) **Evaluation of capacity to consent.** In some instances protective services reports may be received on adults whose physical condition is terminal or whose lifestyle is considered abnormal by the reporter. Refusal to accept services in these instances does not necessarily indicate a lack of capacity to consent. Title 43A of the Oklahoma Statutes gives DHS the responsibility to establish the client's capacity to consent to services. The APS social worker is responsible for assessing the client's mental capacity in all investigations. The assessment is based on risk factors in the client's situation and takes into consideration information gathered from client interviews, social worker observations, and other sources such as health care professionals, bankers, psychologists, geriatric assessment teams, and other collateral contacts.~~

~~(A) The social worker assesses capacity, taking into consideration:~~

~~(i) the client's short and long term memory;~~

~~(ii) the client's ability to plan and execute a plan;~~

~~(iii) the client's ability to recognize risk factors;~~

~~(iv) denial of problems by client or caretaker;~~

~~(v) the client's ability to understand and follow directions;~~

~~(vi) indicators of affective disorders such as depression, bi-polar disorder, and others; and~~

~~(vii) indicators of substance abuse, dementia, delirium, psychosis, traumatic brain injury, uncharacteristic socially inappropriate behaviors, impaired decision making, and other factors.~~

~~(B) The APS social worker's assessment of a client's mental capacity to consent to protective services takes into account the client's awareness of:~~

~~(i) the limitations and deficiencies in the physical environment;~~

~~(ii) the client's own physical or mental limitations;~~

~~(iii) resources available to assist in meeting the client's needs; and~~

~~(iv) the consequences to the client if nothing is done to improve the situation.~~

~~(C) If a client is deficient in all or most of the areas in (B) of this paragraph, he or she may lack the capacity to consent to protective services and it may be appropriate to petition the district court for an order authorizing the provision of needed services.~~

~~(D) If a client expresses awareness of all four areas, it is likely that the present circumstances are the client's choice, though in some cases a client might~~

~~express awareness in these areas and still lack the capacity to consent to provision of services. If a client appears to be unaware of the consequences of the present situation, and an emergency exists, legal intervention is generally appropriate.~~

~~(11) **Follow up.** Every investigation requires consideration of follow up.~~

~~(A) When possible, follow up visits are made at a different time of day than the original visit in order to observe whether the functional capacity of the alleged victim varies with time of day.~~

~~(B) For unsubstantiated investigations and those which are substantiated but the client has refused services, the worker makes follow up visits as needed. The need for a follow up visit is determined by worker judgment with the approval by his or her supervisor, based on individual case circumstances.~~

~~(C) For substantiated investigations in which the client is receiving voluntary services, at least two follow up visits are made, at 30 and 60 days after the case decision with completion of Form APS 10, Risk Assessment, at each visit.~~

~~(i) After 60 days, if the service plan is functioning as planned and the client's situation is stable or improving, the case may be closed.~~

~~(ii) If the client's situation is deteriorating at any time during the follow up period, the service plan is reassessed with the client and care providers and appropriate adjustments made. In these cases a follow up visit is required each 30 days until the situation stabilizes and the case can be closed.~~

~~(D) For substantiated investigations in which the client is receiving involuntary services, follow-up visits are made at 30 and 60 days regardless of whether DHS continues to hold temporary guardianship.~~

~~(i) If the situation is stable or improving after 60 days and DHS no longer holds guardianship, the case may be closed.~~

~~(ii) After the 60-day follow-up visit, if DHS continues to hold temporary guardianship and the situation is stable, a follow-up visit is required at least once every 30 days with completion of Form APS 10, Risk Assessment, until APS guardianship expires or is terminated by order of the court.~~

~~(iii) If the client's situation is deteriorating at any time during the follow up period, the service plan is reassessed and changed as needed with additional follow-up contacts at least every 30 days until the situation stabilizes. Follow up visits may be made more often if necessary.~~

~~(E) Although no new cases are being remanded to APS, the Department recognizes an obligation on existing remand cases. Open cases are carried on all clients remanded to DHS and follow up contacts made at least once every 90 days for the duration of the remand.~~

~~(12) **Documentation.** The APS social worker documents all investigations of APS reports on Form APS 2.~~

~~(c) Complaints regarding an investigation or the provision of services are handled in three ways. Upon receipt of a written complaint, one or all of the actions listed in (1) - (3) of this subsection are taken.~~

~~(1) For complaints regarding APS policy and procedure, a case review is performed by the APS program office. A letter is sent to the complainant within 45 days outlining findings of the review. No confidential case information in included in the letter.~~

~~(2) Complaints regarding possible inappropriate treatment by an APS worker or supervisor are referred to the county office for appropriate action.~~

~~(3) Complaints regarding involuntary services are handled through the appropriate judicial system.~~

340:105-3-35. Unsubstantiated reports [REVOKED]

~~An unsubstantiated report meets one or both of the criteria: the alleged victim is found not incapacitated, or the investigation does not reveal abuse, neglect, or exploitation. When a report is determined to be unsubstantiated, the social worker takes the steps in (1) - (2) of this Section to complete the APS investigation.~~

~~(1) The possible service needs of the alleged victim are evaluated, and the individual informed of available services which might be helpful or might prevent the need for protective services in the future. The APS social worker offers to make appropriate referrals for the individual for services offered either by DHS or by other agencies in the community, if indicated.~~

~~(2) A follow up contact is made as detailed in OAC 340:105-3-34(11)(A).~~

340:105-3-36. Substantiated reports [REVOKED]

~~A protective services report is considered substantiated if, upon investigation, the social worker finds that an incapacitated adult has been abused, neglected, or exploited and is in need of protective services. When a report is substantiated, the APS social worker develops a service plan with the victim and caretaker(s), if any, and provides or arranges for provision of desired protective services in the least restrictive manner possible.~~

~~(1) **Voluntary protective services.** Protective services may be provided on a voluntary basis when an incapacitated adult consents to provision of such services, requests such services, and is willing to allow the APS social worker to provide or arrange for such services.~~

~~(A) **Payment for voluntary protective services.** The cost of providing protective services is borne by the client if the APS social worker determines that the person is financially able to make such payment. If a caretaker controls the person's funds and refuses to pay for necessary services, this may be construed as caretaker interference and is handled as described in (B) of this paragraph.~~

~~(B) **Non-cooperation of caretaker.** When an incapacitated person consents to receive protective services but the caretaker refuses to allow the provision of such services, the social worker first explains to the caretaker the agency's legal responsibility to provide the needed services and authority to obtain an injunction if necessary. Family members and other interested parties may be involved in the attempt to persuade the caretaker to allow provision of services. If, after reasonable attempts have been made to persuade the caretaker to allow the needed services to be provided, the caretaker still refuses to allow service provision, the Department may petition the court for an injunction prohibiting the caretaker from interfering with the provision of protective services as described in (C) of this paragraph.~~

~~(C) **Petition the court - order enjoining caretaker.** In cases where the client's caretaker refuses to allow the provision of protective services to which the client has consented or otherwise interferes in the provision of such services, the Department may petition the court for an Order to Enjoin Caretaker.~~

~~(2) **Refusal to consent to protective services.** If an incapacitated adult does not consent to the provision of needed services, or withdraws consent after it is given, the social worker documents the client's refusal in the case narrative or on Form APS-2. Services are terminated unless the Department determines that the person lacks capacity to consent. In that case, the social worker considers action as outlined in (3) of this subsection.~~

~~(3) **Involuntary protective services.** Involuntary protective services are authorized by Section 10-107 of Title 43A of the Oklahoma Statutes. If an incapacitated adult is suffering from abuse, neglect, or exploitation which presents a substantial risk of death or immediate and serious physical harm to himself or herself, or significant and unexplained depletion of the adult's estate, but lacks the capacity to consent to receive protective services and no consent can be obtained from anyone acting as caretaker, the services may be ordered by the court on an involuntary basis. The court authorizes provision of specific services, and only those services which it finds to be least restrictive of the rights and liberty of the person involved are authorized.~~

~~(A) **Petitioning the court - emergency order for involuntary protective services.** The Department may petition the court for an order to provide emergency protective services. Such petition can be made in the county of the client's residence or in a county where any of the protective services are to be provided.~~

~~(i) If an emergency order to provide protective services is issued by the court, the order includes the appointment of a temporary guardian for the person in need of services. The temporary guardian may be either the Department or an interested person. The order gives the temporary guardian authority only to consent to the specified protective services on behalf of the person.~~

~~(ii) The incapacitated adult, the temporary guardian, or any other interested person may petition the court to have the emergency order set aside or modified at any time.~~

~~(B) **Notice to recipient.** The court sets a date to hear the case. The hearing is scheduled within five days of the date the judge signs the notice to the recipient of protective services. The incapacitated adult must receive notice 48 hours in advance of the hearing. Notice may be waived by the court in emergency cases, as described in (ii) of this subparagraph.~~

~~(i) A court order is issued showing DHS has petitioned the court for an order to provide protective services, and giving the date, time, and place of the hearing. The order specifies who is to serve the notice to the client.~~

~~(ii) When petitioning the court for an order for emergency protective services, the Department may file a motion to waive notice if there is a risk that immediate and reasonably foreseeable death or serious physical harm to the person will result from a delay. This action is authorized by Section 10-108, C of Title 43A of the Oklahoma Statutes. In response, the court may enter a 72-hour verbal order if not during regular court hours or issue a limited order during regular hours and order written notice be served on the client and attorney, if known, of a hearing to be held within that 72-hour period.~~

~~(iii) If the hearing is declined, the court may either terminate the emergency temporary guardianship or enter a temporary 30-day order to provide involuntary protective services.~~

~~(C) **Emergency services - change of residence.** Only protective services that are necessary to remove the conditions immediately threatening the life and well-being of the person are ordered. Protective services which may be authorized by an emergency court order include a change of residence only if the court gives specific approval for such action and names the facility in its order. Emergency placements may be made to nursing homes, personal medical institutions, other home placements, or to other appropriate facilities. Emergency placement is not made to facilities for the acutely mentally ill.~~

~~(D) **Time limits for providing involuntary emergency protective services.** Protective services under an emergency court order other than a 72-hour order can be provided for 30 days. If it appears protective services are still necessary past this 30-day period, see (E) of this paragraph.~~

~~(E) **Continuation of services.** Continuation of services is authorized by Section 10-108, F of Title 43A of the Oklahoma Statutes.~~

~~(i) If, upon expiration of the original 30-day order, the incapacitated adult continues to need~~

~~protective services, the Department immediately files a motion for the court to order either or both:~~

~~(I) appointment of a guardian; or~~

~~(II) commitment of the incapacitated adult to a nursing home, personal medical institution, a home placement, or other appropriate facility other than a facility for the acutely mentally ill.~~

~~(ii) Before the court enters a six-month order for continued protective services, the court directs that a comprehensive evaluation of the incapacitated adult is conducted and submitted to the court within 30 days at a review hearing. The evaluation includes at least:~~

~~(I) the address where the person is residing and the name of any persons or agencies presently providing care, treatment, or services;~~

~~(II) a summary of the professional treatment and services provided the person by the Department or other agency, if any, in connection with the problem creating the need for protective services; and~~

~~(III) a medical, psychological or psychiatric, and social evaluation and review, including recommendations for or against maintenance of partial legal rights and recommendations for placement consistent with the least restrictive environment required.~~

~~(iii) The original order continues in effect until the evaluation is submitted and the hearing is held on the motion.~~

~~(iv) Notice of this hearing is served as described in OAC 340:105-3-36 (3) (B).~~

~~(v) The APS social worker is responsible for assembling the required information and submitting it to the court of jurisdiction.~~

~~(vi) When an investigation indicates that the incapacitated person is likely to need assistance with his or her affairs for an extended period of time, consideration is given to identifying a relative, friend, or other person interested in the well-being of the client to serve as permanent guardian. Any person interested in the welfare of a person believed to be incapacitated or partially incapacitated may file a guardianship petition with the court. Procedures for filing the petition are given in Section 3-101 of Title 30 of the Oklahoma Statutes, the Oklahoma Guardianship Act. Interested persons are referred to the office of the district court clerk for further information and assistance.~~

~~(F) **Continuation of services for an additional period.** If after the hearing the incapacitated adult is found to be in need of continued protective services, the court issues an order to continue the temporary guardianship to provide specified protective services for an additional period not to exceed six months, as authorized by Section 10-108, F.4 of Title 43A of the Oklahoma Statutes.~~

~~(4) **Payment for emergency protective services.** If an incapacitated adult determined by the court to be in need of involuntary protective services has no funds available to pay for services, the Department maintains a limited Adult Protective Services Emergency Fund from which payment can be made. Authorization to utilize the APS Emergency Fund must be obtained from an adult protective services programs field representative prior to committing the Department for payment. Decisions for approval of use of the APS Emergency fund are made on a case by case basis. Each item for which APS Emergency Funds are used must be specifically approved. Emergency APS funds are requested only after readily available personal, family, and community resources have been requested and denied or exhausted. Emergency APS funds are not appropriate for ongoing maintenance of a client. This money is available as a short-term measure for crisis situations until other arrangements can be made.~~

340:105-3-37. Closure of adult protective services [REVOKED]

~~Adult Protective Services are terminated and the case closed when the situation which prompted the referral has been remedied and the client's circumstances are stable. Cases for APS clients on whom the Department has a current guardianship or remand are closed only when the court case is terminated. These cases remain active and follow-up activities are documented as required by OAC 340:105-3-34(b)(5)(D) and (E) as long as the court order is in effect.~~

SUBCHAPTER 10. POLICIES AND PROCEDURES MANUAL FOR TITLE III OF THE OLDER AMERICANS ACT OF 1965, AS AMENDED

PART 5. AREA AGENCIES ON AGING

340:105-10-32. Area Agency on Aging advisory council

(a) **Policy.** Each Area Agency on Aging ~~AAA~~ (AAA) establishes and maintains an advisory council. The council carries out advisory functions which further the AAA's mission of developing and coordinating community-based systems of services for all older persons in the planning and service area. The composition of the council is described in (1) and (2).

(1) The advisory council is separate and distinct from the AAA governing board and composed of:

(A) more than 50 percent older persons, including minority individuals who are participants or who are eligible to participate in Title III programs;

(B) representatives of older persons;

(C) representatives of health care provider organizations, including providers of veterans' health care, if appropriate;

(D) representatives of supportive services providers;

(E) persons with leadership experience in the private and voluntary sectors;

(F) local elected officials; and

(G) the general public.

(2) The advisory council may not be composed of:

(A) State Agency staff or governing board members;

(B) AAA staff or governing board members;

(C) Title III project staff or governing board members; or

(D) any other individuals that may give an appearance of a potential conflict of interest.

(b) **Authority.** The authority for this Section is Title 45 of the Code of Federal Regulations, Part 1321.57.

(c) **Procedures.** ~~Composition and functions of the advisory council as well as the responsibilities of the AAA to support the efforts of the council include:~~

~~(1) an advisory council separate and distinct from the AAA governing board and composed of:~~

~~(A) more than 50 percent older persons, including minority individuals who are participants or who are eligible to participate in programs in this Part;~~

~~(B) representatives of older persons;~~

~~(C) representatives of health care provider organizations, including providers of veterans' health care, if appropriate;~~

~~(D) representatives of supportive services providers;~~

~~(E) persons with leadership experience in the private and voluntary sectors;~~

~~(F) local elected officials; and~~

~~(G) the general public;~~

(~~2~~1) The responsibilities of the advisory council are to advise the AAA relative to:

(A) developing and administering the Area Plan;

(B) conducting public hearings;

(C) representing the interests of older persons; and

(D) reviewing and commenting on all community policies, programs, and actions which affect older persons with the intent of assuring maximum coordination and responsiveness to older persons~~; and~~.

(~~3~~2) The responsibilities of the AAA relative to supporting the efforts of the advisory council include:

(A) scheduling meetings of the full council at least quarterly and providing staff assistance to same;

(B) keeping the council informed of all matters relating to Area Plan development and administration;

(C) maintaining close contact with advisory council officers;

(D) assisting the council in developing bylaws. The bylaws ~~which outline~~, at a minimum, address the:

(i) ~~the functions~~ size and composition of the council~~,~~;

(ii) tenure and selection procedures for members~~, size and composition, tenure of members, and~~;

(iii) frequency of meetings; and

(iv) functions of the council;

(E) providing reimbursement for travel and other allowable expenses to council members, as appropriate;

(F) submitting the Area Plan and subsequent amendments to the council for review and comment before they are submitted to the State Agency for approval; and

(G) conducting annual training for advisory council members to provide orientation to the rights and responsibilities of advisory council members.

(d) **Cross references.** See OAC 340:105-10-31(a)(1).

PART 7. PROGRAM STANDARDS FOR SERVICES FUNDED UNDER TITLE III

340:105-10-51. General Title III service standards

(a) **Policy.** Parts B, C, D, and E of Title III provide funding for a variety of services to meet the needs of older persons. All such services meet service specific standards as well as the general standards given in (1) ~~-~~ through (19) of this subsection.

(1) Project sponsors~~,~~ who are the recipients of grant awards~~,~~ may be public, private for-profit, or non-profit agencies or organizations, institutions, political subdivisions of the state, or Indian tribal organizations which demonstrate to the Area Agency on Aging (AAA) a capacity for the effective delivery of nutrition, supportive services, or both, throughout the project service area (PSA). Project sponsors serve all eligible persons in the PSA and do not limit participation to their own membership or residents, for example church memberships or residents of a day care program.

(2) Project services are provided to persons 60 years of age and older unless otherwise allowed for in the eligibility requirements of a specific service.

(3) Project services are located in communities with the greatest ~~incidence~~ occurrence of older persons in greatest economic and social need with particular attention to low income minority individuals and older individuals residing in rural areas. The project documents in its written grant agreement with the AAA:

(A) assurance that, to the extent possible, the project serves low income minority individuals and older individuals residing in rural areas in accordance with their need for services;

(B) specific objectives which outline how the project satisfies the service needs of low income minority individuals and older individuals residing in rural areas served by the project. These objectives reflect the Area Plan objectives for targeting these individuals;

(C) information on the extent to which the project met its objectives for serving low income minority individuals and older individuals residing in rural areas during the previous fiscal year, if previously funded; and

(D) other targeting activities required for specific funded services, as appropriate, for example targeting activities for outreach services.

(4) Projects provide recipients with the opportunity to contribute to the cost of services, with the restrictions in (A) - through (G) of this paragraph.

(A) Contributions are voluntary and no otherwise eligible individual is denied service because he or she chooses not to or cannot contribute to the cost of services.

(B) Participants are ~~made aware~~ advised of the opportunity to contribute to the cost of programs through:

(i) individual consultation when they enter the program which includes a written suggested contribution schedule;

(ii) written brochures about the program and written schedules of activities of the program; and

(iii) signs posted at the project site.

(C) The participant's privacy regarding contributions is protected at all times ~~regarding contributions~~.

(D) The project advisory council develops a suggested contribution schedule for funded services taking into consideration the income ranges of older persons in the community and the project's other means of income. Means testing is not used to determine suggested contributions.

(E) Congregate meals and home delivered meals participants are allowed to use United States Department of Agriculture food ~~stamp~~ benefits to contribute toward the cost of their meals.

(F) The project utilizes appropriate procedures to safeguard and account for all contributions.

(G) The project uses participant contributions to expand funded services.

(5) Projects conform to the Title III fiscal accounting and program reporting systems as implemented by the state and AAAs. All records are managed according to the guidelines in (A) - through (D) of this paragraph.

(A) Older Americans Act (OAA) grantees maintain adequate and separate accounting and fiscal records, and account for all funds provided by any source to pay the cost of the OAA funded project, and permit audit, examination, or both, of all such records, procedures, and accounts at any reasonable time by authorized personnel of the United States Department of Health and Human Services, the Oklahoma Department of Human Services (~~DHS~~OKDHS), the State Auditor and Inspector and other appropriate state entities. Furthermore, such personnel have open and complete access to the grantees' accounting records and practices, and to any other items of the service provider which are pertinent to the performance or payment of this grant in order to audit, examine, and make excerpts of records.

(B) All financial and program records, supporting documents, statistical records, and other records pertaining to the Title III services are retained for at least three years. In the case of litigation, claim negotiation, audit, or other pending action before the end of the three year period, the records are retained until such action is completed, and until all issues arising from it have been resolved, or until the end of the regular three year period, whichever is later.

(C) Permanent records are maintained at the project office.

(D) The project is responsible for providing the appropriate security, confidentiality, and accommodations for the proper maintenance and organization of program records and reports.

(6) Where feasible and appropriate, projects make arrangements for the availability of services to older persons in weather related emergencies.

(7) Projects assist participants in taking advantage of benefits or services under other programs.

(8) Project staff report to the appropriate officials situations which place the participant, his or her household, or both, in imminent danger.

(9) Projects coordinate Title III services with other appropriate services in the community including Title VI Native American nutrition programs. Appropriate coordination efforts include:

(A) joint planning;

(B) information sharing; and

(C) negotiation of written agreements.

(10) Projects establish and maintain an advisory council to advise the ~~project~~ projects on all matters relating to the delivery of project services. [OAC 340:105-10-52]

(11) Projects ensure that ~~Form AG-2-A, Older Americans Act Assessment, Parts I, II, or both, are completed~~ appropriate intake information is gathered on each participant.

(12) Projects have procedures, approved by the AAA, to ensure that strict confidentiality is maintained regarding all participant information. Projects ~~further~~ ensure that identifying participant information is disclosed only ~~where~~ when staff have obtained the informed consent of the participant or his or her legal representative. Exceptions to the rules in this paragraph include court orders, reporting ~~of~~ possible neglect, abuse, or both, and monitoring of project records by federal, state, and AAA officials.

(13) ~~Projects~~ Project staff post grievance procedures in a public area of the project facility and comply with AAA grievance procedures for Title III participants.

(14) Projects comply with the Americans with Disabilities Act, Section 504 of The Rehabilitation Act of 1973, and Title VI of The Civil Rights Act of 1964. A public notice of civil rights compliance is posted in a public area in all project facilities and offices.

(15) Projects comply with the Oklahoma Open Meetings Act when conducting public meetings. Public meetings are held in handicap accessible facilities with provisions for interpreters, as needed.

(16) ~~Projects~~ Project staff conduct ongoing public information activities to ensure that the general public is aware

of each project and the services it provides. All materials produced by or for the project include a:

(A) policy statement that the project does not discriminate in admissions, access, treatment, or employment in its programs or activities on the basis of race, creed, color, sex, age, ancestry, national origin, religion, or disability; and

(B) notation that a portion of the project costs are met by state and federal OAA funds from the AAA and ~~DHS~~ OKDHS.

(17) ~~Projects~~ Project staff provide or arrange for orientation and ongoing training for all staff engaged in the implementation of the project. Training is designed to enhance staff performance as related to specific job responsibilities of each staff member. Projects authorize staff time to attend AAA and State Agency sponsored training as funds permit. Minimum orientation or training topics include:

(A) the OAA, as amended, and related regulations;

(B) the State of Oklahoma Policies and Procedures Manual for Title III of the OAA, as amended;

(C) the AAA Title III policy and procedures manual;

(D) all program and fiscal reports, as appropriate;

(E) assessment procedures;

(F) the aging network; and

(G) specific job duties.

(18) ~~Projects~~ Project staff participate in regularly scheduled assessments and evaluations by the AAA.

(A) The AAA schedules assessments at least 30 days in advance at a time mutually convenient for the AAA and the project.

(B) The AAA informs the project director of the areas to be covered during the assessment.

(C) The project director makes arrangements for site visits as requested by the AAA.

(19) The project allows unscheduled or unannounced visits by the AAA for the purposes of:

(A) investigating alleged problems;

(B) monitoring corrective action; or

(C) evaluating the normal daily activity of the project.

(b) **Authority.** The authority for this Section is Title 45 of the Code of Federal Regulations, Parts 1321.11, 1321.63(b), 1321.65, and 1321.67.

(c) **Procedures.** The AAA:

(1) incorporates the standards into its policies and procedures manual;

(2) provides training to Title III project directors and other appropriate staff on the standards;

(3) monitors the compliance of Title III projects with the standards; and

(4) provides ongoing technical assistance to Title III projects regarding the standards.

(d) **Cross references.** ~~For cross references refer to~~ See OAC 340:105-10-40, 340:105-10-50.1, and 340:105-10-52.

340:105-10-52. Title III Project Advisory Council

(a) **Policy.** Each Title III project ~~shall establish and maintain~~ establishes and maintains an advisory council to advise the project staff on all matters relating to the delivery of project services. ~~The following guidelines shall be followed regarding the conduct and composition of the council:~~

(1) The ~~council shall be composed of the following:~~ composition of the council is described in (A) and (B).

(A) The advisory council is separate and distinct from the Title III project governing board and composed of:

(~~A~~i) ~~At least 50% project participants including individuals in greatest economic and social need~~ more than 50 percent older persons, including minority individuals, who are participants or eligible to participate in Title III programs;

(~~B~~ii) ~~Local~~ local government officials;

(~~C~~iii) ~~Representatives~~ representatives of public and private ~~agencies/organizations~~ agencies or organizations that address aging issues in the service area ~~that address aging issues.~~; and

(~~D~~iv) ~~Any~~ other persons who are knowledgeable and experienced in the special needs of older persons.

~~(2) The following entities may not serve on project councils:~~

~~(A) Area Agency staff;~~

~~(B) Area Agency governing board;~~

~~(C) Grantee staff;~~

~~(D) Grantee governing board; or~~

~~(E) State Agency staff.~~

(B) The advisory council may not be composed of:

(i) State Agency staff or governing board members;

(ii) Area Agencies on Aging (AAA) staff or governing board members;

(iii) Title III project staff or governing board members; or

(iv) any other individuals who may give an appearance of a potential conflict of interest.

(~~3~~2) The council ~~shall operate~~ operates under a set of bylaws approved by the ~~Area Agency~~ AAA. The council bylaws, at a minimum, ~~shall~~ address:

(A) ~~Size~~ size and composition of the council;

(B) ~~Tenure~~ tenure and selection procedures for members;

(C) ~~Frequency~~ frequency of meetings; and

(D) ~~Functions~~ functions of the council.

(b) **Authority.** The authority for ~~OAC 340:105-10-52 is 45 CFR~~ this Section is Title 45 of the Code of Federal Regulations, Part 1321.11.

(c) **Procedures.** ~~The procedures for implementing this Section are as follows:~~

(1) The ~~area agency shall incorporate the policy~~ AAA:

(A) incorporates the provision of this Section into its Title III ~~Policies and Procedures~~ policies and procedures manual; and

(~~2~~B) ~~The area agency shall provide~~ provides orientation to ~~projects~~ project staff regarding the policy~~;~~.

(~~3~~2) Projects: ~~shall~~

(A) establish and convene advisory councils within the first quarter of the project year;

(~~4~~B) ~~Projects shall~~ provide orientation to new council members regarding their functions;

(~~5~~C) ~~Projects shall~~ assist councils in developing bylaws;

(~~6~~D) ~~Projects shall~~ submit bylaws and amendments to the ~~area agency~~ AAA for approval;

(~~7~~E) ~~Projects shall~~ schedule meetings of the councils at least quarterly and provide staff assistance at ~~said~~ meetings; and

(~~8~~F) ~~Projects shall~~ seek input from the council at scheduled meetings and informally, as needed, on all matters relating to the delivery of the funded Title III service(s).

(d) **Cross references.** See OAC 340:105-10-51(10).

340:105-10-72. Congregate meals project staffing requirements

(a) **Policy.** Each congregate meals project maintains sufficient staff to carry out the required service activities.

(b) **Authority.** The authority for this Section is Title 45 of the Code of Federal Regulations, Part 1321.11.

(c) **Procedures.** ~~This Section is implemented by the~~ The congregate meals project:

(1) ~~employing~~ employs a full-time director who is empowered with the necessary authority to conduct the daily management and administrative functions of the project;

(2) ~~obtaining~~ obtains the services of a licensed~~,~~ registered dietitian (RD) to provide nutrition consultation. The ~~nutrition consultant must be~~ RD is a project employee or an independent consultant hired by the project or the Area Agencies on Aging. A paid caterer is not acceptable in this position. Where feasible, the RD coordinates with a nutrition consultant, such as a dietetic student, person with a Bachelor's of Science degree in nutrition, or certified dietary manager. The RD signs off on all nutrition education, in-service training, and Form SUOA-S-74, Dietitian's Report. If the RD coordinates with a nutrition consultant, the RD visits every site a minimum every other month. The consultation includes:

(A) spending a minimum of eight hours per month per kitchen, of ~~that~~ which, a minimum of five hours is on site. Drive time does not count in the eight hour total. A minimum of four hours per month per satellite site, of ~~that~~ which, a minimum of three hours is on site. Drive time does not count in the four hour total. Site visits are limited to one site visit per day per ~~consultant dietitian~~ RD or nutrition consultant;

(B) monitoring ~~of~~ food service to include measurement of food temperatures and portion sizes, and assessment of food quality~~,~~ and adherence to contract specifications;

(C) training staff and ~~volunteer training~~ volunteers in areas of food service management, nutrition, and sanitation;

(D) ~~assessment of~~ assessing participant satisfaction and preferences;

(E) reviewing menu ~~review~~ and commodity utilization; ~~and~~

(F) ~~coordination of~~ coordinating nutrition education programs; ~~and~~

(G) providing educational handouts to homebound meal participants; and

(H) providing participants whose nutritional score is six or more on Form AG-2-A, Older Americans Act Assessment Determine Your Nutritional Health, Part I with individual consultation for:

(i) congregate meal participants, upon participant's approval; and

(ii) homebound meal participants, where feasible and upon participant's approval.

(3) ~~determining~~ determines appropriate staffing patterns for each meal site in the project service area. The guidelines include:

(A) determining the maximum staff hours per site by adding all hours for all positions in a given site;

(B) determining the maximum salary cost per site by multiplying the hours in each position by ~~their~~ the corresponding allowable salary on the Aging Services Division (ASD) Nutrition Salary Schedule. The maximum allowable salary as specified on the ASD Nutrition Salary Schedule may not be exceeded using Title III funds;

(C) adding the corresponding allowable salaries to arrive at the total allowable project labor cost; and

(D) adding the maximum staff hours for each site to determine total allowable project staff hours. The maximum hours in a site may exceed allowables on ASD Staffing Guidelines For Nutrition Sites but any deviations and the resulting cost increases cannot cause total project labor costs to exceed total allowable project labor costs.

(d) **Cross reference.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-68 through 340:105-10-71, 340:105-10-73 through 340:105-10-80, and 340:105-10-86.

340:105-10-73. Congregate meals project advisory council

(a) **Policy.** Each congregate meals project establishes and maintains an advisory council to advise the project on all matters relating to the delivery of project services. Site councils may be established at the discretion of the project director.

(1) The composition of the council is described in (A) - and (~~C~~B).

(A) The advisory council is separate and distinct from the congregate meals project governing board and composed of:

(i) ~~At least~~ more than 50 percent of the council is made up of project participants, with each site electing one representative to the project council.

Disabled and minority representatives ~~must be~~ are included on the council where projects are serving such individuals and where such individuals are willing to serve~~.~~;

~~(B) The remainder of the council is composed of:~~

(~~i~~ii) ~~a broad representation of major public and private agencies and organizations related to aging in the project area~~ representatives of public and private agencies or organizations in the service area that address aging issues;

(~~ii~~iii) local government officials; and

(~~iii~~iv) other persons who are knowledgeable and experienced in the special needs of ~~the elderly~~ older persons.

(~~C~~B) ~~The council may not include any member of the Area Agency on Aging (AAA) staff or governing board, the nutrition project staff, or the grantee staff or governing board.~~ The advisory council may not be composed of:

(i) State Agency staff or governing board members;

(ii) Area Agency on Aging (AAA) staff or governing board members;

(iii) congregate meal project staff or governing board members; or

(iv) any other individuals who may give an appearance of a potential conflict of interest.

(2) The council has approval authority over:

(A) suggested contribution schedules;

(B) general types of menus that meet the guidelines outlined in OAC 340:105-10-75(c)(9);

(C) days and hours of project operations where feasible; and

(D) decor and furnishings of the meal sites.

(3) The council advises the project in all other matters related to the delivery of nutrition and supportive services, including:

(A) preparation of the project's operating budget;

(B) evaluation of project effectiveness and achievement of objectives;

(C) determination of existing and proposed services offered by the project; and

(D) determination of a new site selection.

(4) All decisions and recommendations of the council ~~must~~ take into consideration all applicable federal and state statutes and policies, as well as the project budget.

(5) The council ~~must be~~ is organized and activated within 60 days after the initiation of meal service. Where feasible, target group eligible individuals ~~shall be~~ are involved in the preparation of the initial project proposal.

(6) Council bylaws and meeting minutes are on file at the sites and available to the participants, AAA, and State Agency staff for review.

(b) **Authority.** The authority for this Section is Title 45 of the Code of Federal Regulations, Part 1321.11.

(c) **Procedures.** ~~The procedures for implementing this Section include:~~

(1) ~~the~~ The AAA:

(A) incorporates the provision of this Section into its Title III policy and procedures manual; and

(~~2~~B) ~~the AAA~~ provides orientation to projects regarding the policy~~;~~.

(~~3~~2) ~~projects~~ Projects:

(A) establish project councils according to required composition;

(~~4~~B) ~~projects~~ provide orientation to new council members regarding their functions;

(~~5~~C) ~~projects~~ assist councils in developing bylaws;

(~~6~~D) ~~projects~~ submit bylaws and amendments to the AAA for approval; ~~and~~

(~~7~~E) ~~projects~~ schedule meetings of the councils at least quarterly and provide staff assistance at said meetings; and

(~~8~~F) ~~projects~~ seek input from the council at scheduled meetings and informally, as needed, on all matters relating to the delivery of congregate meals and supportive services.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-70 through 340:105-10-72, 340:105-10-74 through 340:105-10-80, and 340:105-10-86.

340:105-10-74. Nutrition education

(a) **Policy.** The congregate and home delivered meals programs provide formal nutrition education to project participants.

(b) **Authority.** The authority for this Section is Sections 331(3) and 339(2)(J) of the Older Americans Act of 1965, as amended.

(c) **Procedures.** Nutrition education ~~must be~~ is provided:

(1) in consultation with a dietitian or an individual with comparable expertise;

(2) at least once per month; ~~and~~

(3) to both congregate and home delivered meals participants~~.~~; and

(4) documented on Form SUOA-S-74, Dietary Consultant's Report.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-70 through 340:105-10-73, and 340:105-10-75 through 340:105-10-80.

340:105-10-86. Congregate and home delivered meals site opening, closing, or relocation

(a) **Policy.** Any site opening, relocation, or closing in the congregate and home delivered meals programs ~~must be~~ is based upon objective, quantifiable, ~~socio-demographic~~ sociodemographic, and needs assessment data.

(b) **Authority.** The authority for this Section is Title 45 of the Code of Federal Regulations, Part 1321.11.

(c) **Procedures.**

(1) Thirty days prior to the opening, relocation, or closing of nutrition sites, the Area ~~Agency~~ Agencies on Aging submits to Aging Services Division (ASD) an analysis of data considered in recommending each proposed change. This analysis ~~must include~~ includes an evaluation of ~~socio-demographic~~ sociodemographic data, when opening

a new site, for the entire planning and service area (PSA) and ~~must outline~~ outlines:

(A) reason(s) for the proposed change, ~~-~~ for all changes;

(B) existing meal services for the elderly in the PSA, ~~-~~ for all changes;

(C) all potentially eligible areas within the PSA with no current services, ~~-~~ for opening or relocation;

(D) a list and ranking of all unserved areas in the order of their priority for future funding, ~~-~~ for opening or relocation;

(E) the number and proportion of minority, ~~low income~~ low income, and elderly persons in greatest economic or social need for each currently served and currently unserved area, ~~-~~ for all changes;

(F) the total number of persons age 60 years ~~and~~ or older in the total PSA, and in each current and prospective service area, ~~-~~ for all changes;

(G) a budget justification, ~~-~~ for all changes;

(H) the proposed dates of ~~opening, relocating, or closing a site(s)~~ the change, for all changes;

(I) current health department and fire inspection reports, ~~-~~ for opening or relocation;

(J) transportation services available for older persons affected by the changes, for all changes; and

(K) any other information ASD deems necessary to evaluate the proposed expansion.

(2) Once ASD has reviewed the analysis, it may disapprove or conditionally approve the request for site change. If conditionally approved, requests for openings or relocations require the new site(s) pass an ASD conducted Americans with Disabilities Act (ADA) inspection to complete the approval process.

(d) **Cross references.** See OAC 340:105-10-50(a)(17), 340:105-10-51, 340:105-10-68, 340:105-10-70, 340:105-10-74 through 340:105-10-79, and 340:105-10-82 through 340:105-10-85.

PART 9. FISCAL AND ADMINISTRATIVE POLICIES FOR AREA AGENCIES ON AGING AND TITLE III PROJECTS

340:105-10-95. Intrastate funding formula

(a) **Policy.** In consultation with Area Agencies on Aging (~~AAAs~~AAA) and in accordance with guidelines issued by the Commissioner, the State Agency uses the best available data to develop and publish for review and comment a formula for distribution within the state of funds received under Title III that takes into account:

(1) the geographical distribution of older individuals in the state; and

(2) the distribution among planning and service areas (PSAs) of older individuals with greatest economic need and older individuals with greatest social need, with particular attention to low income minority older individuals.

(b) **Authority.** The authority for this Section is Section 305 of the Older Americans Act (OAA) of 1965, as amended and Title 45 of the Code of Federal Regulations, Part 1321.37.

(c) **Procedures.** The State Agency implements this Section by:

(1) obtaining input from the AAA, including demographic data, for use in developing the intrastate funding formula;

(2) following guidelines from the regional office of the Administration on Aging regarding development of the intrastate funding formula;

(3) considering the geographic distribution among PSAs of persons 60 years of age and older in the development of the intrastate funding formula;

(4) considering the distribution among PSAs of older persons in greatest economic need, based on older persons at or below the poverty level as defined by the United States Bureau of Census. Particular attention is paid to low income minority older individuals and older individuals residing in rural areas, in the development of the intrastate funding formula;

(5) considering the distribution among PSAs of older persons in greatest social need. [OAC 340:105-10-3] Particular attention is paid to low income minority older individuals and older individuals residing in rural areas, in the development of the intrastate funding formula;

(6) developing an intrastate funding formula, which includes:

(A) funds retained for state and AAA administration, and for the State Long-Term Care Ombudsman Program, ~~includes~~ including:

(i) no more than five percent of ~~the state's~~ Oklahoma's allocation of OAA Title III funds or $300,000, whichever is greater, ~~are~~ retained by the State Agency for State Agency administrative costs, unless the total OAA Title III allocation to all states under Section 303 of the OAA exceeds $800,000,000, in which case the State Agency retains five percent of the state's Title III allocation, or $500,000, whichever is greater;

(ii) no more than ten percent of the funds remaining after providing for State Agency administrative costs are awarded for meeting AAA administrative costs. In awarding administrative funds, each PSA is apportioned a minimum of $37,500 unless available funds are insufficient to provide for such an apportionment, in which case the available funds are distributed among the PSAs in equal shares. AAA administrative funds remaining, if any, after making this apportionment are allotted among PSAs in the same proportion as each PSA's age 60 and older population bears to the total state population age 60 and ~~over~~ older; and

(iii) no less than one percent of ~~the state's~~ Oklahoma's OAA Title III, Part B allocation is retained for the Long-Term Care Ombudsman Program of the State Agency;

(B) ~~fifty~~ 50 percent of the funds remaining after providing for state and AAA administrative costs and for the Long-Term Care Ombudsman Program are apportioned among PSAs in the same proportion as each PSA's age 60 and older population bears to the total state population age 60 and ~~over~~ older;

(C) ~~fifty~~ 50 percent of the funds remaining after the apportionment described in (B) of this paragraph are apportioned among PSA's in the same proportion as each PSA's age 60 and older population living at or below the poverty level bears to the total state population age 60 and ~~over~~ older living at or below the poverty level;

(D) all of the funds remaining after the apportionment described in (C) of this paragraph ~~are~~ apportioned among PSAs in the same proportion as each PSA's age 60 and older population of minority racial descent bears to the total state population age 60 and ~~over~~ older of minority racial descent;

(E) PSAs containing no medically underserved areas are ineligible to receive funds appropriated specifically for disease prevention and health promotion services. Medically underserved areas mean medically underserved areas designated by the United States Department of Health and Human Services, Public Health Service Bureau of Health Care Delivery and Assistance, Office of Shortage Designation;

(F) allotting each PSA ~~is allotted~~ no less than two percent of the sum of the funds apportioned in (B) - through (D) of this paragraph;

(G) allotting each PSA ~~is allotted~~ sufficient funds to meet the requirements of Section 307(a)(3)(B) of the OAA~~, for example, not~~. Not less than ~~105% of fiscal year 1978~~ the total of fiscal year 2000 expenditures were allotted to rural areas. Rural areas are defined as those counties not included in Standard Metropolitan Statistical Areas (SMSA), as determined by the United States Census Bureau. The amounts necessary to meet this requirement are:

(i) Areawide AAA - ~~$ 0~~ $0;

(ii) Association of South Central Oklahoma ~~Governements~~ Governments (ASCOG) AAA - ~~$441,069~~ $914,127;

(iii) Central Oklahoma Economic Development District (COEDD) AAA - ~~$258,920~~ $803,399;

(iv) Eastern Oklahoma Development District (EODD) AAA - ~~$466,282~~ $1,149,319;

~~(v) Kiamichi Economic Development District of Oklahoma (KEDDO) AAA - $395,011;~~

(~~vi~~v) Grand Gateway AAA - ~~$196,831~~ $876,072;

(vi) Kiamichi Economic Development District of Oklahoma (KEDDO) AAA - $812,873;

(vii) Northern Oklahoma Development Authority (NODA) AAA - ~~$302,487~~ $578,108;

(viii) Oklahoma Economic Development Authority (OEDA) AAA - ~~$63,387~~ $252,781;

(ix) Southern Oklahoma Development Authority (SODA) AAA - ~~$705,957~~ $900,213;

(x) ~~Southwest~~ South Western Oklahoma Development Authority (SWODA) AAA - ~~$101,374~~ $441,543; and

(xi) Tulsa AAA - ~~$ 0~~ $0;

(7) publishing the formula listed in (1) - through (6) of this subsection for review and comment by the public. The publication includes:

(A) a descriptive statement of the formula's assumptions and goals;

(B) documentation regarding the application of greatest economic need;

(C) documentation regarding the application of greatest social need;

(D) a numerical statement of the actual funding formula to be used;

(E) a listing of the population, economic, and social data used for each PSA; and

(F) a demonstration of the allocation of funds to each PSA, pursuant to the funding formula;

(8) submitting the formula to the federal Assistant Secretary for Aging for approval; and

(9) implementing the formula in allocating all federal OAA funds.

(d) **Cross reference.** See OAC 340:105-10-3.

SUBCHAPTER 11. STATEWIDE LONG-TERM CARE OMBUDSMAN PROGRAM

PART 37. STATEWIDE LONG-TERM CARE OMBUDSMAN PROGRAM

340:105-11-255. Ombudsman staff and volunteer training

(a) **Ombudsman staff training curriculum.** Ombudsman staff training includes:

(1) introduction to the Long-Term Care Ombudsman Program;

(2) ombudsman policies and procedures;

(3) complaint response system;

(4) long-term care regulatory system;

(5) residents' rights;

(6) characteristics of long-term care facilities and residents;

(7) processes of aging;

(8) communication skills;

(9) legal and ethical issues;

(10) visitation practicum;

(11) mediation or negotiation skills;

(12) community resources or services; and

(13) volunteer management.

(b) **Ombudsman volunteer training ~~curriculm~~ curriculum.** Ombudsman volunteer training includes:

(1) introduction to the Long-Term Care Ombudsman Program;

(2) ombudsman volunteer role including activities and responsibilities;
(3) problem solving and complaint investigation;
(4) processes of aging;
(5) characteristics of the institutionalized older person;
(6) communication and interviewing skills;
(7) Oklahoma's Nursing Home Care Act, Residential Care Act, or Assisted Living Act, as appropriate;
(8) residents' rights in long-term care facilities;
(9) the regulation of long-term care;
(10) confidentiality; and
(11) reporting and record keeping.

[OAR Docket #03-495; filed 3-27-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 110. LICENSING SERVICES

[OAR Docket #03-482]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Requirements for Child-Placing Agencies
Part 1. Requirements for Child-Placing Agencies
340:110-5-3. [AMENDED]
Part 3. Requirements for Adoption Agencies
340:110-5-24. [NEW]
340:110-5-25. [AMENDED]
340:110-5-26. [REVOKED]
340:110-5-27. [AMENDED]
340:110-5-28. [REVOKED]
340:110-5-29. through 340:110-5-37. [AMENDED]
340:110-5-37.1. [NEW]
340:110-5-38. [AMENDED]
(Reference APA WF # 02-19)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and the Oklahoma Child Care Facilities Licensing Act, Sections 401 through 410 of Title 10 and the Oklahoma Adoption Code, Section 7501-1.1 et seq., of Title 10 of the Oklahoma Statutes; and the Adoption and Safe Families Act (ASFA) of 1997 (111 Stat. 2115).
DATES:
Comment period:
December 16, 2002 through January 15, 2003
Public hearing:
None held or requested
Adoption:
January 28, 2003
Submitted to Governor:
January 30, 2003
Submitted to House:
January 30, 2003
Submitted to Senate:
January 30, 2003
Gubernatorial approval:
March 17, 2003
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 26, 2003.
Final adoption:
March 26, 2003
Effective:
May 12, 2003
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 5. Requirements for Child-Placing Agencies
Part 1. Requirements for Child-Placing Agencies
340:110-5-3. [AMENDED]
Part 3. Requirements for Adoption Agencies
340:110-5-24. [NEW]
340:110-5-25. [AMENDED]
340:110-5-26. [REVOKED]
340:110-5-27. [AMENDED]
340:110-5-28. [REVOKED]
340:110-5-29. through 340:110-5-37. [AMENDED]
340:110-5-37.1. [NEW]
340:110-5-38. [AMENDED]
(Reference APA WF # 02-19)
Gubernatorial approval:
June 21, 2002
Register publication:
19 Ok Reg 2828
Docket number:
02-1253
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
Division of Child Care (DCC) Licensing Services rules are revised in Subchapter 5 of Chapter 110 to clarify procedures and provide direction to child-placing agencies who assist families in adopting children, regarding addition or refinement of: (1) definitions, including "legal risk placement," "openness in adoption," and "post-adoption services"; (2) pre- and post-adoptive placement services for birth families; (3) pre-certification education and services for adoptive families; and (4) requirements concerning: documentation of expenses paid by the agency on behalf of birth parents; confidentiality and the preservation of closed records; adoptive family assessment; services provided in the adoption of special needs or older children; eligibility for subsidy and assistance; and documentation of the adoptive child's history. The Child Care Advisory Committee requested that DCC revise the Requirements for Adoption Agencies. Revisions clarify or upgrade the current requirements. Permanent adoption of these rules ensures compliance with state and federal rules and guidelines of the Administrative Procedures Act, improves readability, eliminates unnecessary language, clarifies existing rules, provides more concise service delivery, and reduces or prevents errors caused by the lack of consistent rules.
CONTACT PERSON:
Dena Thayer, Programs Manager, Office of Planning, Policy and Research, Oklahoma Department of Human Services, 2400 N Lincoln Blvd., Oklahoma City, OK 73105, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2003.

SUBCHAPTER 5. REQUIREMENTS FOR CHILD-PLACING AGENCIES

PART 1. REQUIREMENTS FOR CHILD-PLACING AGENCIES

340:110-5-3. Definitions

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

"Adoption agency" means an agency ~~which~~ that has been ~~approved~~ licensed as a child-placing agency for the purpose of ~~adopting~~ placing children into adoptive families.

"Advisory board" means the entity that offers advice and counsel on the operation of all private, proprietary facilities.

"Agency" means child-placing agency.

"Auxiliary personnel" means cooks, building custodians, or other personnel who provide support services to the facility.

"Basement" means an area of a building or structure having one-half or more of its clear height below grade level.

"Behavior management" means guidance ~~which~~ that provides a learning experience for the child that contributes to developing the capacity for self-control, self-direction, and an understanding of behavioral consequences.

"Child" means an unmarried or unemancipated person under the age of 18.

"Child care staff" means staff who provide direct care and supervision of children.

"Child-placing agency" means ~~an~~ a licensed agency ~~which~~ that provides social services to children and their families that supplement, support, or substitute parental care and supervision for the purpose of safeguarding and promoting the welfare of children in adoptive homes, foster resource family homes, ~~group homes,~~ and independent living programs.

"Custodian" means the adult or agency who is legally responsible for the child.

"Department" means Department of Human Services (DHS).

"Emergency foster care" means foster resource family home care provided to a child when an emergency exists or initial placement does not exceed 30 calendar days.

"Foster resource family home" means a home which provides full-time substitute family care for a child for a planned period when the child's own family cannot provide care ~~for him or her~~.

"Foster resource parent(s)" means the individual(s) providing foster resource family home care for children placed by the agency.

~~**"Forced isolation"** means placement of a child alone in a locked or unlocked room as a method of restricting behavior that is uncontrollable by less restrictive methods.~~

~~**"Foreign nationals"** means persons born outside the United States who are not citizens of the United States.~~

"Governing board" means the entity with ultimate responsibility and authority for the overall operation of a private, nonprofit facility.

~~**"Group home"** means a residential facility for not more than twelve children which emphasizes family-style living in a home-like environment.~~

"Independent living (IL) program" means a residential program that places adolescents, at least 16 years of age, in living situations supervised by a licensed child-placing agency with the goal of preparing them for living independently without supervision.

"Indian child" means any unmarried or unemancipated person under the age of 18 who is either a member of an Indian tribe or is eligible for membership. [10 O.S. § 40.2]

"Interstate Compact on the Placement of Children (ICPC)" means the process mandated by state statute by which children are placed in and out of the ~~State~~ state of Oklahoma and other states that are members of the ~~Compact~~ ICPC.

"Legal risk placement" means placement of a child when consent to adoption or permanent relinquishment for adoption has not been obtained from both birth parents and parental rights have not been previously terminated.

~~**"Legal status"** means an order of adjudication by the court that a child is delinquent, in need of supervision, deprived or in need of treatment and is a ward of the court.~~

"Long-term foster care" means foster resource family home care when the initial placement plan exceeds 30 calendar days.

~~**"Native American child"** means any unmarried or unemancipated person under the age of 18 who is either a member of an Indian tribe or is eligible for membership and is the biological child of a member of an Indian tribe. [10 O.S. § 40.2]~~

"On call or substitute staff" means staff available to work during the absence of regular part-time or full-time staff.

"Openness in adoption" means the pre- or post-placement exchange of information, communication, or contact between birth families and adoptive families.

"Placement plan" means a component of the service plan or agreement ~~which~~ that contains plans for the placement of the child which will best meet his or her needs.

"Post-adoption services" means direct or referral services available through the child-placing agency to birth and adoptive parents and the adopted child after the adoption is finalized.

"Post-placement supervision" means supervision and services provided after the child is placed with an adoptive family.

"Proprietary facilities" means facilities that operate on a for-profit basis.

"Serious incident" means any non-routine occurrence that has an impact on the care, supervision, or treatment of a child or children.

"Service plan or agreement" means a comprehensive individualized program of action for the child and ~~his or her~~ the child's family, if parental rights have not been terminated. It is developed by the agency in cooperation with the child and family or custodian and establishes specific outcomes and ~~time-frames~~ time frames based on the child's age and level of functioning and on the family's ability and willingness to participate.

"Social services staff" means agency employees who provide social services ~~which~~ that ~~may~~ include, but are not limited to, casework services to children and their families, adoptive child and family studies, placement services, certification of agency facilities, admission assessments, and service planning.

"Special needs child" means a child who, because of age, ethnic origin, physical, mental, or ~~behavior~~ behavioral problems, or sibling group, is difficult ~~or unlikely~~ to be placed for adoption.

"Volunteer" means a person who~~, of his or her own free will,~~ willingly enters into an agreement with an agency to provide certain specified services without compensation.

PART 3. REQUIREMENTS FOR ADOPTION AGENCIES

340:110-5-24. Policy

The adoption agency has on file written policy and procedure that is current and available for parents, staff, and licensing staff to review. Policy includes areas governing:

(1) confidentiality of records;
(2) disposition of records;
(3) services provided to birth parents;
(4) services provided to adoptive parents;
(5) services provided to adoptive children;
(6) services provided to older children being relinquished to the agency;
(7) openness in adoption;
(8) search and reunion;
(9) financial assistance to birth parents;
(10) grievances;
(11) adoptive home recruitment;
(12) placement of children in adoptive homes;
(13) fees for adoption;
(14) international adoption;
(15) interstate adoption;
(16) legal risk placements;
(17) post-adoption services; and
(18) procedures for advising adoptive parents about the Adoption Assistance program.

340:110-5-25. Services for ~~relinquishing~~ birth parents

~~(a) The agency shall have written policy and procedure setting forth services to be provided to relinquishing parents. The services shall include but are not limited to (1) - (3) of this subsection:~~

~~(1) Casework services to help the parent(s) reach a decision regarding plans for the child and to ensure that a relinquishing parent understands the meaning of surrender of parental rights. When such counseling is not possible or is contraindicated, the reasons will be documented in the case record;~~

~~(2) Casework services to help the parent(s) as individuals meet their physical, emotional and material needs. When indicated, the agency will assist the mother in obtaining:~~

~~(A) Living arrangements away from her own home;~~
~~(B) Medical care, including prenatal, obstetrical, dental and hospital care;~~
~~(C) Psychiatric and psychological services;~~
~~(D) Vocational planning;~~
~~(E) Legal aid; and~~
~~(F) Financial assistance.~~

~~(3) Casework services to ensure that relinquishing parents understand the agency's policy on open and/or closed adoptions.~~

~~(b) Additional provisions to be included in the written policy and procedures are:~~

~~(1) A description of other services provided to the relinquishing parent(s) prior to and following relinquishment; and~~

~~(2) Provisions for avoiding conflict of interest between the relinquishing parents, the adopting parents and the agency, e.g., coercion of birth mother, preferential treatment of adoptive parent due to position.~~

(a) **Policy.** Written policy and procedure regarding birth parents includes, but is not limited to:

(1) the scope of services for birth parents;
(2) prohibiting coercion of the birth parents;
(3) birth parents who decide not to relinquish parental rights; and
(4) provisions for avoiding conflict of interest between the birth parents, the adopting parents, and the adoption agency.

(b) **Services.** Services for birth parents include, but are not limited to:

(1) helping the birth parents reach a decision regarding plans for the child. When such counseling is not possible or is contraindicated, the reasons are documented in the case record. The birth parents indicate they understand the meaning of relinquishment of parental rights by signing the agency's form;
(2) documenting, by the birth parents' signatures on the agency's form, that birth parents understand the agency's policy on open and closed adoptions;
(3) documenting that birth parents have been provided with search and reunion resources;
(4) documenting, by the birth parents' signatures, that the birth parents understand the financial assistance policy; and
(5) helping the birth parents meet their physical, emotional, and financial needs. As appropriate, the agency develops a service plan to assist birth parents in locating community resources to meet needs such as:
(A) living arrangements;
(B) medical care, including prenatal, obstetrical, dental, and hospital care;
(C) psychiatric and psychological services;
(D) vocational planning;
(E) legal aid;
(F) financial assistance;
(G) transportation; and
(H) other services needed prior to and following relinquishment.

(c) **Documenting expenses.** The agency documents all expenses paid on behalf of the birth parents by the agency or by agency clients. The agency obtains prior court approval for living and transportation expenses that exceed statutory limits.

340:110-5-26. Services for older children [REVOKED]

~~The agency shall have written policy and procedure setting forth services to be provided to older children. The services shall include but are not limited to:~~

~~(1) Appropriate casework services to help children meet their physical and emotional needs; and~~

~~(2) Casework services to help older children resolve issues related to the loss of their parents and adjust to their adoptive families.~~

340:110-5-27. ~~Records and adoptive~~ Adoptive child study background information

~~(a) **Records.** Records shall document the discussion and understanding of:~~

~~(1) An assessment of the adoptive parents' understanding of the agency's policy and procedure;~~

~~(2) Confidentiality;~~

~~(3) Financial responsibility for prenatal, obstetrical, dental and hospital care;~~

~~(4) The court procedures resulting in relinquishment or termination of parental rights;~~

~~(5) Protection of the finality and legality of relinquishment or termination;~~

~~(6) Duration of parental responsibility;~~

~~(7) Rights of natural or putative father, including documentation that the agency checked the Department's central paternity registry for any father or putative father of a child born out of wedlock; and~~

~~(8) Rights and responsibilities in consenting to adoption.~~

~~(b) **Adoptive child study.** The agency shall pursue relinquishment or termination of parental rights only after a study has indicated that the best plan for the child is permanent separation from his/her birth parent(s).~~

~~(1) The study shall include information on the child's birth family as given in (A) - (E) of this paragraph.~~

~~(A) Genetic and medical history, drug usage, education, vocation, physical description, marital status, religion, race and nationality, personality, interests and talents of the biological parents to the extent available;~~

~~(B) Genetic history, health history, physical description, education and vocation of siblings and grandparents to the extent available;~~

~~(C) The reason for relinquishment of the child or termination of parental rights, the attitude of relinquishing parents toward placement and desires regarding open and closed adoption;~~

~~(D) Desires of the parents regarding the potential adoptive family, i.e., religious preference, family composition, race, etc.; and~~

~~(E) Legal documents consenting to adoption.~~

~~(2) The study shall include the information on the child as given in (A) - (G) of this paragraph.~~

~~(A) Information identifying the child. If Indian heritage is identified, federal and state laws regarding the Adoption of Native American children shall be complied with;~~

~~(B) A medical examination report completed by a licensed physician no more than three months prior to placement;~~

~~(C) A medical history of prenatal care, illnesses, diseases, allergies, congenital defects, immunizations, accidents, hospitalizations, and operations;~~

~~(D) Developmental history including prenatal, birth, early growth and development and intellectual development; any assessments or testing performed or documentation of efforts to obtain them;~~

~~(E) Description of personality, social skills and education;~~

~~(F) Provisions for ensuring the participation of the child in the procedure, consistent with the child's ability to understand and according to state law; and~~

~~(G) Verification of the child's legal status, i.e., birth certificate, custody papers, death certificate of a parent, adoption papers, etc.~~

(a) An adoptive child history is completed for each child. The adoptive child history is documented and available for licensing staff to review. The history includes:

(1) all information as required by Section 7504-1.1 of Title 10 of the Oklahoma Statutes, the Medical and Social History Report;

(2) legal documents that reflect the child's eligibility for adoption;

(3) desires of the birth parents regarding the potential adoptive family, for example, religious preference and family composition;

(4) documentation as to whether the child is an Indian child as defined by the Indian Child Welfare Act;

(5) a medical examination report completed by a health professional no more than three months prior to placement;

(6) documentation of participation by the child in the adoption process, consistent with the child's ability to understand and according to state law;

(7) photocopy of the child's original and any supplementary birth certificate; and

(8) documentation of current legal custody.

(~~3~~b) When any of the information given in paragraphs (a)(1) ~~and (2)~~ through (8) of this ~~subsection~~ Section is not available or does not apply, the agency ~~shall document~~ documents its attempts to obtain the information or ~~document why~~ the reasons it does not apply.

340:110-5-28. Adoptive home recruitment [REVOKED]

~~If the agency recruits adoptive homes, it shall have a written plan that reflects its methods, sources and the needs of children awaiting placement.~~

340:110-5-29. Adoptive home orientation and screening

(a) **Eligibility.** The agency determines in the initial contact(s) if there is any reason the adoptive applicants may not be able to meet agency eligibility requirements. If the family is ineligible, this is communicated to the family in a timely manner. The agency may offer assistance in helping applicants adjust to this decision and identify other alternatives available to them.

(~~a~~b) **Orientation.** The agency ~~shall assist adoptive applicants to determine if they wish to apply by providing~~ provides orientation ~~to acquaint them with~~ about agency services and the adoption process to prospective adoptive parents. Orientation includes the:

(1) ~~The~~ agency's eligibility requirements;

(2) ~~The kind of~~ characteristics of children available;

(3) ~~The~~ agency's policy on ~~open or closed~~ openness in adoptions;

(4) ~~Adoptive~~ adoptive ~~home study~~ family assessment procedure;

(5) ~~Approximate~~ approximate time for the ~~assessment~~ approval process ~~will take~~; ~~and~~

(6) ~~Adoption~~ agency fees, refund policy, and ~~availability of subsidies if any.~~ other related fees;

(7) availability of the Adoption Assistance Program administered through the Department of Human Services;

(8) adoption risks;

(9) confidentiality policy; and

(10) overview of the legal process of adoption.

~~(b) The agency shall determine in the initial contact(s) if there is any reason why the adoptive applicants may not be able to meet agency eligibility requirements and shall communicate this to them in a timely and sensitive manner. The agency may offer assistance in helping applicants adjust to this decision and identify other alternatives available to them.~~

(c) **Education.** The agency provides information to adoptive families regarding:

(1) coping with the particular behaviors of the child's developmental history;

(2) the child's psychological needs that are related to the child's racial, ethnic, or cultural background;

(3) how to help the child understand adoption;

(4) the birth parents' perspective;

(5) coping with loss; and

(6) search and reunion issues.

340:110-5-30. Adoptive family ~~study~~ assessment

(a) ~~The~~ An adoptive family ~~home study shall consist of documentation of at least one individual interview with each parent, each school-age child and any other household member, one joint interview, a home visit and three written references.~~ assessment is completed for each family before a child is placed in the home. The assessment is documented and available for licensing staff to review, and includes:

(1) one individual interview with each parent;

(2) one individual interview with each school-age child;

(3) one individual interview with any other adult household member;

(4) one joint interview with both parents;

(5) one contact by phone, in person, or by letter with each adult child of the adoptive applicants no longer living in the home;

(6) documentation of a home visit to assess the safety and adequacy of the home environment; and

(7) three written references for the applicants.

~~(b) The adoptive home study shall be updated annually.~~

(~~c~~b) The ~~agency shall prepare a~~ written ~~home study before approving a~~ report of the adoptive family ~~for placement and shall document the family's readiness to adopt by discussing~~ assessment includes:

(1) ~~Their feelings about their own parents and childhood, including any significant experiences in the family~~ information regarding the adoptive parents' family of origin, significant family experiences, and how the adoptive parents were parented;

(2) ~~Feelings about their marriage~~ the adoptive parents' marital history and significant adult relationships;

~~(3) Feelings about themselves;~~

(~~4~~3) ~~Ability~~ the adoptive parents' ability to handle stress individually and jointly;

(~~5~~4) ~~Parenting~~ parenting experiences, parenting style, and philosophy of discipline of adoptive parents;

(~~6~~5) ~~Adjustment of birth children to previously adopted children~~ the family's adjustment to previous adoptions;

(~~7~~6) ~~Motivation~~ motivation for adoption;

(~~8~~7) ~~Attitude~~ attitudes of extended family regarding adoption;

(~~9~~8) ~~Feelings~~ attitudes ~~about the biological~~ toward birth parents ~~of the adopted child~~;

(~~10~~9) ~~Feelings~~ attitudes and expectations about ~~open versus closed~~ openness in adoption~~,~~ and search issues~~, etc.~~;

(~~11~~10) ~~Feelings about~~ plans for helping ~~a child~~ children understand adoption ~~and plans for how they will accomplish this~~;

(~~12~~11) ~~Expectations~~ expectations for the adopted child;

(~~13~~12) ~~Family~~ family lifestyle including social, cultural, and religious orientation~~, health care, and education~~;

(13) educational background of adoptive parents;

(14) ~~Physical~~ a summary of health information ~~and history~~ on the adoptive parents, including ~~documentation that their ages are such that they can meet the child's needs~~ health history, date of medical exam, and name of physician;

(15) ~~Feelings about~~ adjustment to and acceptance of infertility, if applicable;

(16) ~~Financial practices and ability to support a child~~ financial information, including employment, income, financial obligations, and access to health care services;

(17) Verification of employment, income, adequate insurance, and any other resources, ~~e.g.,~~ such as subsidized adoption, and ~~AFDC~~ Temporary Assistance for Needy Families (TANF);

(18) ~~Plan~~ plans for ~~the~~ child ~~if parents work~~ care;

(19) ~~Verification that the home is a healthy, safe environment in which to raise a child~~ summary of family strengths and weaknesses;

(20) ~~Their desires~~ preferences of the adoptive applicants regarding the age, ~~sex~~ gender, health, ~~etc.~~ or other characteristics of the child they wish to adopt; and

(21) ~~Recommendations in regard to~~ specific recommendations regarding the ~~number, age, sex,~~ appropriateness of the family, specific reasons for the recommendation, and characteristics ~~and special needs~~ of children ~~best served by this~~ the family is approved to adopt.

(~~d~~c) ~~As part of the study, the family will complete an application and provide to the agency~~ In addition to the written family assessment, information placed in the adoptive family file includes:

(1) ~~Documentation~~ documentation of medical exams by a ~~licensed physician~~ health professional, dated not more than 12 months prior to the completion of the adoptive ~~placement~~ family assessment, and health ~~history~~ histories on all household members verifying that the family members are healthy and free of communicable diseases or physical conditions ~~which~~ that would impair their ability to care for the adopted child;

(2) ~~Verification~~ verification of marriage, if applicable, income and expenses, employment, and medical insurance;

(3) ~~The~~ the names and addresses of at least three references who have knowledge of the applicants as a family unit; and

(4) ~~Authorization for~~ documentation of a criminal and Child Welfare background check in accordance with the Oklahoma Adoption Code, [10 O.S. § 7501-1.1 et seq.] along with the agency summary of any findings.

(d) The adoptive family assessment is current within 12 months prior to the date of child placement. Documentation related to the annual family assessment includes:

(1) medical exams by a health professional, dated not more than 12 months prior to the completion of the updated adoptive family assessment, and health histories on all household members verifying that the family members are healthy and free of communicable diseases or physical conditions that would impair their ability to care for the adopted child;

(2) criminal and Child Welfare background check;

(3) at least three written references from persons who have knowledge of the applicants as a family unit;

(4) financial information including employment, income, and financial obligations; and

(5) access to health care services.

340:110-5-31. Notification to adoptive parents

The agency ~~will notify~~ provides written notification to applicants of the acceptance, delay, or denial of their application.

340:110-5-32. Disposition of records and confidentiality

(a) The agency ~~shall establish~~ establishes policy and procedure to ensure permanent retention of all finalized adoption ~~placement~~ records. In the event that the agency ceases to operate in the state of Oklahoma, ~~arrangements shall be made to transfer the records to another licensed agency, State Archives or the Department of Human Services. If records are placed with a private agency, this information is recorded with the Department for future reference~~ adoption records are transferred to the Department of Human Services (DHS) or, after giving notice to DHS, to a transferee agency that is assuming responsibility for the preservation of the records.

(b) The agency ~~shall maintain~~ maintains all records in locked storage facilities.

(c) The agency ~~shall abide~~ abides by ~~state law, 10 O.S. Section 60.17, Confidential Character of Hearings and Records~~ the Oklahoma Adoption Code, Section 7501-1.1 et seq. of Title 10 of the Oklahoma Statutes, in regard to providing to adult adoptees and ~~relinquishing~~ birth parents information concerning the circumstances of ~~their~~ adoptees' origins and adoption.

340:110-5-33. Placement

(a) The agency ~~shall have~~ has on file written policy and procedure governing the placement of children in adoptive homes.

(b) When temporary placement is necessary, the agency ~~shall only place~~ places children in ~~emergency~~ foster homes that are under the supervision of a licensed child-placing agency.

(c) The agency ~~shall select~~ selects adoptive parents best able to meet the needs of the particular child(ren). The prospective adoptive home is studied and approved according to the requirements set forth in (a) - (~~c~~d) of ~~this Section~~ OAC 340:110-5-30.

(d) The agency ~~shall discuss~~ discusses the selection of the child with the adoptive family and ~~prepare~~ prepares the adoptive family for the placement of the ~~particular~~ child. The parents ~~shall~~ have the opportunity to decide whether they consider themselves suitable for that ~~particular~~ child. ~~An~~ The agency ~~shall provide~~ provides information regarding the child's background, medical history, legal status, progress, and development to assist adoptive parents with their decision.

(e) ~~An~~ The agency ~~shall have~~ has a written agreement between the placement agency and the adoptive parents at the time of placement~~. Such written agreement shall include~~ which includes verification of:

(1) ~~That the adoptive parents and the agency agree on~~ a specified time frame for completing the adoption;

(2) ~~That the adoptive parents agree to participate in~~ participation and supervision of adoptive parents by the agency during the time prior to the completion of the adoption;

(3) ~~That the~~ adoptive ~~parents~~ parents' ~~agree~~ agreement not to remove the child from Oklahoma without the agency's permission prior to ~~the~~ finalization of the adoption ~~without the agency's permission~~;

(4) ~~That the adoptive parents and the agency agree~~ agreement that the child can be removed and returned to the agency at the discretion of either the adoptive parents or the agency before the adoption is finalized;

(5) ~~Of the~~ agreement regarding any adoption fees and schedule of payments ~~if any~~; and

(6) ~~Of the agreement for subsidized adoptions, if any~~ notification by the agency to the adoptive parent about the Adoption Assistance Program administered by the Department of Human Services and the procedure for making application for eligible special needs children.

(f) The agency has written documentation verifying adoptive parents' acceptance of legal risk placement.

(~~f~~g) A consent form for medical care of the child signed by ~~a responsible person in the~~ an authorized agency representative is given to the adoptive parents at the time of the child's placement in the home. A copy of the signed medical consent form is filed in the records.

(~~g~~h) When interstate placements are planned, ~~there shall be compliance~~ agencies comply with the Interstate Compact on

the Placement of Children ~~in accordance with the law~~. [10 O.S. § 571]

340:110-5-34. Adoption of special needs and older children

Agencies that place special needs and older children meet the additional requirements in (1) through (5) of this Section as well as all other requirements in this Part.

(~~a~~1) The agency ~~shall have~~ has on file a written policy defining special needs children, pre-placement and placement procedures, visitation requirements, and post-placement support.

(~~b~~2) The agency ~~shall make~~ makes every effort to place siblings with the same adoptive parents. If this is not in the best interest of the siblings, the ~~record shall~~ records include what efforts were made and the reasons ~~and~~ supporting ~~evidence for such~~ separate placement.

(~~c~~3) ~~If placement of siblings together is impossible, the agency shall discuss with the adoptive parents the importance of siblings maintaining contact.~~ When siblings cannot be placed together, the agency ~~shall prepare~~ prepares a written statement, ~~to be~~ signed by the adoptive parents and an agency representative, verifying that the family will encourage and allow ~~on-going~~ ongoing contact with the siblings unless it is not in the best interest of the children.

(4) The agency has casework services to help children meet their physical and emotional needs.

(5) The agency has casework services to help older children resolve issues related to the loss of their parents and adjustment to their adoptive families.

340:110-5-35. ~~Adoption~~ Placement of ~~Native American~~ Indian children

A child placement agency ~~shall comply~~ complies with the requirements of the federal [25 U.S.C. 1901 et seq.] and state [10 O.S. § 40 through 40.9] Indian Child Welfare Act ~~[25 U.S.C. 1901 et seq.] and Oklahoma statutes [10 O.S. 1982 Sections 40-40.9]~~ for placement of ~~Native American~~ Indian children.

340:110-5-36. ~~Adoption of foreign nationals~~ International adoptions

Agencies that provide international adoptions meet the additional requirements in (1) through (6) of this Section as well as all other requirements in this Part.

(~~a~~1) When a placement agency accepts children born outside the United States who are not United States citizens, the agency ~~shall comply~~ complies with all applicable adoption laws of the child's country of origin and United States immigration laws.

(~~b~~2) A verified English language translation of the child's legal documents ~~shall be~~ are on file at the agency.

(~~c~~3) The agency ~~shall have~~ has a contract or memorandum of agreement with a child care agency authorized by the foreign government to receive custody and to place the child.

(4) The agency documents in English the medical and social history of the child. When unavailable, the agency documents efforts to obtain the medical and social history.

(5) The agency conducts a minimum of three post-placement supervisory visits within six months.

(6) The agency complies with applicable provisions of the Intercountry Adoption Act, Public Law 106-279.

340:110-5-37. Post-placement supervision

(a) The placement agency having legal custody is responsible for the welfare of the child until a decree of adoption is granted. The agency ~~shall~~:

(1) ~~Be responsible for providing~~ provides the ~~investigating~~ investigative report to the court as required by state law, including a recommendation for finalization of the adoption;

(2) ~~Send~~ sends a copy of the final decree of adoption to the court in which relinquishment took place unless otherwise indicated; and

(3) ~~Maintain~~ maintains a copy of the final decree of adoption ~~from the court~~ on each child.

(b) Prior to the final decree of adoption, ~~The~~ the placement agency ~~providing services shall~~:

(1) ~~Provide~~ provides a six-month period of post-placement services between the time of placement and completion of the legal adoption unless otherwise ordered by the court;

(2) ~~Visit the adoptive family~~ conducts and documents a minimum of three ~~times after placement of a child prior to the final decree;~~ face-to-face visits, including ~~at least~~ one visit ~~shall be~~ in the home with the adoptive family and child. This documentation includes a narrative report indicating the health of the child and assimilation into the family;

(3) ~~During the period of post-placement services, assist~~ assists the adoptive family and child ~~to develop~~ in developing a parent-child relationship, ~~resolve~~ resolving problems, and ~~evaluate~~ evaluating the placement;

(4) ~~During the period of post-placement services, maintain~~ maintains a record of changes in the adoptive family in matters regarding health, financial condition, family composition, or other relevant information which may affect the child; and

(5) ~~Be responsible for removing~~ removes the child from the home if the placement is unsatisfactory.

(c) ~~An~~ The agency ~~shall have~~ has on file a written description of its plan for dealing with disrupted placements, including a provision for counseling with the child and the family.

340:110-5-37.1. Post-adoption services

The agency provides post-adoption services to birth parents, adoptees, and adoptive parents. The services may include referrals or direct services to community resources.

340:110-5-38. Subsequent adoptive placements

~~(a)~~ Before another placement is made into the adoptive ~~home~~ family, the adoptive ~~home study shall be brought up to date~~

family assessment is current within 12 months prior to the date of placement of the child. The adoptive ~~home study~~ family assessment for a subsequent placement ~~shall be in writing and shall include~~ meets all the requirements in this Part, as well as documentation of:

(1) one family interview in the home with all household members present;

(~~1~~2) ~~Documentation of one or more interviews~~ one face-to-face interview with ~~all members of the~~ each adoptive parent, school-age child, and other adult household members ~~family~~;

~~(2) Documentation that at least one visit was in the home and all members of the household were present;~~

(3) ~~Medical~~ medical examination reports for all members of the household ~~that are~~ current within one year;

(4) ~~At~~ at least three references from persons who have known the family since the last child was adopted; ~~and~~

(5) ~~Verification that the adoptive applicants have sufficient income and management ability to care for another adoptive child and meet his/her needs~~ updated financial information including employment, income, and financial obligations;

(6) access to health care services; and

(7) criminal and Child Welfare background check.

~~(b) All requirements set forth shall be followed for the placement of another child.~~

[OAR Docket #03-482; filed 3-27-03]

TITLE 395. OKLAHOMA LAW ENFORCEMENT RETIREMENT SYSTEM CHAPTER 10. RETIREMENT AND PENSION BENEFITS PROGRAM

[OAR Docket #03-567]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
395:10-1-2.1. Receipt of documents [NEW]
395:10-1-2.2. Failure to submit documents [NEW]
395:10-1-2.3. Authorized member signature [NEW]
395:10-1-2.4. Recordkeeping requirements [NEW]
395:10-1-3. Hearing procedures [AMENDED]
395:10-1-4. Benefits [AMENDED]
395:10-1-4.1. Refund of contributions [NEW]
395:10-1-4.2. Health insurance contribution [NEW]
395:10-1-7.1. Involuntary furlough [NEW]
395:10-1-9. Purchase of prior service credit [AMENDED]
395:10-1-9.1. Purchase price payments/transfer of credited service [NEW]
395:10-1-10.1. Allowable adjustments [NEW]
395:10-1-11. Deferred Option Plan [AMENDED]
395:10-1-11.1. Direct Rollovers [NEW]
395:10-1-13. Application for ~~service related~~ disability retirement requirements [AMENDED]
395:10-1-14. ~~Termination of disability benefits~~Gainful work [AMENDED]

AUTHORITY:
47 O. S. Section 2-300 et seq. Oklahoma Law Enforcement Retirement System Board

DATES:
Comment period:
November 1, 2002 through December 12, 2002
Public hearing:
December 12, 2002
Adoption:
January 16, 2003
Submitted to Governor:
January 24, 2003
Submitted to House:
January 24, 2003
Submitted to Senate:
January 24, 2003
Gubernatorial approval:
February 19, 2003
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 26, 2003
Final adoption:
March 26, 2003
Effective:
May 12, 2003

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
The Proposed new and amended rules and regulations are designed to facilitate the administration of the Oklahoma Law Enforcement Retirement System to comply with the provisions of Title 47 O.S. Section 2-300 and the Administrative Procedures Act 75 O.S. Section 250 et seq. These new and amended rules provide the members of the agency with information on the procedures and policies regarding retirement and pension benefits of the System. They provide the members with general information regarding law or policy and describe the procedures and practice requirements of the agency.

CONTACT PERSON:
Lawrence F. McCullock, Executive Director, Law Enforcement Retirement System, 4545 N. Lincoln Blvd., Suite 257, Oklahoma City, Oklahoma 73105-3414, (405) 522-4932

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O. S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2003:

395:10-1-2.1. Receipt of documents

Any notices, letters, payments or other documents will be considered received on the date actually received in the offices of the System, as evidenced by the Oklahoma Law Enforcement Retirement System date stamp.

395:10-1-2.2. Failure to submit documents

(a) A retiree's required documents must be received by the fifteenth day of the month in which the first retirement warrant is to be mailed, or the retiree's date of retirement will be changed to the first day of the month following receipt of the required documents.

(b) Required documents include, but are not limited to, written application for retirement benefits, selection or rejection of insurance coverage, tax withholding certificate and approved agency personnel action indicating retirement and date of termination of employment.

395:10-1-2.3. Authorized member signature

A signature other than that of the member will not be accepted on System forms, applications or requests for confidential information except by order of the court.

395:10-1-2.4. Recordkeeping requirements

(a) The System reserves the right to use any information contained in a member's file, in the appropriate format, for the recordkeeping, data processing and administrative use of the System. This includes, but is not limited to, use of members' names or initials, social security numbers, birth dates and zip codes. All formatting and data requirements shall be determined by the System.

(b) Any participating employer shall furnish all required information reasonably requested by the System in order to ensure compliance with all applicable federal and state laws, rules and regulations. The System reserves the right to withhold benefits, including but not limited to, refunds, withdrawal payments and retirement payments, pending timely receipt of this information.

395:10-1-3. Hearing procedures

The Board shall conduct hearings in accordance with the Administrative Procedures Act and the Open Meeting Laws of the State of Oklahoma. In regards to the Oklahoma Law Enforcement Retirement System, procedures for such hearings are as follows:

(1) Any person aggrieved by action or order of the Board may make request for a hearing to the Board in writing within thirty (30) days after notification of such allowance or disallowance of claim. The Board then shall schedule time for a hearing, ~~which may be at the next regular meeting of the Board or a special meeting called for that particular purpose~~, and give written notice of said hearing to contestant not less than twenty (20) days prior to hearing date. The hearing shall be held in Oklahoma City, Oklahoma, unless otherwise directed by the Board. The person requesting a hearing before the Board shall supply to the Executive Director, not less than ten (10) days prior to the hearing, a copy of all exhibits that the person will offer during the hearing, together with a list of all witnesses that the person anticipates calling as a witness with a detailed description of the ~~witnesses~~ witnesses' proposed testimony. Failure to supply the foregoing information to the Executive Director shall result in the exclusion of exhibits and witness testimony being presented on behalf of the person requesting the hearing. After such hearing the Board shall affirm, reverse, or modify its previous action, specifying the reasons therefor, and written notice of the action taken by the Board shall be forwarded immediately to the interested ~~party~~ parties by the President of the Board.

(2) Hearings may be conducted by the President of the Board, or a hearing officer, or a hearing officer may be assigned to assist the President of the Board in conducting the hearing.

(3) Pre-hearing Conference: A pre-hearing conference may be used to determine legal or factual issues. When a pre-hearing conference is used, said conference may be conducted by the President of the Board, a designee of the President of the Board, or a hearing officer designated by the President of the Board. Said conference shall be conducted at least five (5) days prior to the hearing. Exhibits to be used at the hearing shall be marked and numbered. Exhibits will be exchanged at the pre-hearing conference. The admissibility or inadmissibility of exhibits to be used during the hearing will be determined by the individual presiding over the pre-hearing conference. Each exhibit used during the hearing must be produced in sufficient quantities for every Board Member to receive a copy at the time of hearing. Witnesses intended to be called at the hearing will be identified at the pre-hearing conference and the admissibility of their proposed testimony determined by the individual presiding over the pre-hearing conference. The issues to be determined at the hearing will be identified at the pre-hearing conference. A record of the pre-hearing conference may be made by tape recording.

(~~2~~4) In such hearing, opportunity shall be afforded the party or parties requesting same to respond and present evidence and argument on all issues involved. The hearing shall be conducted in an orderly manner. The party or parties requesting the hearing shall be heard first; those, if any who oppose the relief sought by the requesting party shall then be heard.

(A) Unless precluded by law, informal disposition may be made of any individual proceedings by stipulation, agreed settlement, consent order or default.

(B) Any party shall at all times have the right to counsel, provided such counsel is duly licensed to practice law by the Supreme Court of Oklahoma.

(~~3~~5) Rulings on admissibility of evidence shall be made by the President of the Board or a hearing officer selected by the Board. The President of the Board or the hearing officer may recess and reconvene the hearing at his/her discretion.

(~~4~~6) Should the party or parties contesting the Board's actions desire a full verbatim record of the proceedings, it shall be the full responsibility of the contestant to employ and pay for the services of a competent court reporter to record the proceedings. If transcribed, the record shall be a part of the Board's record of the hearing. Otherwise, the record will be taken by employees of the System as provided in ~~title~~ Title 47, O.S. Section 2-309 as amended.

(~~5~~7) The President of the Board or his designee shall have authority for purpose of the hearing to administer oaths; and with the approval of the Board, shall have the authority to issue subpoenas for witnesses or subpoenas duces tecum to compel the production of books, records, papers, and other objects, which subpoenas may be served, by any duly qualified officer of the law or any employee of the Board in any manner prescribed for the service of a subpoena in a civil action.

(~~6~~8) Any request for continuance received five (5) days or more before the scheduled hearing date may be granted by the ~~President of the Board~~ Executive Director. Reasons for granting a continuance may include ~~or requested for~~ one of the following reasons: illness of the party requesting the hearing, or illness of a material witness, or unavoidable conflict in the schedule of the legal counsel. If the request for continuance is received, the ~~Board~~ Executive Director will decide whether to grant such a continuance. Said request for continuance must be mailed to the ~~President of the Board~~ Executive Director and must be simultaneously mailed to all other interested parties and so indicated on the request. If the continuance is granted, all parties will be notified by the ~~President and/or~~ Secretary of the Board, or the Secretary of the Board's designee.

(~~7~~9) All final orders in any hearing shall be made within thirty (30) days after the conclusion of the hearing. Parties shall be notified of such orders either in person or by registered mail. A final order shall include findings of fact and conclusion of law, separately stated.

395:10-1-4. Benefits

All benefits shall be paid in accordance with ~~Title~~ 47 O.S. ~~Section 2~~ § 2-305.

(1) Each new member shall make written application for membership and said application shall be presented to the Board at the next meeting of the Board for approval.

(2) Each application for membership ~~shall~~ may be approved effective on the first (1st) of the month following date of employment, so long as the applicant meets the qualifications for membership stated in ~~Title~~ 47 O.S.§ 2-300, para. ~~5~~ 6.

(3) Written requests for retirement benefits must be received in the administrative office located at 4545 North Lincoln Blvd, Suite 257, Oklahoma City, Oklahoma, by the first Wednesday of the month prior to the desired effective date of retirement, in order that such matters may be properly posted on the agenda as required by the Open Meeting Laws.

(4) The Board shall have the authority to call a disabled member for a complete physical examination by two (2) physicians selected by the Board, any time between the regularly called for examination; ~~providing~~ provided the Board has reason to believe that such member has or may have recovered to the extent that he can again perform service in any division covered by the System. After complete evaluation by the examining physicians, if the member is found no longer disabled for performance of duties, the member shall be required to return to duty and complete twenty (20) years of service.

(5) Retirement pursuant to 47 O.S. § 2-305, has at all times included reemployment of a member by a state agency in a position which is not covered by OLERS. Thus, in-service distributions from OLERS to such a member are permitted. Prior to September 19, 2002, if such member was reemployed by a state agency in a position which is covered by OLERS, such member will continue to receive in-service distributions from OLERS and will not accrue any further credited service. On and after September 19, 2002, if a retired member is reemployed by a state agency in a position which is covered by OLERS, such member's monthly retirement payments shall be suspended until such member retires and is not reemployed by a state agency in a position which is covered by OLERS.

395:10-1-4.1. Refund of contributions

Any member who applies for a refund of his or her contributions and is eligible for a vested benefit shall be notified of the value of the benefit and when he or she would be eligible to begin receiving a benefit. The member must sign a written waiver of such benefit before such refund will be processed for payment.

395:10-1-4.2. Health insurance contribution

The Oklahoma Law Enforcement Retirement System shall contribute the amount required by law towards the cost of health insurance coverage under the State and Education Employees Group Insurance Plan only for retirees or survivors who actually receive a monthly retirement benefit for that month. This contribution shall not be made directly to the retiree. 74 O.S. § 1316.2; 47 O.S. § 2-301.

395:10-1-7.1. Involuntary furlough

In computing the final average salary, a retiring member's monthly base salary including excess benefits, shift differential and skill based pay will be used for each month the retiring member was placed on involuntary furlough under OPM Rule 530:10-15-48, Involuntary leave without pay (furlough).

395:10-1-9. Purchase of prior service credit

(a) A member may receive service credit ~~for~~ not to exceed five (5) years of participating service accumulated by the member while an employee of a state agency, or as a commissioned officer with an in-state law enforcement agency. In addition, a member may purchase service credit as a commissioned officer with an out-of-state law enforcement agency, or with a federal law enforcement agency, either as a commissioned officer or in a scientific or technical field, if the member is not receiving or eligible to receive retirement credit or benefits for such service from any other public retirement System. The cost ~~of which~~ shall be computed in accordance with ~~Title~~ 47~~,~~ O.S. § 2-307.5. Application for such prior service must be submitted to the administrative office of the system for computation of purchase cost and must be paid for in full within two (2) years of the member's effective date of membership in ~~the System~~ OLERS. Such service credit shall not be used in determining the eligibility of the member for retirement or vesting purposes.

(b) Effective January 1, 1991, all purchases of transferred credited service pursuant to 47 O.S. 2-307.5, shall be based upon the actuarial cost of the incremental projected benefits to be purchased.

(1) The actuarial cost and any tables formulated for the purpose of determining such cost during each ~~calendar~~

fiscal year, shall be based on the actuarial assumptions utilized in the actuarial valuation report ~~as of the preceding July 1~~ in effect at the time.

(2) The actuarial value shall be based upon the member's age, salary and service at the time of purchase, together with the earliest age for retirement and actuarially projected salary at time of retirement. For purposes of this actuarial cost, it is assumed that all members are married at the time of retirement. If purchase is not made within (30) days of the Board's approval, the purchase must be recalculated and the actuarial cost may increase.

(3) For purposes of this actuarial cost, the member's age shall be rounded up or down to the nearest birthday.

(4) For purposes of this actuarial cost, the mortality tables shall be formulated as a unisex table assuming 1975 Group Annuity Mortality weighted 90% male.

(5) In the event a member who chooses to purchase service has been employed less than twelve (12) months, his salary shall be annualized based upon the most current completed calendar months of payroll information.

(c) Military service may be granted in accordance with ~~Title 47, §2~~ O.S. § 2-307.4. To receive credit for such service, a DD214 or military discharge should be submitted along with the application for membership in ~~the System~~ OLERS, or any time prior to commencement of retirement benefits. Such service shall not be used in determining the eligibility of the member for retirement or vesting purposes.

395:10-1-9.1. Purchase price payments/transfer of credited service

(a) An active member of the System may elect the payment of the actuarial purchase price, repayment of a previous withdrawal or any other purchase or repayment permitted and authorized by the statutes governing the System, to be amortized in monthly installments to the extent allowed by law.

(1) A payment schedule may be established allowing the member to make monthly payments though payroll deductions by the member's employer if the employer agrees to make the deductions and remit payment to the System. Payments remitted by an employer for its employees must be kept separate from employer's regular retirement contributions or any other payments to the System. Such payments do not qualify as "pre-tax" contributions under "employer pick-up" provisions of Section 414(h) of the Internal Revenue Code.

(2) The installment payment schedule provided for in this section must be in monthly increments. The minimum total monthly payment is $25.00. The member shall be responsible for maintaining the payment schedule. The payment due date will be based on the payroll schedule set by the member's employer. Any installment not paid within sixty (60) days of the due date will result in termination of the installment payment schedule with the member given the option of paying the balance of the actuarial cost or receiving partial credit for payments made under the installment schedule as provided for in subsection (4) of this section.

(3) The monthly payment will be determined by amortizing the total amount due for the service to be purchased over the period of the installment schedule using an interest rate equal to the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings for the year in which the payment schedule is commenced.

(4) If the installment payment is terminated for any reason, including termination of employment, death of the member or by cessation of payments, the member or his beneficiary will have the option of paying the remaining balance within the original contract period. If the balance is not paid, the member will receive credit for service prorated for only the principal amount paid and rounded to the last full month paid for. No refunds will be paid to the member.

(5) Credit for service purchased on an installment schedule will not be added to the member's account until the entire balance is paid, except as provided for in subsection (4) of this section. All payments must be completed in the month prior to the effective retirement date of the member. If any member or beneficiary elects to pay the balance, during the original contract period provided for in subsection (4) of this section, no benefits will be payable until the completion of the original contract period, or receipt of a signed waiver. In no event will retroactive benefit payments be made, and the effective retirement date will be adjusted to the first day of the month following the completion of payments or receipt of waiver.

(6) Payments may be made directly to the System by the member or beneficiary of the member who is in an unpaid leave status, if the payroll is insufficient to handle the entire payment, in the event of payroll error where employer fails to withhold the proper amount, or during the original contract period referred to in subsection (4) of this section.

(7) If the purchase is terminated for any reason, the purchase cannot be made at anytime in the future, following the original contract period referred to in subsection (4) of this section. By failing to complete this purchase, the member or beneficiary forfeits the right to the purchase at any other time.

(b) In lieu of installment payments (for a purchase where installment payments are otherwise allowed by Oklahoma state statutes), an active member may elect to make the payment of the actuarial purchase price, repayment of a previous withdrawal, purchase of previous non-participating service, or any other eligible purchase or repayment permitted and authorized by the statutes governing the System by use of a direct trustee-to-trustee transfer from a qualified plan described in Section 401(a) of the Internal Revenue Code of 1986, as amended.

(c) Effective January 1, 2002, in lieu of installment payments (for a purchase where installment payments are otherwise allowed by Oklahoma state statutes), an active member may elect to make the payment of the actuarial purchase price, repayment of a previous withdrawal, purchase of previous non-participating service, or any other eligible purchase or

repayment permitted and authorized by the statutes governing the System by use of a direct trustee-to-trustee transfer from an eligible 457(b) plan and/or a 403(b) tax sheltered annuity program.

(d) Notwithstanding (b) and (c) of this subsection above, purchases may be made by a cash lump sum payment, installment payments (where otherwise allowed by Oklahoma state statutes), and/or by trustee-to-trustee transfer as described in (b) and (c) above.

(e) The System will transfer credited service to another state retirement system upon request of a former member. Upon transfer, the former member will have forfeited all rights in the System.

(f) The purchase of service or transfer of credited service shall be completed in the time and manner prescribed by the Board.

395:10-1-10.1. Allowable adjustments

Adjustments made to the initial retirement benefit calculations based on credit for unused sick leave and/or longevity payment shall be retroactive to the effective date of retirement.

395:10-1-11. Deferred Option Plan

(a) **Purpose.** The Oklahoma Law Enforcement Deferred Option Plan allows an active participating member of OLERS who has not less than twenty (20) years of creditable service, who is eligible to receive a service retirement pension, to make an election to participate in the OLERS Deferred Option Plan. In lieu of terminating employment and accepting a service retirement pension, the eligible member defers the receipt of benefits in accordance with 47 O.S., § 2-305.2 and the provisions of this section.

(b) **Definitions.** Reserved. ~~Definitions. "Officer" means any member of the Oklahoma Law Enforcement Retirement System as used in this section (395:10-1-11). "Retirement Date" for the purpose of the Deferred Option Plan means the date the member terminates employment as an active officer.~~

(c) **Application.**

(1) The applicant must have twenty (20) years or more of credited service with the OLERS to be eligible.

(2) The applicant must submit his/her completed application to the OLERS Deferred Option Plan on forms provided by ~~the~~ OLERS.

(3) ~~The~~ OLERS must receive the application a minimum of thirty (30) days prior to the effective date.

(4) The effective date of membership will be the first day of the month.

(5) ~~The participation in the OLERS Deferred Option Plan is irrevocable as long as the member remains employed, once~~ Once the Board has approved ~~the~~ a member's application and the member's option account has been credited with the first contribution or benefit~~.~~, the member's participation in the OLERS Deferred Option Plan is irrevocable as long as the member remains employed.

(6) The System will provide the applicant a Plan Summary. In addition, the applicant will be asked to sign a statement acknowledging receipt and understanding of the Plan Summary.

(d) **Contributions.**

(1) The final member contribution made to ~~the~~ OLERS shall be for the last pay period prior to the first of the month in which the member becomes a participant in the OLERS Deferred Option Plan.

(2) The employer's contribution will continue to ~~the~~ OLERS.

(3) The employer's contribution shall be credited as follows:

(A) fifty percent (50%) to the member's option account. The credit to the member's option account shall be made the same day as the monthly retirement benefit credit is made; and

(B) 50% to ~~the~~ OLERS.

(4) Neither the member nor anyone on his behalf may make any other contribution to the member's option account. Only the employer's contribution will be added to the member's option account.

(5) ~~Once the member's option account reaches the maximum time of five (5) years, or at the election of the member he/she terminates prior to the five year maximum, the member's option account will no longer accept contributions.~~ When a member has participated in the OLERS Deferred Option Plan for five (5) years, or if the member terminates employment prior to the end of the five (5) years, contributions will no longer be credited to the member's option account.

(e) **Benefits.**

(1) The monthly retirement benefit that would have been payable had the member elected to cease employment and receive a service retirement shall be credited into the member's option account.

(2) The formula for calculating the pension benefit is two and one-half percent (2 1/2%) of the final average salary multiplied by the years of creditable service. Final average salary is the average paid base salary of the member for the highest salaried thirty (30) consecutive months, excluding pay for any accumulated leave or uniform allowance.

(3) The amount of the member's service retirement benefit ~~freezes~~ is frozen at the inception of his participation in the ~~plan~~ OLERS Deferred Option Plan. No increase will be made to that benefit due to any changes in the ~~participant's~~ member's salary whether for cost of living increases, promotions or otherwise, while still actively employed with the agency. The pension benefit may be increased, however, by cost of living increases as provided by the legislature for all retired members of OLERS.

(4) The monthly retirement benefit will be credited to the member's option account the last day of the month.

(f) **Interest.**

(1) The member's option account shall earn interest at a rate of two percentage (2%) points below the rate of return of the total investment portfolio of the System, but no less than the actuarial assumed interest rate established at the beginning of the fiscal year as certified by the actuary and

approved by the Board in the yearly evaluation report of the actuary. This report is on a fiscal year basis ending on June 30.

(2) The Fund's rate of return shall be calculated monthly and certified by the Fund's Executive Director.

(A) For the purpose of calculating earnings for a member's account, deposits and withdrawals will be deemed to have occurred at the close of business on the last day of the month in which the transaction occurred in the system.

(B) Earnings on a member's account will be calculated on a monthly basis using two methods.

(i) Method I Earnings I = Account balance @ beginning of month x (Fund rate of return for month - (2% divided by 12)).

(ii) Method II Earnings II = Account balance @ beginning of month x (Actuarial assumed interest rate divided by 12).

(C) Earnings credited to a member's account as of the fiscal year end shall be the greater of the sum of Method I or the sum of Method II calculated earnings.

(3) The interest shall be credited to the member's option account on an annual basis which is defined as fiscal year ending June 30. The amount of the interest credited shall be calculated at simple interest. The formula for calculating the interest shall be the amount of the deposit, times the applicable interest rate, less two percentage (2%) points, divided by 365 days, times the number of days the deposit was credited to the member's option account for the fiscal year.

(4) Each member shall receive an itemized statement on an annual basis each fiscal year.

(5) If a member terminates employment, interest calculated and certified by the Fund's Executive Director~~,~~ will be credited~~,~~ no later than the end of the following month~~,~~ to the member's option account for the partial year, provided~~,~~ the rate of return is greater than the actuarial assumed interest rate. If the rate of return is less than the actuarial assumed rate, then the member's option account will be credited at the assumed interest rate of the last actuarial report.

(6) ~~Once the member's option account reaches the maximum time of~~ When a member has participated in the OLERS Deferred Option Plan for five (5) years, or ~~at~~ if the ~~election of the~~ member ~~he/she~~ terminates employment prior to the end of the five (5) ~~year maximum~~ years, the member's option account ceases to earn interest.

(7) At the conclusion of a member's participation in the OLERS Deferred Option Plan, the member must terminate employment and shall start receiving the member's accrued monthly retirement benefit from OLERS. Such termination has at all times included reemployment of a member by a state agency but only in a position not covered under OLERS. Thus, such a member would receive in-service distributions of such member's accrued monthly retirement benefit from OLERS.

(g) **Payment.**

(1) The member must make payment selection in writing a minimum of thirty (30) days prior to termination of employment.

(2) The member may select a lump sum payment, equal to the member's option account, which will be paid directly to the member by the OLERS. This payment will be made no later than the end of the month following the month the last contribution has been received following termination of employment.

(3) The member may select a direct rollover of his or her distribution in accordance with Chapter 395:10-1-11.1. If the member does not select an Eligible Retirement Plan as described in Chapter 395:10-1-11.1, or a true annuity, the member shall receive a lump-sum payment equal to the member's option account balance.

(~~3~~4) The member may select a true annuity to be provided by a third party selected by the participant. OLERS shall not be subject to any fees or charges from the annuity provider.

(~~4~~5) Once the member's option account has been paid to the member ~~or~~, as a Direct Rollover or to the member's annuity provider, the member shall not have any recourse against ~~the~~ OLERS~~.~~ its Executive Director (and his/her staff) and/or the OLERS Board.

~~(5) The OLERS shall not be subject to any fees or charges from the annuity provider.~~

(h) **Beneficiaries.**

(1) ~~If the participant dies during the period of participation in the OLERS Deferred Option Plan,~~ Upon the death of the participant, a lump sum payment equal to the member's option account balance ~~of the participant~~ shall be paid to the beneficiary of the participant or if there is no beneficiary or if the beneficiary predeceased the participant, the payment shall be paid to the estate of the participant. A beneficiary who is a surviving spouse of a member may elect a Direct Rollover of the account balance in accordance with Chapter 395:10-1-11.1.

~~(2) Upon the death of a participant, the OLERS shall pay the lump sum to the beneficiary of the member or if there is no beneficiary or if the beneficiary predeceases the member, to the estate of the member.~~

395:10-1-11.1. Direct Rollovers

(a) A Distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

(b) Definitions:

(1) "Eligible Rollover Distribution" is generally a lump sum distribution except that an Eligible Rollover Distribution does not include monthly retirement benefits and minimum distribution payments.

(2) "Eligible Retirement Plan" means an IRA (excluding a Roth IRA), a Section 403(a) annuity plan, and a 401(a) qualified plan that accepts the Distributee's Eligible Rollover Distribution. An Eligible Retirement Plan also means a 403(b) annuity and an eligible 457(b) plan which is maintained by a state, political subdivision of a state, or

any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the System. The definition of Eligible Retirement Plan also applies to a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee pursuant to a qualified domestic order as defined in Subsection B of Section 2-303.3 of Title 47.

(3) "Distributee" means an employee or former employee. In addition, effective June 7, 1993, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic order, as defined in Subsection B of Section 2-303.3 of Title 47, are Distributees with regard to the interest of the spouse or the former spouse.

(4) "Direct Rollover" means a payment by the System to the Eligible Retirement Plan specified by the Distributee.

(c) At least thirty (30) days and not more than ninety (90) days before the date of distribution, the Distributee must be provided with the IRS Notice regarding rollover options and tax effects. The distribution may be paid less than thirty (30) days after the notice is given, provided that:

(1) The Board clearly informs the Distributee that the Distributee has a right to a period of at least thirty (30) days after receiving the notice to consider the decision of whether or not to elect a distribution; and

(2) The Distributee, after receiving the notice, affirmatively elects a distribution.

395:10-1-13. Application for ~~service related~~ disability retirement requirements

(a) A statement from the applicant for disability describing the event or events which caused the ~~injury~~ purported disability together with a specific description of the ~~injury~~ disability.

(b) A specific declaration as to whether the disability claimed is non-service or service related.

(c) If the claim is for a service related disability, a ~~A~~ copy of the collision, accident or incident report must be provided.

(~~c~~d) A copy of all worker's compensation documents filed, including
all medical evaluations.

(~~d~~e) A copy of all medical records.

(~~e~~f) An executed authorization for release of medical information
for all treating or evaluating physicians.

(g) A executed authorization for release of employment records.

(~~f~~h) A letter from the Agency Head ~~advising that~~ expressing the employers opinion as to whether the injury did or did not occur within the scope of the applicant's employment.

(~~g~~i) Complete the System's Application For Disability Retirement ~~a~~ questionnaire under oath providing information concerning the claim of the applicant and the following information:

(1) Name
(2) Age
(3) Social Security Number
(4) Name of employer
(5) Length of employment
(6) Date of injury
(7) Cause of injury
(8) Nature of injury
(9) Witnesses to injury
(10) Name and address of all physicians who have treated or evaluated the applicant
(11) Period of time(s) that you have been away from work as a result of the purported disability and the last date worked for your employer
(12) Any additional information

(~~h~~j) No application for service related disability retirement shall be placed on the Board's agenda until all documents required under this section have been received by the System.

(k) When an eligible member applies for retirement, the member may only apply for a single type of retirement, such as normal retirement, non-service disability retirement, or service related disability retirement. Once a member has been granted a specific retirement by the OLERS Board, the member may not apply or obtain a different type of retirement under the System.This rule is not intended to distinguish between temporary retirements which later become permanent retirements.

395:10-1-14. ~~Termination of disability benefits~~ Gainful work

(a) No member, who is receiving a disability retirement and who has not reached twenty (20) years of participating service, may engage in any employment wherein the member is performing similar essential job functions as ~~was~~ were performed in the covered OLERS position from which the member retired.

(b) The OLERS Board may inquire of the ~~disability retired~~ disabled member, at any time, as to whether the ~~retired~~ disabled member is currently or has been engaging in employment which might disqualify the member from remaining in a disability retirement status.

(c) The OLERS Board or its Executive Director is authorized to cause OLERS employees or its attorneys to make inquiry via oral and/or written communications to the member and/or beneficiary~~,~~ who is receiving or attempting to receive benefits. The communications may include depositions upon oral examinations or written questions, interrogatories, requests for admissions, requests for production of documents and things, and requests for the physical and mental examination of persons.

(d) The refusal or failure of any member to timely respond truthfully and fully to such inquiry may result in a suspension of the payment of benefits by OLERS until a determination can be made whether this rule has been violated. Suspension of benefit payments will not occur until the affected member is given notice and an opportunity to appear before the OLERS Board at its next regularly scheduled meeting and show cause why the benefit should not be suspended.

(e) Regarding injury of a catastrophic nature referenced in ~~Title 47 O. S. Section 2-300.15~~ 47 O.S. § 2-300, para. 15,

gainful work means work activity that involves doing physical or mental activities, even if the work is done on a part-time basis or with less activities, pay, or responsibilities than in past work. Gainful work activity means work activity done for pay or profit. Work activity is gainful if it is the kind of work that is usually performed for pay or profit, whether or not a profit is realized.

(f) In the event a member receives ~~earning~~ earnings from gainful work, as set forth in the Social Security Administration and included in the Federal Register, which ~~exceeds~~ exceed the monthly allowance for a twelve (12) month period, disability retirement benefits will be suspended. The current allowable earnings from gainful work is seven hundred ~~forty ($740.00)~~ eighty dollars ($780.00) per month and will be automatically adjusted annually based on increases in the national average wage index and published by the Social Security Administration.

(g) The System may request a signed and notarized affidavit related to gainful work. Failure to provide such verification of income from work activity may result in forfeiture of benefits.

[OAR Docket #03-567; filed 4-3-03]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 5. DISCIPLINARY ACTIONS

[OAR Docket #03-593]

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RULES:
435:5-1-6.1. Reinstatement requirements [AMENDED]
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INCORPORATED BY REFERENCE:
n/a
ANALYSIS:
The amendment allows the Board to require continuing education for physicians applying for reinstatement of their license after being suspended or revoked.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 21, 2003:

435:5-1-6.1. Reinstatement requirements

An applicant for reinstatement after suspension or revocation pursuant to 59 O.S. § 503 shall meet all application requirements in effect at the time reinstatement is requested. In addition, the Board may require the applicant to meet the continuing medical education (C.M.E.) requirements.

[OAR Docket #03-593; filed 4-7-03]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 10. PHYSICIANS AND SURGEONS

[OAR Docket #03-594]

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RULES:
Subchapter 4. Application and Examination Procedures for Licensure as Physician and Surgeon
435:10-4-4. Application procedure [AMENDED]
435:10-4-5. Additional requirements for foreign applicants [AMENDED]
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435:10-4-5. Additional requirements for foreign applicants [AMENDED]
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ANALYSIS:
HB 2078, effective May 8, 2002 allows the Board to accept post-graduate training from England, Scotland and Ireland; and requires foreign medical graduates to have completed clerkships from an approved hospital/institution. The rules were amended to reflect this change. Rule 435:10-4-4 was also amended to require continuing medical education for applicants applying for reinstatement from failure to renew.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 21, 2003:

SUBCHAPTER 4. APPLICATION AND EXAMINATION PROCEDURES FOR LICENSURE AS PHYSICIAN AND SURGEON

435:10-4-4. Application procedure

(a) An applicant for licensure by the Board shall provide the Board with all information required pursuant to 59 O.S. § 493.1 on forms created therefore by staff. In addition, an applicant shall provide either original documents required thereby or notarized or certified duplicates. Academic records may be provided by submission of certified transcripts from all applicable schools.

(b) The applicant shall be forthright and open in the provision of information to the Board in the application process. No applicant shall be awarded a license who does not provide the Board with complete, open and honest responses to all requests for information.

(c) Any Board member may request an applicant to provide any additional information the Board member feels is necessary or useful to determine the applicant's ability to practice medicine and surgery in the application process which is raised by any response by an applicant to any question or request for information on the application form.

(d) The applicant shall present proof of graduation from an approved medical school and possess a valid degree of Doctor of Medicine or its equivalent, as applicable. The Board will accept as proof the original diploma conferred or a notarized copy thereof, but may request additional written information or verification from the Dean or other authority from the applicant's medical school.

(e) The applicant shall provide written verification of successful completion of at least twelve (12) months of progressive post-graduate medical training <u>in a program approved by The American Council on Graduate Medical Education (ACGME), The Royal College of Physicians and Surgeons of Canada, The College of Family Physicians of Canada, The Royal College of Surgeons of Edinburgh, The Royal College of Surgeons of England, The Royal College of Physicians and Surgeons of Glasgow, or The Royal College of Surgeons in Ireland</u> . The Board requires this training to be obtained in the same medical specialty. The Board will not accept combinations of months from multiple specialties as evidence of one (1) year of acceptable training for licensure; except that the Board will accept transitional residencies. It shall be the burden of the applicant to provide information as to the progressive nature of the post-graduate training. The Board construes progressive training to be that which steadily increases the student's duties and responsibilities during the training and which prepares the student for increasingly difficult medical challenges. If Fellowships are used to meet post-graduate education requirements, the Fellowships must be approved by the American Council on Graduate Medical Education (ACGME) and be conducted in an ACGME approved facility. Clerkships shall not constitute necessary medical post-graduate training required for licensure.

(f) The applicant shall be candid in regard to the provision of information related to any academic misconduct or disciplinary action.

(g) The applicant shall be provided a copy of the Act and Board rules on unprofessional conduct. The applicant shall review such rules and state candidly and honestly whether the applicant has committed any act which would constitute grounds for disciplinary action by the Board under Act and rules of the Board.

(h) The applicant shall take and complete the jurisprudence examination prepared by the staff. Seventy-five percent (75%) or above shall be a passing grade. The examination shall cover the Act and any other significant statute, rule or material related to the practice of medicine and surgery in this state. The applicant shall be provided a copy of all statutes, rules or other material from which the examination was created and may review such material while taking the jurisprudence examination. An applicant who fails the jurisprudence examination three (3) times shall be required to meet with the Secretary in order to devise a study plan prior to taking the jurisprudence examination again. The Board has determined that the jurisprudence examination is an integral part of the application process. A passing score on the jurisprudence examination is a requirement for licensure.

(i) The applicant shall pay all necessary fees related to the application.

(j) It is the responsibility of the applicant to verify the applicant's identity and the validity of any documents or information submitted to the Board in the licensure process.

(k) The Board must be in receipt of correspondence from the American Medical Association (AMA) and Federation of State Medical Boards (Federation) prior to issuance of any medical license. The Board may also contact other sources as necessary. Should information be found through correspondence with the AMA, Federation, or other sources that was previously unknown to the Board, the application will be held until such time as the Secretary of the Board is satisfied that the information has been validated by the Staff.

(l) An applicant may withdraw an application for licensure at any time prior to the submission of the application for

consideration by members of the Board. No application may be withdrawn by an applicant after it has been submitted to members of the Board.

(m) An applicant for reinstatement for failure to renew pursuant to 59 O.S. § 495d shall meet all application requirements in effect at the time reinstatement is requested and shall provide proof that continuing education requirements have been met.

435:10-4-5. Additional requirements for foreign applicants

(a) It is the intent of the Board to provide graduates of foreign medical schools equal opportunity in the licensure process. All foreign applicants shall meet the requirements of 435:10-4-4. Additional requirements set forth in this Section are used solely for the purpose of ensuring the validity of the foreign applicant's fitness to practice and ability to work in the United States.

(b) Graduates of foreign medical schools whose documents are not printed in the English language shall provide all original documents in the manner of 435:10-4-4. In addition, foreign graduates shall identify a credible translator of applicant's documents. United States Consulates and formal educational foreign language programs from an institution accredited by the North Central Association of Colleges and Schools are approved to provide translations to the Board. An applicant may request to use another translator. Such a request shall be made in writing and include the proposed translator's name, address and qualifications to support the approval of the request. Upon approval by the Board of the proposed translator, all documents of the applicant shall be translated into English. Both the applicant and the translator shall attest to the accuracy of the translation.

(c) The Board shall investigate foreign medical schools with which the Board is not familiar to ensure the validity of the school's medical education program and that the education provided by the school is equivalent to the education and training offered by the University of Oklahoma School of Medicine. Effective January 1, 2004, any applicant that graduated from a foreign medical school after July 1, 2003 and completed clerkships in the United States, those clerkships must have been done in hospitals, schools or facilities that are accredited by the appropriate accrediting body such as the Accreditation Council for Graduate Medical Education. The Board may direct staff to contact an applicant's medical school to obtain any necessary information related to the school or the applicant. In the event the Board is unable to verify information related to an applicant or the applicant's medical school, the Board may in its discretion reject the applicant's application or require the applicant to score ten (10) percentage points higher on a medical licensure examination than is otherwise required.

(d) Graduates of foreign medical schools must submit a tape-recorded reading of a written selection created by the Board and evaluated by the Secretary as to the ability of the applicant to communicate in the English language or take an oral examination as determined by the Board.

(e) An applicant from a foreign medical school shall provide the Board with proof of successful completion of twenty-four (24) months of progressive post-graduate medical training, obtained in the same medical specialty, from a program approved by:

(1) The American Council on Graduate Medical Education (ACGME);

(2) The Royal College of Physicians and Surgeons of Canada;

(3) The College of Family Physicians of Canada;

(4) The Royal College of Surgeons of Edinburgh;

(5) The Royal College of Surgeons of England;

(6) The Royal College of Physicians and Surgeons of Glasgow; or

(7) The Royal College of Surgeons in Ireland.

~~(1) twelve (12) months progressive medical postgraduate training in a program approved by The Royal College of Physicians and Surgeons of Canada or The College of Family Physicians of Canada if the training was completed prior to July 1, 1995; or~~

~~(2) twenty-four (24) months progressive medical post-graduate training in a program approved by The Royal College of Physicians and Surgeons of Canada or The College of Family Physicians of Canada if the training was completed after July 1, 1995; or~~

~~(3) twenty-four (24) months progressive medical post-graduate training in a program approved by the American Council on Graduate Medical Education.~~

(f) A foreign applicant shall provide the Board with written proof of the applicant's ability to work in the United States as authorized by the United States Immigration and Naturalization Service.

[OAR Docket #03-594; filed 4-7-03]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 10. PHYSICIANS AND SURGEONS

[OAR Docket #03-595]

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ANALYSIS:
This rule was amended making the requisite hours of CME 60 hours of Category I. The rule as written requires 120 hours with 60 of those hours in Category I. Category I hours are verifiable by Certificates issued; all other hours cannot be verified. The Exceptions/Verification part was deleted and an Audit/Verification part added for clarification. The current language of exceptions are ways to meet the CME requirement and not necessarily exceptions. This was incorporated under Audit/Verification. The audit process was amended to allow the Board to request proof of CME before renewing a physician's license.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 21, 2003:

SUBCHAPTER 15. CONTINUING MEDICAL EDUCATION

435:10-15-1. Continuing medical education

(a) **Requirements.**

(1) ~~Effective July 1, 2000, each~~ Each applicant for re-registration (renewal) of licensure shall certify every three years that he/she has completed the requisite hours of continuing medical education (C.M.E.).

(2) Requisite hours of C.M.E. shall be ~~one hundred fifty (150) hours~~ sixty (60) hours of Category I obtained during the preceding three (3) years ~~within the preceding three (3) years of which sixty (60) hours will be Category I~~ as defined by the American Medical Association/Oklahoma State Medical Association/American Academy of Family Physicians or other certifying organization recognized by the Board.

(3) Newly licensed physicians ~~and physicians whose licenses have been reinstated~~ will be required to begin reporting three years from the date licensure was granted ~~of licensure/reinstatement~~.

~~(b) **Exceptions/verification.**~~

~~(1) Exceptions from the requirement shall be:~~

~~(A) Medical Doctors in residency and fellowship programs.~~

~~(B) Holders of current American Medical Association Physician Recognition Award (A.M.A.P.R.A.) or its specialty equivalent.~~

~~(C) Medical doctors who have obtained their initial specialty board certification or recertification, during the three year reporting period, by an American Board of Medical Specialties (ABMS) specialty board or a non-ABMS specialty board previously approved by the Board of Medical Licensure and Supervision.~~

~~(2) The Board staff will, each year, randomly or for cause select applications for verification that all C.M.E. requirements have been met. Physicians choosing to use programs other than the A.M.A.P.R.A. must submit additional documentation on request as evidence that the compliance with C.M.E. requirements have been met in the specified time period.~~

(b) **Audit/Verification.**

(1) The Board staff will, each year, randomly or for cause select licensees to be audited for verification that C.M.E. requirements have been met.

(2) The Board shall accept as verification:

(A) Current American Medical Association Physician Recognition Award (AMAPRA);

(B) Specialty board certification or recertification that was obtained during the three year reporting period, by an American Board of Medical Specialties (ABMS) specialty board;

(C) Proof of residency or fellowship training during the preceding three years. Fifty (50) hours of CME may be awarded for each completed year of training;

(D) Copies of certificates for the Category I education.

(c) **Compliance.**

(1) Licensees selected for audit must submit verification of meeting the CME requirement.

(~~1~~2) Failure to ~~maintain~~ submit such records shall constitute an incomplete application and shall result in the application being returned to the licensee and the licensee being unable to practice. ~~rebuts the presumption that C.M.E. requirements have been completed~~.

~~(2) Misrepresenting compliance with C.M.E. requirements constitutes a fraudulent application.~~

(3) A license obtained through misrepresentation shall result in Board action.

[OAR Docket #03-595; filed 4-7-03]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION
CHAPTER 15. PHYSICIAN ASSISTANTS

[OAR Docket #03-596]

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Senate Bill 32, effective 11-1-01 allows physician assistants to write for Schedule II drugs "on-site". This rule was amended to add the definition of "on-site" as it relates to schedule II drugs.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 21, 2003:

SUBCHAPTER 1. GENERAL PROVISIONS

435:15-1-1.1. Definitions

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

"Board" means the State Board of Medical Licensure and Supervision.

"Committee" means the Physician Assistant Committee.

"On-site" means the following as it relates to the usage of Schedule II drugs:

(A) Hospital in-patients;

(B) Emergency room;

(C) Surgicenters licensed by the State Health Department; or

(D) Medical clinics or offices in cases of emergency as defined by the supervising physician.

[OAR Docket #03-596; filed 4-7-03]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 15. PHYSICIAN ASSISTANTS

[OAR Docket #03-597]

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This amendment defines the utilization of a physician assistant in an anesthesia setting.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 21, 2003:

SUBCHAPTER 9. GUIDELINES FOR THE UTILIZATION OF PHYSICIAN ASSISTANTS

435:15-9-4. Setting

(a) **Office setting.**

(1) In office settings, it is assumed that the physician and the physician assistant function in the same clinical setting and that the physician is available to supervise and consult with the physician assistant about any matter in

question, a point in the patient's history, an abnormal physical finding, etc. It is further assumed that the physician assistant immediately notifies the supervising physician of any medical emergency, patient complication or other patient problem encountered.

(2) It is assumed that the physician regularly and systematically checks the charts and notes of the patients seen by the physician assistant, checking for accuracy and completeness of such records, and in particular, the suitability of the plan of management. It is assumed that this type of review is conducted within 48 hours of the care being delivered. It is further assumed that the supervising physician reviews, at least on an annual basis, all existing protocols and orders governing the care given by the physician assistant. This review should be conducted on all protocols and orders for both the outpatient and inpatient settings.

(3) It is assumed that if the primary supervising physician is not available to supervise the physician assistant, another licensed physician, approved by the Board, will be available to provide such supervision. It is also assumed that there are established criteria covering those situations in which the physician must be consulted immediately, such as the patient with substernal chest pain, a child with a temperature over 104 degrees, a patient with severe abdominal pain and guarding, etc.

(b) **Hospital setting.**

(1) The physician assistant's functions in a hospital setting are regulated by the medical staff bylaws and regulations.

(2) The usual process is that the application for such privileges is filed by both the physician assistant and the supervising physician, reviewed for personal and professional qualifications by the credentials committee, and presented for approval to the medical staff. This process serves two purposes:

(A) Assuring the medical staff that the physician assistant meets professional and ethical standards.

(B) Publicizing the presence of the physician assistant to the medical staff and hospital administration.

(3) Initial workup of patients upon admission is often delegated to the physician assistant. This is an appropriate function if checked and countersigned by the supervising physician on his/her next visit to the hospital, which should usually occur within 24 hours. These workups should meet the standards set for workups performed by the physician staff of the hospital. It is assumed that any abnormalities or other findings are validated by the physician, and that his/her countersignature indicates his/her agreement with the findings recorded by the physician assistant.

(4) Initial orders may be delegated to a physician assistant. These activities are very important in that they involve the function of others, such as the R.N. and L.P.N. assigned to the ward. Copies of all standing orders that the physician has delegated to the physician assistant to order on his/her behalf should be on file in the hospital and available to the nurse accepting such orders as a means of assurance that these orders are emanating from the responsible physician and that they are within the authority which the physician has delegated to the physician assistant. All orders should be checked and countersigned by the responsible physician at his/ her next visit to the hospital, which should usually occur within 24 hours.

(5) Examples of orders that a physician assistant can be authorized to issue for a patient include, but are not limited to:

(A) Status orders - indicating the condition of the patient and usually used by the hospital staff to regulate visitors, to transmit to callers, etc. (i.e. "condition fair").

(B) Activity orders - indicating the degree of restriction of position or activity of the patient (i.e. "complete bedrest").

(C) Diet and fluid orders - indicating the amount and type of food and/or oral fluids (i.e. "low salt diet", "1200 calorie ADA diet", "force fluids", etc.).

(D) Test and procedure orders - indicating those tests and procedures necessary for care of the patient (i.e. "urinalysis in am", "schedule for IV urogram", etc.).

(E) Ward Observation and Measurement Orders - indicating those procedures to be carried out by hospital staff personnel (i.e. "BP twice daily", "record I & O").

(F) Medication Orders - indicating those drugs that are to be given to the patient usually by the nursing staff assigned to administer medications (i.e. "ampicillin 250 mg capsules by mouth four times daily").

(6) A glance at (b)(5) of this section reveals the enormous range of orders that may be necessary for the diagnosis and treatment of the patient in the hospital setting. Some are "routine" and could be delegated with very little supervision. Others might need very close supervision. The Board believes that a responsible physician might consider protocols of a "blanket type" covering those types of orders which would require less supervision. These might include orders of type (A), (B), (C), and (D) of (b)(5) of this section. Orders of type (E) of (b)(5) of this section might require more specification, but still may be of the blanket type. Medication orders from the list of drugs on the Oklahoma Physician Assistant Drug Formulary, Subchapter 11 of this Chapter, should also be included under the protocol.

(7) The protocol described in (6) of this subsection might take the form described in Appendix A of this Chapter.

(8) The protocol as listed in 435:15-9-4(b)(7) should cover the majority of those orders of a routine or "housekeeping" variety which are necessary for the efficient operation of a unit and for patient comfort, yet carrying little risk in case of error. Still other protocols could be written for specific clinical conditions that are frequently handled by the individual physician/physician assistant team. These protocols could be in the form of standard "sets" of orders for a given clinical diagnosis, such as a

patient with an acute appendicitis, uncomplicated myocardial infarction, etc.

(9) There are also orders that must be written in an emergency to cover those rare but urgent situations arising in any hospital environment. These can never be adequately covered in a protocol, and the only advice which can be given is that the patient's interests must take precedence, and the physician assistant and other hospital personnel involved must work out each solution ad hoc. In all such cases, the physician must be contacted immediately and must personally take over the care of the patient as soon as possible.

(10) The physician assistant working in the hospital setting might be delegated any of a wide variety of procedures to be performed on patients under the care of the responsible physician. The delegation of these procedures implies that the physician is satisfied that the physician assistant has the requisite skill, and that the physician agrees with the technique and the safeguards under which the procedure is performed. The physician must not delegate tasks in which he/she is not capable of judging the quality of the skill and technique employed by the physician assistant.

(11) The physician assistant is often delegated the task of writing/dictating the discharge summary on patients under the care of the responsible physician. All such summaries should be carefully read and countersigned by the physician. The physician is reminded that this function is not only an excellent opportunity to review the case, but can also serve as an important review of the physician assistant's role in the hospital setting.

(c) **Emergency room setting.**

(1) The physician assistant may utilize the emergency room in the course of assisting the physician in the care of patients. For example, a patient may call when the office is closed and, for convenience, the emergency room may be the place of meeting. Such occasional or incidental use is not considered as different from settings listed in (a) and (b) of this section. It is assumed that the activities will be supervised by the responsible physician and that the physician assistant has associate staff privileges to utilize the emergency room for such activities.

(2) The physician assistant may also be employed to work in an emergency room as a primary responsibility. There is ample documentation that a physician assistant can be very effectively and responsibly employed in this setting, but this should be carefully regulated by the facility.

(3) There are special problems in working as a physician assistant in the emergency room setting. The first is the fact that emergencies of a wide variety of severity may enter at any time, including multiple person disasters. Second, the patients are usually transient, with no previous relationship with the physician. They also usually come because of an unscheduled or unexpected illness or injury, and are more prone to be upset and/or hostile. These factors make the emergency room a frequent source of misunderstanding and litigation.

(4) The physician assistant in the emergency room setting must be clearly identified. When the physician assistant is working along side his/her supervising physician, the same understandings are assumed to exist as in the office setting. See 435:15-9-4(a).

(5) The Board is not opposed to the proper and responsible "semiautonomous" utilization of a physician assistant in emergency rooms. There are many small hospitals with such small medical staffs that full-time physician coverage in the emergency room is not possible. In these locations, the utilization of a well-trained physician assistant for such coverage is justified toward the provision of good emergency services, just as the provision of well-trained emergency medical technicians has been an improvement over non-trained ambulance drivers.

(6) If this is the case, then the physician assistant should be the best trained person possible, preferably with advanced training in emergency medicine (i.e. ACLS certification). The community should be well prepared by a public notice stressing the nature of the physician assistant's training and his/her relationship to area physicians. The physician coverage should be clearly specified and the responsibility clearly accepted by area physicians.

(d) **Nursing home and/or extended care facility.**

(1) The nursing home or similar long-term care facility shares some of the problems of the hospital, but has the advantage that there is less turnover of patients and the problems Such facilities are suitable for the utilization of a physician assistant, either on a full-time or part-time basis, under proper physician supervision.

(2) As in the hospital setting, (b) of this section, the initial workup of newly admitted patients is often delegated to a physician assistant. If this is the case, these workups should meet the standards set for workups performed by a physician. It is assumed that all abnormalities are validated by the responsible physician at his/her next visit indicating agreement with the findings as recorded by the physician assistant.

(3) The writing of orders and the performance of procedures should be subject to the same rules and restrictions described for the hospital setting in (b) of this section.

(e) **Remote patient care settings.**

(1) In an effort to address the shortage of available health care services in rural and inner city areas, the Legislature has authorized the use of physician assistants in practice settings remote from their supervising physicians. These settings, if supervised properly, will assist in expanding health care to areas of Oklahoma previously underserved by existing resources. However, they do require special consideration and constant interaction by both the physician assistant and the physician to assure that good quality medical care is delivered.

(2) It is recognized in remote patient care settings that the physician and the physician assistant are geographically separated during a majority of the time that the physician assistant is delivering patient care. However, the Board assumes that the physician and physician assistant are in frequent contact by telephone or other

means of telecommunication whenever the remote site is delivering care to patients, and not just at times when a problem or question arises. The Board further assumes that the physician and physician assistant have practiced together a sufficient period of time to establish a close working relationship in order for the physician assistant to fully understand the physician's standards of care and requirements for consultation on any patient problem seen in the facility.

(3) Remote patient care settings also require an advanced level of knowledge and skills on the part of the physician assistant. This additional knowledge and skill must be documented to the Board in the approval to practice and should include experience in delivering a comprehensive range of care in a non-remote practice setting as well as additional training in emergency medicine procedures.

(4) The supervising physician must also recognize his/her additional role and responsibilities in utilizing a physician assistant in a remote patient care setting. The physician must always be immediately and easily available for consultation on patient problems and willing to personally see any patient upon request from the physician assistant. Further, the physician must exercise close and careful review of the care being delivered in such sites with frequent review of patient protocols, orders and chart entries.

(5) Finally, the Board requires that all remote patient care settings shall have, in writing and signed by the physician, policies which govern the delivery of care of most common illness/injuries likely to be seen in these settings. These policies shall include the historical and physical exam findings, laboratory and other diagnostic test findings, and the plan of treatment and follow-up necessary for each of the conditions defined. The Board further assumes that any patient problem seen in these facilities which is not covered by an existing written policy will be discussed with and the treatment plan decided by the physician at the time of the patient's visit to the facility.

(f) **Anesthesia setting.**

(1) The physician assistant may perform pre- and post-procedural assessment of patients in accordance with guidelines established by the supervising physician.

(2) Physician assistants may administer topical anesthetics, local infiltration, or digital blocks. Physician assistants may administer wrist and ankle nerve blocks under the direct supervision of the supervising physician and following approval by the credentialing committee of the facility.

(3) Physician assistants may not administer general anesthesia.

(4) Physician assistants may administer intravenous sedation analgesia as defined in the current *Practice Guidelines for Sedation and Analgesia by Non-Anesthesiologists* of the American Society of Anesthesiologists. Administration of intravenous sedation analgesia by physician assistants must be performed under the direct supervision of the supervising physician. Specific education and training is required and must be documented and approved by the credentialing committee of the facility.

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TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 20. PHYSICAL THERAPISTS AND ASSISTANTS

[OAR Docket #03-598]

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Subchapter 3. Licensure of Physical Therapists and Assistants
435:20-3-5. Licensure by examination [AMENDED]
435:20-3-6. Re-entry requirements [AMENDED]
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ANALYSIS:
The changes to rule 435:20-3-5 limits the number of times applicants can take the licensure examination. Upon three failures, applicants will not be eligible to re-apply for examination in Oklahoma. The changes to 435:20-3-6 change the length of time a license has lapsed from twelve to three months before having to meet the re-entry requirements.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 21, 2003:

SUBCHAPTER 3. LICENSURE OF PHYSICAL THERAPISTS AND ASSISTANTS

435:20-3-5. Licensure by examination

(a) **Qualifications.**

(1) Any applicant for licensure as a Physical Therapist by examination must meet the criteria of qualifications outlined in (a) through (c) of 435:20-3-1.

(2) Any applicant for licensure as a Physical ~~Therapy~~ Therapist Assistant by examination must be a graduate of a program for education of Physical Therapy Assistants accredited by the Commission on Accreditation of Physical Therapy Education or approved successor organization, provided in no event shall the qualifications for licensure be less than those required by 59 O.S. 1971, Section 887.6, as amended.

(b) **Admittance.** No person shall be admitted to the examination until satisfactory evidence is submitted to the Board of his/her qualifications to be admitted to such examination.

(c) **Examination dates.** Examinations must be taken by the applicant within sixty (60) days of receiving written notice of eligibility to sit for the examination.

(d) **Passing score.** In the event the examination used, for either Physical Therapists or Physical ~~Therapy~~ Therapist Assistants, is provided by the recognized examination service providing a nationally accepted standardized examination, the candidate will pass based on criterion referenced standards as established by the recognized examination service. This passing point will be set equal to a scaled score of 600 based on a scale ranging from 200 to 800. Prior to March 1993 no criterion referenced scoring system existed; examinations taken prior to March 1993 shall be considered to have passed if his/her raw score on the total examination fell within 1.50 standard deviation below the National Average for the particular examination.

(1) Applicants who do not pass the examination after the first attempt may retake the examination one additional time without re-application for licensure. This must occur within six months of the Board's receipt of notification of the first failure. Prior to being approved by the Board for subsequent testing beyond two attempts, individuals shall reapply and present evidence satisfactory to the Board of having successfully completed additional clinical training and/or course work as approved by the Board.

(2) In the event of failure to pass the first examination, the applicant may work under the direct, on the premises supervision and direction of a licensed physical therapist for a period not to exceed six months.

(3) In the event of failure to pass the second ~~and any subsequent examinations~~examination, the applicant:

(A) may not practice;

(B) ~~must include evidence of additional clinical training and/or observation as part of the evidence submitted for Board approval prior to retesting~~ must meet with the Committee; and

(C) must submit a new application ~~for each subsequent attempt~~.

(4) In the event of failure to pass the third examination, an applicant will not be eligible to re-apply for examination in Oklahoma.

(~~4~~5) The applicant may re-take the examination in another state, if the examination is one provided by the Professional Examination Service or another recognized examination service providing a nationally accepted standardized examination and is the same examination service then providing the examination being given in Oklahoma. All scores must be submitted to the Oklahoma Board for evaluation by the Interstate Reporting Service or another nationally recognized reporting service. Failure to make passing scores accepted in Oklahoma on such re-takes will be considered as having failed the re-take examination in Oklahoma.

(~~5~~6) Any applicant may be required to make a personal appearance before the Board to discuss individual circumstances at any time.

435:20-3-6. Re-entry requirements

Pursuant to 59 O.S. §495h, physical therapists and physical therapist assistants with licenses lapsed more than ~~twelve~~ three months wishing to re-enter the practice of physical therapy will be required to file an application on forms provided by the Board and submit documentation of continuing competence. Physical therapists and physical therapist assistants may be required to meet one or more of the following requirements:

(1) Personal appearance before the Advisory Committee;

(2) Work under the direct supervision of a physical therapist licensed in the State of Oklahoma for at least one month (at least 22 days) for each year license was lapsed, not to exceed twelve (12) months. The applicant must obtain authorization from the Board before beginning the period of supervised practice. On completion of the period of supervised practice, the applicant will provide to the Board an adequate performance evaluation from the supervising physical therapist;

(3) Participation in continuing education activities directed towards maintaining or improving clinical knowledge and skills;

(4) Achieve a passing score on an examination approved by the Board.

[OAR Docket #03-598; filed 4-7-03]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 20. PHYSICAL THERAPISTS AND ASSISTANTS

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Subchapter 9. Continuing Education
435:20-9-1. Definitions [AMENDED]
435:20-9-2. Continuing education requirements for renewal [AMENDED]
435:20-9-3. Continuing education categories [AMENDED]
435:20-9-4. Guidelines for the audit process [AMENDED]

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435:20-9-2. Continuing education requirements for renewal [AMENDED]
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The changes in the rules allow renewal of the license if the continuing education requirements are not met but will require the licensee to obtain additional hours within the next compliance period. Failure to comply after the grace period would result in ineligibility to renew. The continuing education categories were also updated.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 21, 2003:

SUBCHAPTER 9. CONTINUING EDUCATION

435:20-9-1. Definitions

The following words and terms, when used in this Sub-Chapter, shall have the following meaning, unless the content clearly indicates otherwise:

"APTA" means the American Physical Therapy Association.

"Asynchronous instruction" means instructional interaction whereby instructional delivery and learner participation occurs other than simultaneously, offering either a delayed opportunity or no opportunity for instructional feedback.

"Board" means the Board of Medical Licensure and Supervision.

"Compliance period" means the initial compliance period from February 1, 1998 through January 31, 2000 and each successive two calendar year period from January 1, 2000 to December 31, 2002.

"Continuing education" means those appropriate learning experiences physical therapists and physical therapist assistants undertake to expand their scope of knowledge beyond the basic preparation for the profession of physical therapy and these experiences should be referenced to one of four areas: administration, education, patient care, or research.

"One (1) contact hour" means one sixty (60) minute instructional period.

"One (1) Continuing Education Unit or CEU" means ten (10) contact hours.

"OPTA" means the Oklahoma Physical Therapy Association.

"Pre-approval" means the continuing education experience has received approval prior to the end of the compliance period.

"Synchronous instruction" means instructional interaction conducted in real time where the instructional delivery and learner participation occurs concurrently with an immediate opportunity for instructional feedback.

435:20-9-2. Continuing education requirements for renewal

(a) Beginning with the renewal period ending January 31, 2000 and every two years thereafter, the applicant for renewal of licensure shall sign a statement indicating whether or not continuing education requirements have been fulfilled for the preceding two-year period.

(b) ~~Beginning January 1, 2000, and every two calendar years thereafter~~ During the compliance periods beginning January 1, 2000 through December 31, 2003, physical therapists and physical therapist assistants seeking to renew their Oklahoma license must show evidence upon request of having obtained twenty (20) contact hours of approved continuing education experiences per compliance period. Effective January 1, 2004 and every two years thereafter, physical therapists will be required to show proof of forty (40) approved contact hours and Physical Therapist Assistants will be required to show proof of thirty (30) approved contact hours. ~~Ten (10)~~ At least half of the required hours must be Category A as set out in subsection ~~435:20-9-3(a)~~ 435:20-9-3(b) except as provided in ~~435:20-9-3~~ 435:20-9-3(a)(3). No continuing education hours may be carried over from one compliance period to another.

~~(c) Each two year compliance period after the initial compliance period will begin January 1 and end December 31 of the second year.~~

(~~d~~c) Any applicant for renewal who cannot meet the requirements for continuing education ~~may make a written request for an extension from the Board. The request shall include a plan for completion of the continuing education requirements within the requested extension period. An extension with a temporary license for a period of up to one calendar year may be granted if circumstances make it impossible or extremely difficult for the applicant to obtain the required continuing education hours. Such circumstances may include, but are not limited to, extended illness, family emergency, etc.~~ may not renew until deficient hours are obtained and verified. Additionally, within the next compliance period the licensee will be required to obtain double the required hours of approved

continuing education. At least half of the required hours must be Category A. Proof of meeting the additional requirements, as verified by an audit, will be required in order to renew at the end of the next compliance period. Failure to meet these additional requirements will result in disciplinary action.

(~~e~~d) Each licensee is responsible for maintaining evidence/proof/record of participation in a continuing education experience for a minimum of four years. ~~Notarized copies~~ Copies of such proof shall be submitted to the Board upon request. Such proof shall include:

(1) date, place, course title, schedule, presenter(s), etc.,

(2) number of contact hours for activity,

(3) proof of completion, such as abstracts, certificates of attendance, or other certification of completion.

(~~f~~e) Any physical therapist or physical therapist assistant initially licensed in Oklahoma during the second year of an accounting period shall be exempt from the continuing education requirements for that first renewal period.

(~~g~~f) The Physical Therapy Committee shall conduct random audits of the continuing education records of the number of licensees that time and resources permit. The Physical Therapy Committee may appoint a sub-committee to review audits and requests for approval of continuing education experiences and make recommendations to the Physical Therapy Committee for disposition.

(~~h~~g) Penalties for failure to comply with continuing education requirements may be assessed after notice and hearing as required by law. Penalties may include imposition of additional continuing education contact hours, probation of license, suspension of license, or revocation of license.

(h) Failure to maintain records of continuing education rebuts the presumption that continuing education requirements have been completed.

(i) Misrepresenting compliance with continuing education requirements constitutes a fraudulent application.

435:20-9-3. Continuing education categories

~~A minimum of ten (10) contact hours must be acquired from Category A. Physical therapists and physical therapist assistants working less than 250 hours per year may request permission to earn all contact hours from Category B.~~

~~(1) Category A - formal educational opportunities~~

~~(A) Pre-approval not required for guaranteed credit:~~

~~(i) Continuing education that is offered or approved by the APTA and/or its components, or has been approved by other U.S. physical therapy licensing bodies which also require continuing education;~~

~~(ii) Full time course work after being accepted into a bachelor's, master's or doctoral physical therapy program;~~

~~(iii) APTA specialty certifications (receiving certificate will be equivalent to one CEU).~~

~~(B) Pre-approval required for guaranteed credit: Workshops or seminars not approved as outlined in 435:20-9-3(1)(A)(i) must be preapproved for guaranteed credit. Academic course work receiving at least a "C" or a "pass" in a pass/fail course that will enhance your professional practice may be granted Category A credit. To receive approval for CEU's the licensee must provide the following materials regarding the program or course for which credit is sought:~~

~~(i) A program agenda showing a breakdown of time spent in instruction periods, break time, meals, etc., in the case of film or tape presentation, duration, title, and a brief summary of presentation, or in the case of academic course work, a copy of the course syllabus;~~

~~(ii) A statement of the course or program's goals and objectives sufficient to provide information for evaluation of relevancy and practical application to the field of physical therapy;~~

~~(iii) Documentation of instructor background/expertise;~~

~~(iv) locations of the program, include the location city, state, and zip, name and phone number of contact person.~~

~~(2) Category B - other. It is recommended that continuing education in this category be pre-approved. Pre-approval is required for guaranteed credit except for courses offered or approved by the APTA and/or its components. An Application for Approval of Continuing Physical Therapy Education form must be submitted to and approved by the Board. The following information will be included with the form: abstract/summary; goals and objectives sufficient to provide information for evaluation of relevancy and practical application to the field of physical therapy; speaker qualifications (relevant to the field of physical therapy); method of certifying attendance; contact hours, copy of published material (if applicable). Individual participants are responsible for maintaining these records.~~

~~(A) Study groups - A series of meetings designed for intense study in a physical therapy related topic. A minimum of four participants and four hours of participation are required for continuing education eligibility. Those seeking approval for a group study project shall submit a full description including an outline of the topics and subtopics, bibliographical citations or copies of the printed materials, a time and place of study, the methods to be used, the number of hours of credit sought, and any other information relevant to the evaluation of the proposed projects. A fifty (50) minute instructional period will equal one contact hour.~~

~~(B) Self instruction - This may include but not be limited to activities such as reading professional literature, video programs and listening to audio programs relating to physical therapy practice. Video and audio programs - 50 minutes of running time equals one contact hour. One professional article or each chapter in a book will equal one contact hour. Limit two (2) contact hours per compliance period with the exception of those licensees approved by the Board to earn~~

~~all continuing education hours in Category B as provided in 435:20-9-3.~~

~~(C) In service training - An educational presentation pertaining to advanced physical therapy skills in evaluation, assessment or treatment of patients, provided by a practice setting. Job required training sessions such a HIV, safety, CPR, etc. will not qualify. One fifty (50) minute instructional period equals one contact hour.~~

~~(D) Correspondence courses and Computer Based Instruction - organized course content in a test or computer generated format.~~

~~(E) Presentation of program - A licensee who presents an original continuing education program targeted towards peers and other health care professionals may receive continuing education credit. No credit shall be given for repeated presentations. Reiteration of information obtained from attendance at a continuing education program will not qualify. One fifty (50) minute instructional period equals two contact hours.~~

~~(F) Publication - Writing for professional publication may be awarded continuing education credit. Actual number of contact hours accredited will be determined by the Committee.~~

~~(i) Each published paper and/or chapter may receive a maximum of fifteen (15) contact hours.~~

~~(ii) Each published abstract and/or book review may receive a maximum of ten (10) contact hours.~~

~~(iii) Each published case study/report may receive a maximum of ten (10) contact hours.~~

~~(G) Activities not accepted - Learning opportunities not listed above may be considered for continuing education credit, but will require preapproval. However, the following are some examples of activities that will not be accepted:~~

~~(i) Regularly scheduled education opportunities provided within an institution, such as rounds.~~

~~(ii) Staff meetings.~~

~~(iii) Meetings, workshops or seminars held by personnel with less medical training than registered physical therapists or physical therapist assistants.~~

~~(iv) Publications for the lay public.~~

~~(v) Presentations to lay groups and non-professionals.~~

~~(vi) Teaching personnel, students or staff within one's job requirement.~~

~~(vii) Non-educational meetings, entertainment or recreational activities at professional meetings.~~

~~(viii) APTA, chapter or section offices or committee appointment.~~

(a) **Approval for continuing education.**

(1) To receive initial approval for a continuing education offering of either category, submission of an Application for Approval of Continuing Physical Therapy Education form is required. The application must include the following information:

(A) Course title with an abstract, summary or course syllabus.

(B) A program agenda complete with a breakdown of all time spent in instructional and non-instructional periods to include break time, meals, etc. (Contact hours will be awarded for instructional hours only.)

(C) The course or program's goals and objectives sufficient to provide information for evaluation of relevance and practical application to the field of physical therapy beyond basic preparation of the licensee.

(D) Documentation of instructor background/expertise relevant to the field of physical therapy.

(E) Location of the program, including the address, city, state, and zip, or Internet site.

(F) Contact name, phone number and address of course sponsors or publishers;

(G) Specific date(s) of course participation.

(H) Method of certifying attendance and contact hours. (Adjustment of contact hours may occur within the approval process.)

(2) Individual participants are responsible for maintaining these records.

(3) Physical therapists and physical therapist assistants working less than 250 hours per year may request permission to earn all contact hours from Category B.

(4) Pre-approval is required for guaranteed credit under either Category.

(b) **Category A - synchronous educational opportunities.** At least half of the required contact hours must be acquired from Category A. Contact hours considered under Category A involve synchronous or real-time interaction between the course instructor and physical therapists or physical therapist assistants, with opportunity for immediate feedback.

(c) **Category B - other.** Contact hours considered under Category B may involve either synchronous or asynchronous instructional delivery and may or may not include feedback for the learner. It is recommended that continuing education in this category be pre-approved.

(1) Opportunities under Category B continuing education include:

(A) Pre-approval for guaranteed credit and determination of contact hours is recommended for continuing education approved by other U.S. physical therapy licensing bodies, APTA or its components that is consistent with the criteria for Category B as stated under 435:20-9-3.

(B) Study groups - A series of meetings designed for intense study in a physical therapy related topic. A minimum of four participants and four hours of participation are required for continuing education eligibility. Those seeking approval for a group study project shall submit a full description including an

outline of the topics and subtopics, bibliographical citations or copies of the printed materials, a time and place of study, the methods to be used, the number of hours of credit sought, and any other information relevant to the evaluation of the proposed projects.

(C) Individualized instruction - This may include but not be limited to activities such as reading professional literature or reviewing video/audio programs, and other asynchronous instructional opportunities such as home study or Internet courses relating to physical therapy practice extending beyond basic preparation of the licensee. In order to count any individualized instruction toward Category B hours, the licensee must write an original summary of each learning experience, reflecting the value of the experience with respect to the practice of physical therapy. Each summary must be typewritten and approximately 250 words in length, or one (1) page, double-spaced. Video and audio programs must consist of a minimum of 60 minutes of running time per contact hour. Each peer-reviewed article or each chapter in a book will equal one contact hour. The Committee will consider recommendations by the course author(s) as to contact hours for asynchronous course work, but will reserve judgment as to the approved quantity of contact hours. Limitations on contact hours under Individualized Instruction for continuing education requirements are:

(i) reading peer-reviewed literature - 4 contact hours maximum per compliance period.

(ii) video or audio programs - 3 contact hours maximum per compliance period.

(D) Presentation of program - A licensee who presents an original continuing education program targeted towards peers and other health care professionals may receive continuing education credit. No credit shall be given for repeated presentations. Reiteration of information obtained from attendance at a continuing education program will not qualify.

(E) Publication - Writing for professional publication may be awarded continuing education credit. Actual number of contact hours granted will be determined by the Committee. Acceptance for publication must occur within the current compliance period. Contact hours will not be approved for repeat publication of the same material.

(i) Each published paper and/or chapter may receive a maximum of fifteen (15) contact hours.

(ii) Each published abstract and/or book review may receive a maximum of ten (10) contact hours.

(iii) Each published case study/report may receive a maximum of ten (10) contact hours.

(F) Learning opportunities not listed above may be considered for continuing education credit, but will require pre-approval.

(G) Activities not accepted - Examples of activities that will not be accepted include but are not limited to:

(i) Regularly scheduled education opportunities provided within an institution, such as rounds or on-the-job required in-service training such as CPR, blood-borne pathogens, equipment or procedural updates.

(ii) Staff meetings.

(iii) Meetings, workshops or seminars held by personnel with less medical training than registered physical therapists or physical therapist assistants.

(iv) Publications for the lay public.

(v) Presentations to lay groups and non-professionals.

(vi) Teaching personnel, students or staff within one's job requirement.

(vii) Non-educational meetings, entertainment or recreational activities at professional meetings.

(viii) APTA, chapter or section offices or committee appointment.

435:20-9-4. Guidelines for the audit process

(a) The Physical Therapy Committee ~~shall determine the number of licensees whose continuing education shall be audited. Selection shall be random and notice of audit sent at least ninety (90) days prior to the licensure renewal deadline.~~ will, each compliance period, randomly or for cause select licensees for verification that all continuing education requirements have been met.

(b) Those being audited have thirty (30) calendar days from the date of the letter of notification to submit proof of continuing education to the ~~Board~~ Committee.

(c) The Physical Therapy Committee or its appointed sub-committee shall review the documentation of each individual for compliance with established continuing education standards.

(d) Those found to be in compliance shall be notified.

(e) Those found not to be in compliance shall be notified, by certified mail, within (5) working days following the determination of non-compliance. They will be given specific information concerning areas of deficiency, what further information is needed to bring them into compliance, given opportunity to submit additional documentation and/or appear in person at the next Physical Therapy Committee meeting.

(f) A summarized report shall be submitted to the Physical Therapy Committee listing the names of those audited who are in compliance with continuing education requirements. Those not in compliance shall be listed with notation of deficiencies found and/or recommendations.

[OAR Docket #03-599; filed 4-7-03]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 30. OCCUPATIONAL THERAPISTS AND ASSISTANTS

[OAR Docket #03-600]

RULEMAKING ACTION:
PERMANENT final adoption.
RULES:
435:30-1-15. Supervision of students, new graduates, techs and aides [AMENDED]
435:30-1-17. Role of Occupational Therapy Assistants in evaluations [NEW]
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Title 59 O.S., Section 888.14, Board of Medical Licensure and Supervision
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435:30-1-15. Supervision of students, new graduates, techs and aides [AMENDED]
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Register publication:
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Docket number:
02-1247
INCORPORATED BY REFERENCE:
n/a
ANALYSIS:
Rule 30-1-15 addresses supervision requirements of students, new graduates, techs and aides. The amendment allows the schools to place students in emerging practice areas with supervision by an occupational therapy practitioner but not necessarily on-site full-time. Supervision in medical and education systems would remain "direct, on-site". Rule 30-1-17 is a new rule which would allow Occupational Therapy Assistants a role in the evaluation process and administration of assessment tools and instruments, under supervision.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 21, 2003:

435:30-1-15. Supervision of students, new graduates, techs and aides

The Occupational Therapist is responsible and accountable for the overall use and actions of unlicensed personnel under his/her supervision and control. ~~Direct, on-site supervision will be provided by the Occupational Therapist for occupational therapists and occupational therapy assistant students, new occupational therapist and occupational therapist assistant graduates practicing under a Letter authorizing practice temporarily, or occupational therapy aides/technicians who are providing patient care. Direct, on-site supervision for occupational therapy assistant students may be provided by an Oklahoma licensed Occupational Therapy Assistant working under the supervision of an Oklahoma licensed Occupational Therapist.~~

(1) **Students.** Supervision of the student must occur by one of the following methods:

(A) Direct, on-site supervision will be provided by the Oklahoma licensed Occupational Therapist for the Occupational Therapy student in models of healthcare or educational systems. Supervision of the Occupational Therapy Assistant student may be provided by an Oklahoma licensed Occupational Therapy Assistant working under supervision of an Oklahoma licensed Occupational Therapist.

(B) In emerging occupational therapy models, areas of innovative community-based and social systems-based occupational therapy practice where there is no occupational therapy practitioner on site, the occupational therapy practitioner must provide a minimum of six hours of weekly supervision. Supervision must include role modeling for the student, direct observation of client interaction, meeting with the student, review of student paperwork, and availability for communication and consultation. The supervisor must be readily available during all working hours. It is understood that supervision begins with more direct supervision and gradually decreases to a minimum of six hours weekly as the student demonstrates competence. The supervisor must be cognizant of the individual student's needs and must use judgment in determining when an individual student may need more of the supervisor's time.

(2) **New graduates.** Direct on-site supervision will be provided by the Occupational Therapist for new Occupational Therapist and Occupational Therapist Assistant graduates practicing under a letter authorizing practice temporarily.

(3) **Techs and aides.** Direct on-site supervision will be provided by the Occupational Therapist or Occupational Therapy Assistant for aides/technicians providing patient care. Occupational Therapists and Occupational Therapy Assistants will delegate only those tasks that are of a routine nature and do not require interpretation or professional judgment. The occupational therapy practitioner must ensure the aide/technician has demonstrated competency in the delegated tasks.

435:30-1-17. Role of Occupational Therapy Assistants in evaluations

An Occupational Therapy Assistant's participation in evaluations is not independent. The Occupational Therapy Assistant works in collaboration with and under the supervision of an Occupational Therapist. It is the Occupational Therapists responsibility to give appropriate supervision and the Occupational Therapy Assistant's responsibility to seek appropriate supervision. The Occupational Therapy Assistant may have a role in the evaluation process and in the administration of assessment tools and instruments under the supervision of an Occupational Therapist after competency has been established. It is the Occupational Therapist who initiates the evaluation process and delegates the appropriate assessment to be carried out by the Occupational Therapy Assistant. The Occupational Therapy Assistant may administer and score these assessments. The Occupational Therapist interprets the results with input from the Occupational Therapy Assistant to establish a treatment plan.

[OAR Docket #03-600; filed 4-7-03]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 40. REGISTERED ELECTROLOGISTS

[OAR Docket #03-601]

RULEMAKING ACTION:
PERMANENT final adoption.
RULES:
435:40-1-5. Academic requirements for examination and licensure [AMENDED]
435:40-1-8. Examination for electrology license [AMENDED]
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ANALYSIS:
In rule 435:40-1-5 the course requirements of four (4) hours each of Human Anatomy and Human Physiology are combined and reduced to four (4) hours total for the two courses. These two subjects are often taught as a combined course. In rule 435:40-1-8 the minimum passing grade for each subject on the licensure examination was raised to sixty-five percent (65%) from fifty percent (50%). Passing score on the total examination remains seventy-five percent (75%).
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 21, 2003:

435:40-1-5. Academic requirements for examination and licensure

The purpose of this section is to set out the academic requirements for examination and licensure as a registered electrologist.

(1) The Board shall accept as meeting licensure requirements baccalaureate degrees and course work received from American colleges or universities which held accreditation, at the time the degree was conferred, from accepted regional educational accrediting associations as reported by the American Association of Collegiate Registrars and Admissions Officers.

(2) Degrees and course work received at foreign colleges and universities shall be acceptable only if such work could be counted as transfer credit from accredited colleges or universities as reported by the American Association of Collegiate Registrars and Admissions Officers.

(3) The relevance to the licensing requirements of academic courses, the titles of which are not self-explanatory, must be substantiated by the applicant through course descriptions in official school catalogs or bulletins or by other means acceptable to the Board.

(4) Persons applying for licensure must possess a baccalaureate degree with a major course of study approved by the Board. An approved major course of study shall be defined as a minimum of 30 credit hours in the allied health or biological-life sciences, including the satisfactory completion of college courses, including laboratory credit, in: Human Anatomy, Human Physiology, Microbiology, General Chemistry.

(A) A baccalaureate degree in the allied health or biological-life sciences with the satisfactory completion of a minimum of 30 credit hours in the allied health or biological-life sciences. Of the 30 credit hours, a minimum of 4 credit hours each, including laboratory, shall be completed in ~~each of the following college courses: Human Anatomy, Human Physiology,~~ General Chemistry~~,~~ and Microbiology and a minimum of four (4) hours total, including laboratory, shall be completed in Human Anatomy and Human Physiology. The remaining credit hours shall be in the allied health or biological-life sciences and subject to the approval of the Board.

(B) A baccalaureate degree other than in the allied health or biological-life sciences with the satisfactory completion of a minimum of 30 credit hours in the

allied health or biological-life sciences. Of the 30 credit hours, a minimum of 4 credit hours each, including laboratory, shall be completed in ~~each of the following college courses: Human Anatomy, Human Physiology,~~ General Chemistry~~,~~ and Microbiology and a minimum of four (4) hours total, including laboratory, shall be completed in Human Anatomy and Human Physiology. The remaining credit hours shall be in the allied health or biological-life sciences and subject to the approval of the Board.

(5) The college courses in Human Anatomy, Human Physiology, Microbiology, and General Chemistry shall be comprehensive in content and designed for the allied health or biological-life science major. If a complete course is divided into more than one part, such as Human Anatomy and Physiology I & II, the applicant must satisfactorily complete all parts. Satisfactory completion shall be defined as a grade of C or its equivalent, or above (grade of A or B).

435:40-1-8. Examination for electrology license

(a) **Purpose.** This section on licensure examination sets out the Board's rules governing the administration, content, grading, and other procedures for examination for licensure as a registered electrologist.

(b) **Frequency.** The Board shall set the dates the examination is to be administered. The licensure examination shall be administered at least every 6 months.

(c) **Content.**

(1) To qualify for a license, an applicant shall pass an examination in the English language which shall cover the following areas:

(A) Human Anatomy
(B) Human Physiology
(C) Microbiology
(D) General Chemistry
(E) Dermatology
(F) Hygiene
(G) Sterilization
(H) Electricity
(I) Electrolysis (theory and practice).

(2) The examination for licensure shall be prepared by the Committee and approved by the Board, or shall be any other form of examination prescribed by the Board.

(d) **Grading.**

(1) If in the judgment of the majority of the Board, the examinee obtains an average of seventy-five percent (75%) on the total examination and not less than ~~fifty percent (50%)~~ sixty-five percent (65%) in each subject on the examination, he or she shall be entitled to receive from the Board a license to practice electrolysis for the remainder of that calendar year.

(2) Licensure examinations administered by the Board shall be graded by the Committee or by a designee of the Board.

(e) **Results.**

(1) The Chairman shall notify each examinee of the results of the examination within seven (7) days of the grade meeting held by the Committee to determine the pass/fail status of candidates.

(2) No matter what numerical or other scoring system the Board may use in arriving at examination results, the official notice of results to applicants shall be stated in terms of "pass" or "fail" in addition to numerical scores being provided.

(f) **Failures.** If an applicant fails to pass the examination a maximum of three (3) times, the individual shall not be permitted to re-apply for licensure. An examination fee must accompany each examination as set by the Board.

[OAR Docket #03-601; filed 4-7-03]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 45. RESPIRATORY CARE PRACTITIONER

[OAR Docket #03-602]

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PERMANENT final adoption.
RULES:
Subchapter 1. Administration and Organization
435:45-1-2. Definitions [AMENDED]
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INCORPORATED BY REFERENCE:
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ANALYSIS:
The definitions section was amended to require the supervisor of a student and provisional license holder to be on-site at all times.
CONTACT PERSON:
Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 21, 2003:

SUBCHAPTER 1. ADMINISTRATION AND ORGANIZATION

435:45-1-2. Definitions

In addition to terms defined in §2027 of Title 59 of the Oklahoma Statutes, the following words and terms when used in this Chapter shall have the following meaning, unless the context clearly indicates otherwise:

"Accredited training and education program" means a respiratory technician or respiratory therapist program accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or its successor organization.

"Board" means the State Board of Medical Licensure and Supervision.

"Committee" means the Respiratory Care Advisory Committee.

"Direct supervision" means direct clinical on-site supervision that is personal management and control of the clinical practice of the student or provisional/special provisional license holder. Supervision begins when an Oklahoma licensed respiratory care practitioner or Oklahoma licensed physician signs the Form #5, Verification of Supervision, and remains in effect during the licensure application process or until the Board receives written notice of termination of supervision from the supervisor or upon the Board's approval of a new supervisor. The Form #5 supervisor delineates the specific tasks and duties to be performed and is on the premises, readily available to respond and provide direct clinical supervision sufficient to assure that the provisional license holder is practicing under the direction of an Oklahoma licensed respiratory care practitioner or Oklahoma licensed physician.

"Formally trained/licensed" means a person who has documented evidence of professional education/training in respiratory care modalities, theory, and clinical application which shall be conducted via an accredited educational program recognized by the Respiratory Therapy Advisory Committee and the Board of Medical Licensure and Supervision as providing expertise in respiratory care training. Those individuals requesting practice privileges pursuant to the provisions of the Respiratory Care Practice Act shall have evidence by written examination of their competency and the scope of their privileges shall be determined by the evidence of their competency testing.

"Full time practice" means greater than 1,000 hours a year.

"General supervision" means the responsible supervision and control of the practice of the student or provisional/special provisional license holder. Supervision begins when an Oklahoma licensed respiratory care practitioner or Oklahoma licensed physician signs the Form #5, Verification of Supervision, and remains in effect until the Board receives written notice of termination of supervision from the supervisor or upon the Board's approval of a new supervisor. The Form #5 supervisor is regularly and routinely on-site. When not on-site, the Form #5 supervisor is on call and readily available physically or through direct telecommunication for consultation. The student or provisional/special provisional license holder will respond to acute changes in the patient's physiological state and report these findings promptly to the supervisor on duty.

"Graduate" means a non-licensed person who has completed a respiratory technician or respiratory therapist education program accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or its successor organization, pursuant to a provisional license issued under the regulations of this Chapter.

"Licensing period" means the two-year period from the date of original issuance of a license to an applicant.

"Practice of respiratory care" shall include, but not be limited to, the direct and indirect respiratory care services including but not limited to the administration of medical gases, pharmacological, diagnostic, and therapeutic agents and services related to respiratory care procedures necessary to implement and administer treatment, ventilatory support, maintenance of the airway via natural or artificial means, specimen collection, disease prevention, pulmonary rehabilitation, or diagnostic regimen prescribed by orders of a physician; observing and monitoring signs and symptoms, physiologic measurements of the cardiopulmonary system, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determination of whether such signs, symptoms, reactions, behavior or general response exhibit abnormal characteristics; and implementation, based on clinical observations, of appropriate reporting, referral, respiratory care protocol, or changes in treatment, pursuant to a prescription by a person authorized to practice medicine under the laws of this state, or the initiation of emergency procedures under the rules of the Board of Medical Licensure and Supervision or as otherwise permitted in the Respiratory Care Practice Act. The practice of respiratory care shall not include the delivery, set-up, installation, maintenance, monitoring and the providing of instructions on the use of home oxygen and durable medical equipment.

"Provisional license holder" means:

(A) a person who is engaged in the practice of respiratory care for remuneration while enrolled in an accredited respiratory technician or respiratory therapist training and education program, pursuant to a provisional license;

(B) a graduate of a respiratory technician or respiratory therapist education program, accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or its successor organization, who has applied to take the license examination and otherwise meets the qualifications of the Board of Medical Licensure and Supervision;

(C) a person licensed in another state, territory or country who does not qualify for a license by endorsement but has applied to take the license examination and otherwise meets the qualifications of the Board of Medical Licensure and Supervision. Such applicant must show written evidence, verified by oath, that the applicant is currently practicing or has within the last six (6) months practiced respiratory care in another state, territory or country.

"Qualified medical director" means the licensed physician responsible for respiratory care services or the licensed physician designated as such by the clinic, hospital, or employing health care facility. The physician must be a medical staff member or medical director of a health care facility licensed by the Oklahoma State Department of Health.

"Respiratory care practitioner" means a person licensed by this state and employed in the practice of respiratory care.

"Respiratory care protocols" means a predetermined, written medical care plan approved by the physician and includes standing orders. Standing orders are defined responses to specific clinical situations.

"Respiratory therapist" means an individual who has graduated from a respiratory therapist program accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or its successor organization.

"Respiratory therapy technician" means an individual who has graduated from a respiratory therapy technician program accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or its successor organizations.

"Special provisional license holder" means all other applicants who have not passed the examination for Certified Respiratory Therapy Technician (CRTT) or Registered Respiratory Therapist (RRT); have been in the full time practice of respiratory care for a period of less than twenty-four (24) months; and through written evidence verified by oath, demonstrate that they are currently functioning in the capacity of a respiratory care practitioner, may be given a special provisional license to practice respiratory care under the supervision of a consenting licensed respiratory care practitioner or consenting licensed physician for a period of no longer than thirty-six (36) months from the effective date of the Respiratory Care Practice Act, 59 O.S., Section 2026 et seq. Such applicants must pass an entry level examination administered by the National Board of Respiratory Care during the thirty-six-month period in order to be issued a license to practice respiratory care.

"Standing order" means a defined response to a specific clinical situation.

"Student" means a person enrolled in an accredited respiratory technician or respiratory therapist training and education program and who receives no remuneration for respiratory care services performed as part of an accredited respiratory technician or respiratory therapist program. This person needs no provisional/special provisional license.

"Supervision" means direction and control of students and ~~provisional/special~~ provisional license holders in the practice of respiratory care. The supervisor(s)indicated on the Form #5, Verification of Supervision, remain(s) responsible for the respiratory care given~~. The supervising Oklahoma licensed respiratory care practitioner or Oklahoma licensed physician is regularly and routinely on site. When not on site, the supervisor is on call and readily available physically or through direct telecommunication for consultation.~~ and is on the premises and on duty during all hours worked by the student or provisional license holder.

"Supervision of student holding provisional licenses" means the supervision of each student holding a provisional license. The Board of Medical Licensure and Supervision will send each student holding a provisional license a letter which includes a task list of procedures the student may perform. Prior to initially engaging in any clinical assignments and upon any modification of the task list, a student provisional license holder must present the letter to his or her employer. The individual(s) who sign(s) as the supervisor of the student provisional license holder on Form #5 will also receive a copy of the letter indicating the tasks the student is able to perform when working as an employee.

"Supervisor" means an Oklahoma licensed respiratory care practitioner or an Oklahoma licensed physician who is ~~responsible for the respiratory care administered by provisional/special provisional license holders and students.~~ on the premises and on duty at any time the student or provisional license holder is on duty. The Supervisor is responsible for respiratory care given by the student or provisional license holder.

[OAR Docket #03-602; filed 4-7-03]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 55. LICENSED ORTHOTISTS AND PROSTHETISTS AND REGISTERED TECHNICIANS AND ASSISTANTS

[OAR Docket #03-603]

RULEMAKING ACTION:
PERMANENT final adoption.
RULES:
Subchapter 5. Annual Renewal/Continuing Education
435:55-5-2. Requirements for renewal of license or registration [AMENDED]
435:55-5-3. Continuing education requirements for renewal [AMENDED]
AUTHORITY:
Title 59 O.S., Section 3004, Board of Medical Licensure and Supervision
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATED BY REFERENCE:
n/a

ANALYSIS:

The renewal and continuing education rules were amended to include the certified assistants and technicians and to change the required hours for licensed orthotists and/or prosthetists from 38 to 30 every two years.

CONTACT PERSON:

Jan Ewing, Deputy Director, 405-848-6841, #104

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 21, 2003

SUBCHAPTER 5. ANNUAL RENEWAL/CONTINUING EDUCATION

435:55-5-2. Requirements for renewal of license or registration

(a) **Purpose.** The purpose of this section is to set out the rules governing ~~Orthotist and/or Prosthetist license~~ requirements for the renewal and replacement of license or registration.

(b) **Date required to renew.**

(1) A licensee or registrant must renew the license or registration every two years.

(2) The application and fee for the renewal ~~of the license~~ shall be postmarked or hand delivered to the Board office not later than December 31st.

(3) Each ~~licensee~~ applicant for renewal is responsible for renewing ~~the license~~ on or before the required date and shall not be excused from paying additional fees or penalties.

(c) **Renewal procedure.**

(1) At least thirty (30) days prior to December 31st, the Board will send an application for renewal ~~of the license~~, and the amount of the renewal fee due. The ~~licensee~~ applicant must complete the application and return it to the Board office with the required fee. The timely return of the completed renewal form shall be considered confirmation of the receipt of renewal notification.

(2) The ~~license~~ renewal form for all ~~licensees~~ applicants shall require in addition to other information, the preferred mailing address and primary practice address.

(3) The Board shall not consider ~~a license~~ the applicant to be renewed until it receives both the completed ~~license~~ renewal form and the required fees set by the Board.

(4) The Board shall issue to a licensee or registrant who has met all requirements for renewal a renewal ~~of license~~ identification card.

(d) **Late renewal.**

(1) The Board shall notify a person who has not renewed ~~a license~~ after a period of more than thirty (30) days that their license or registration is inactive.

(2) A person whose license or registration is inactive for not more than thirty (30) days may renew ~~the license~~ by paying to the Board the required renewal fee and a penalty fee as established by the Board in OAC 435:1-1-7. Fees.

(3) A person whose license or registration has been inactive for more than thirty (30) days but less than one (1) year from the last day for renewal ~~of the license~~ may renew ~~the license~~ by paying to the Board the unpaid ~~licensure~~ renewal fees, plus a late penalty as established by the Board in OAC 435:1-1-7. Fees.

(4) A person whose license or registration has been lapsed more than twelve months wishing to re-enter the practice of Orthotics and Prosthetics shall meet all application requirements in effect at the time reinstatement is requested. In addition, the ~~Orthotists and/or Prosthetists~~ applicant may be required to meet one or more of the following:

(A) Practice under the direct supervision of a licensed Orthotist and/or Prosthetist for up to ninety (90) days.

(i) The supervising Orthotists and/or Prosthetist(s) shall provide to the Committee a report on the applicant's performance prior to licensure.

(ii) Upon a personal appearance by the applicant, the Committee has the discretion to change the level of supervision to indirect supervision.

(B) Provide proof of continued education as required or obtain such before reinstatement.

(C) Retake and pass the Oklahoma Orthotic/Prosthetic state licensure exam.

(D) Make personal appearance before the Advisory Committee.

(e) **Replacement of license or registration.** The Board will replace a lost, damaged or destroyed ~~license~~ certificate or ~~license~~ identification card upon application ~~by the licensee~~ and payment of fees established by the Board. Applications must include an affidavit detailing the loss or destruction of the ~~licensee's~~ original ~~license~~ certificate or ~~license~~ identification card, or be accompanied by the damaged certificate or card.

435:55-5-3. Continuing education requirements for renewal

(a) Every two years ~~Orthotists and/or Prosthetists~~ individuals seeking to renew licensure/registration must obtain ~~38~~ the required continuing education hours. ~~Dual disciplined licensees must obtain at least 19 continuing education hours in each discipline.~~ No continuing education hours may be carried over from one compliance period to another.

(1) Orthotists and/or prosthetists must obtain thirty (30) continuing education hours. Dual disciplined licensees must obtain at least fifteen (15) hours in each discipline.

(2) Registered assistants must obtain ten (10) continuing education hours.

(3) Registered technicians must obtain six (6) continuing education hours.

(b) Any applicant for renewal who cannot meet the requirements for continuing education may make a written request for an extension from the Board. The request shall include a plan for completion of the continuing education requirements within the requested extension period. An extension for a period of up to one calendar year may be granted if circumstances

make it impossible or extremely difficult for the applicant to obtain the required continuing education hours. Such circumstances may include, but are not limited to, extended illness, family emergency, etc.

(c) Each ~~licensee~~ applicant is responsible for maintaining evidence/proof/record of participation in a continuing education experience for a minimum of six years. Such proof shall include documented evidence as provided by the American Board for Certification or Board for Orthotist Prosthetist Certification or evidence submitted by the ~~licensee~~ applicant including:

(1) date, place, course title, schedule, presenter(s), etc.,

(2) number of contact hours for activity,

(3) proof of completion, such as abstracts, certificates of attendance, or other certification of completion.

(d) New licentiates or registrants will be required to obtain continuing education hours on a pro rata basis based upon when the license or registration was issued during the accounting period. Furthermore, no continuing education hours will be required during the full calendar year of initial licensure or registration.

(e) The Advisory Committee on Orthotics and Prosthetics shall conduct random audits of the continuing education records of the number of licensees or registrants that time and resources permit. The Committee may appoint a sub-committee to review audits and requests for approval of continuing education experiences and make recommendations to the Committee for disposition.

(f) Penalties for failure to comply with continuing education requirements may be assessed after notice and hearing as required by law. Penalties may include imposition of additional continuing education hours, probation ~~of license~~, suspension ~~of license~~, or revocation of license or registration.

[OAR Docket #03-603; filed 4-7-03]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 21. CERTIFICATION OF ALCOHOL AND DRUG SUBSTANCE ABUSE COURSES (ADSAC), ORGANIZATIONS AND INSTRUCTORS

[OAR Docket #03-537]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. Certification of Alcohol and Drug Substance Abuse Courses (ADSAC), Organizations and Instructors
450:21-1-1. [AMENDED]
450:21-1-2. [AMENDED]
450:21-1-3. [AMENDED]
450:21-1-5. [AMENDED]
450:21-1-6. [AMENDED]
450:21-1-7. [AMENDED]
450:21-1-7.2. [AMENDED]
450:21-1-8. [AMENDED]
450:21-1-9. [AMENDED]
450:21-1-10. [AMENDED]
450:21-1-11. [AMENDED]
Subchapter 3. Certification Denial or Sanctions
450:21-3-1. [AMENDED]
450:21-3-2. [AMENDED]
450:21-3-3. [AMENDED]
Subchapter 5. Course Attendance and Completion
450:21-5-1. [AMENDED]
450:21-5-2. [AMENDED]

AUTHORITY:
43A O.S. §§ 2-101, 2-202, 3-415, 3-451 through 3-460; and 47 O.S. § 6-212.2; Board of Mental Health and Substance Abuse Services.

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March 5, 2003
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Failure of the Legislature to disapprove the rules resulted in approval on March 26, 2003.
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March 26, 2003
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July 1, 2003

SUPERSEDED EMERGENCY ACTIONS:
N/A

INCORPORATIONS BY REFERENCE:
Incorporating standards:
Alcohol and Drug Substance Abuse Course (ADSAC), 2003 edition
Incorporating rules:
450:21-1-7.
450:21-1-7.2.
Availability:
7:30 a.m. to 2:30 p.m., Monday through Friday in the Substance Abuse Programs Division of the ODMHSAS, 1200 N.E. 13th Street, Oklahoma City, Oklahoma 73117, 405/522-3858

ANALYSIS:
In compliance with the Administrative Procedures Act the proposed rule revisions to Chapter 21 are part of the Department's review of Title 450. These proposed amendments are intended to comply with statutory changes; amendment or repeal of rules; delete redundant or superfluous language; and correct scrivener's errors.

CONTACT PERSON:
Linda Winton, Policy Analyst and Agency Liaison Officer, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, 405/522-6765

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2003:

SUBCHAPTER 1. CERTIFICATION OF ALCOHOL AND DRUG SUBSTANCE ABUSE COURSES (ADSAC), ORGANIZATIONS AND INSTRUCTORS

450:21-1-1. Purpose

This chapter sets forth the standards and criteria used in the certification of Alcohol and Drug Substance Abuse courses and instructors and implements 43A O.S. §§ 3-451 through 3-460.

450:21-1-2. Statutory authority

(a) ~~Sections 3-451 through 3-460 of Title 43A of the Oklahoma Statutes provide for~~ the Under 43A O.S. § 3-453(D), ODMHSAS has authority to certify Alcohol and Drug Substance Abuse Courses~~, hereinafter referred to as ADSAC~~. Pursuant to 47 O. S. § 6-212.2, ~~requires offenders to~~ persons convicted of driving under the influence of alcohol or other intoxicating substances or receiving an alcohol or other drug related revocation or suspension of driving privileges must complete an Alcohol and Drug Substance Abuse Course as a requirement for reinstatement of Oklahoma driving privileges.

(b) Pursuant to 43A O. S. §§ ~~3-451 through 3-460~~ 3-453, ODMHSAS ~~adopts the following standards and criteria necessary to govern~~ is authorized to adopt rules governing:

(1) Applications and ~~certifications~~ certification of organizations and institutions ~~for approval~~ to conduct ADSAC courses;

(2) ~~Rules for denial~~ Denial, suspension or revocation of ~~an organization's, or institution's, or instructor's~~ certification;

(3) Minimum requirements for all ADSAC content and curricula;

(4) Minimum qualifications~~, application, and certification~~ for all ADSAC instructors~~.~~;

(5) ~~Rules for denial or revocation of all instructor certifications~~ Enrollment fees for those attending ADSAC~~.~~;

(6) Facilities, equipment and instructional materials for ADSAC~~.~~;

(7) ~~Minimum qualifications for organizations or institutions conducting ADSAC instructor training.~~

~~(8)~~ Minimum qualifications for instructors of ADSAC instructor training~~.~~;

(~~9~~8) ADSAC student attendance requirements; and

(~~10~~9) Requirements for certifying to ODMHSAS and DPS successful ~~ADSAC student~~ course completion of ADSAC by a person.

450:21-1-3. Definitions

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

"ADSAC" means Alcohol and Drug Substance Abuse Course.

"10 Hour ADSAC Instructor" means an individual certified to teach the ten (10) hour ADSAC Course.

"24 Hour ADSAC Instructor" means an individual certified to teach the twenty-four (24) hour ADSAC Course.

"Administrator" means the person responsible for administering ADSAC within a certified organization or institution.

"Action Code" means a numerical designation applied to ADSAC Courses by the Oklahoma Department of Public Safety, and which will be provided by ODMHSAS to organizations and institutions conducting ADSAC, for use in completing the written verification of an individual's completion of an ADSAC course.

~~**"Calendar Year"** means a twelve (12) consecutive month period from the date of the ADSAC organization's or institution's, or instructor's certification or recertification by ODMHSAS.~~

"Certification" means organization, institution or instructor approval by ODMHSAS to conduct ADSAC.

"Commissioner" means the Commissioner of the Oklahoma Department of Mental Health and Substance Abuse Services.

"Conflict of interest" means a conflict between the private interests and public obligations of a certified organization, institution, or certified ADSAC Instructor~~. And for instructors,~~ and includes instructors being involved in a business relationship with more than one (1) ADSAC provider organization ~~within a single judicial district~~.

"Consumer" means an individual, adult or child, who is receiving services, evaluation or treatment, from an entity operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in OAC Title 450 Chapters 16, 17, 18, 19 and 23 as client(s) or patient(s) or resident(s) or a combination thereof.

"Course" means ~~a complete body of~~ an approved ADSAC curriculum**.**

"Curricula" (plural of Curriculum) See Curriculum.

"Curriculum" means a course of study in alcohol and drug substance abuse.

"Denial" means a refusal to certify to conduct ADSAC.

"DPS" means Department of Public Safety.

"Equipment" means hardware, such as audio visual equipment, used as a tool to present material in an ADSAC course.

"Facility" means building in which ADSAC is conducted.

"Guest instructor" means non-certified instructor invited to discuss a specific portion of ADSAC curriculum.

"Instructional material" means written or printed data distributed to the student during the normal course of an ADSAC schedule, for informational or educational purposes.

"Instructor candidate" means an individual ~~applying~~ who has applied to be certified to instruct ADSAC, as either a 10 hour or 24 hour ADSAC Instructor.

"Lapse" means the expiration of an otherwise valid ADSAC certification due to ~~either an organization's, or instructor's,~~ the failure to timely complete and submit the required application for recertification.

~~**"New instructor"** means one who has completed all requirements to become certified.~~

"Intern instructor" means an instructor who has initial approval to conduct ADSAC (either 10 Hour or 24 Hour), but who has not completed internship or training requirements; and is not certified.

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Offender" means a person convicted of driving under the influence of alcohol or other intoxicating substances or receiving an alcohol or drug related revocation or suspension of driving privileges.

"Recertification" means the renewal of certification for an institution, or organization, or instructor to provide ADSAC.

"Revocation" means cancellation of an existing certification to conduct or instruct ADSAC.

"Student" means an individual who pays an enrollment fee to attend ADSAC.

"Suspend" means to temporarily cancel certified ADSAC services for a designated period.

"Transtheoretical Model of Change" or **"TMC"** means a model which identifies distinct stages of change existing for each individual involved in any educational or therapeutic process and enhances the ability to accurately assess the individual's readiness for clinical or educational engagement at the time of an assessment. This is also referred to as the "Stages of Change" model.

450:21-1-5. Compliance with laws, rules

(a) All organizations or institutions and instructors certified by ODMHSAS to conduct ADSAC shall do so in accordance with all applicable laws of the State of Oklahoma and all applicable rules (OAC Title 450) of ODMHSAS.

(b) Each ~~person applying for organization approval and each~~ applicant ~~for certified instructor~~ shall declare that he or she has read and understands §§ 3-451 through 3-460 of Title 43A of the Oklahoma Statutes~~,~~ and this chapter~~;~~ and agrees to abide by the terms thereof, along with future amendments thereto, as a condition for obtaining and retaining such approval or certification.

(c) ODMHSAS shall process all applications, and enforce these standards and criteria (rules) in this chapter, and related laws.

(d) ~~Any statute of the State of Oklahoma existent or duly enacted in the future shall supersede any conflicting provision of these standards and criteria to the extent of such conflict, but shall not affect the remaining provisions herein.~~

~~(e)~~ Approved organizations, institutions, and instructors shall not make reference to ODMHSAS or DPS in any advertisement. Advertising shall be truthful in all communication with prospective students. Implication of exclusive services by any one organization is prohibited.

(~~f~~e) All organizations, institutions~~, or~~ and instructors certified to conduct ADSAC must promptly notify ODMHSAS of a change of mailing or physical address within fourteen (14) days of said change.

(~~g~~f) The fees for those attending ADSAC ten (10) hour courses shall be eighty-five dollars ($85.00) per student; and for persons attending the twenty-four (24) hour courses the fee shall be two hundred fifty dollars ($250.00).

(g) The ADSAC organization or institution shall pay ODMHSAS ten percent (10%) of each ADSAC fee collected, which ODMHSAS shall remit to the Oklahoma State Treasurer to be credited to the ODMHSAS Revolving Fund.

450:21-1-6. Applications

(a) Applications for ~~approval and~~ certification of organizations or institutions and instructors to conduct 10 hour or 24 hour ADSAC courses shall be ~~as follows~~ made to ODMHSAS in writing on a form and in a manner prescribed by the Commissioner of ODMHSAS.

(b~~1~~) ~~Each~~ ODMHSAS shall give each organization, institution~~, or~~ and instructor candidate requesting certification to conduct 10 hour or 24 hour ADSAC courses ~~shall be given~~ the following:

(1~~A~~) A copy of §§ 3-451 through 3-453 of Title 43A of the Oklahoma Statutes;

(2~~B~~) A copy of these standards and criteria; ~~and~~

(3~~C~~) The appropriate application(s)~~.~~ ; and

(4) A sample of the standardized ADSAC curriculum approved by ODMHSAS.

(c~~2~~) An organization or institution applying for certification to conduct ADSAC shall ~~forward~~ provide to ODMHSAS for consideration:

(1~~A~~) Completed application;

(2~~B~~) ~~Proposed curriculum for the 10 or 24 Hour ADSAC Courses;~~

~~(C)~~ Film approval form(s) for the 10 or 24 Hour ADSAC Courses;

(3~~D~~) Instructional materials for the 10 or 24 Hour ADSAC Courses;

(4~~E~~) Written verification the ~~applying organization/institution~~ applicant is ~~either~~ a nonprofit educational institution of higher learning~~; or~~, a governmental entity~~;~~, or a nonprofit ~~organization~~ corporation. If a non-profit corporation, verification shall be a copy of the U.S. Internal Revenue Service Documents granting the corporation 501(c)(3) status;

~~(F) Organizations applying shall submit evidence the organization was constituted, and is operated, to provide substance abuse, mental health or educational services as the corporation's primary services; and that the corporation is operated from a professional administrative office which is open and operated during normal business hours;~~

(5~~G~~) Completed certification applications and resumes of proposed instructors;

(6~~H~~) The ~~complete~~ physical address (street, building name and suite [if applicable], city and zip code) and description of all sites at which ADSACs will be conducted~~.~~;

(7~~I~~) Letters of support from at least two (2) of the following (and who serve the location in which each proposed site is located):

(A~~i~~) District or Associate District Judge,

(B~~ii~~) County Sheriff,

(C~~iii~~) Municipal Judge, or

(D~~iv~~) District or Assistant District Attorney, or

(E~~v~~) Community leaders.

(d) If the applicant is a non-profit corporation, the applicant shall submit evidence it was constituted, and is operated, to provide substance abuse, mental health or educational services as its primary services and that the corporation is operated from

a professional administrative office, which is open and operated during normal business hours.

(~~J~~e) Requests from certified ADSAC ~~provider organizations~~ providers for additional~~,~~ or replacement~~,~~ course sites shall be submitted to the ODMHSAS ~~in written form;~~ and shall ~~include~~ meet all requirements ~~set forth in 450:21-1-6(2)(A through I). EXCEPTION: Items~~ for initial applications except it need not submit items previously submitted~~,~~ and currently applicable to the new site(s)~~;~~ and expressly stated as such in the application for new course site(s).

(~~3~~f) ~~Recertification~~ Renewal of certification of ADSAC organizations or institutions shall be contingent upon submission of ~~qualifying~~ renewal application and programmatic history of compliance ~~with this section~~. The application for ~~recertification~~ renewal shall include all items~~, updated, as set forth in 450:21-1-6(2) (A through I)~~ required for initial certification.

(~~4~~g) An ~~instructor candidate requesting~~ applicant for certification as an instructor to conduct ADSAC ~~classes~~ shall ~~forward~~ provide to ODMHSAS for consideration:

(1~~A~~) A letter of ~~request~~ recommendation from an administrator of a certified organization or institution;

(2~~B~~) ~~An up-to-date~~ A current resume, which shall include:

(A~~i~~) Education background ~~(high school and up)~~ including an official college transcript, ~~if applicable,~~ and

(B~~ii~~) Employment history covering the previous ten (10) years~~;~~ to include name, complete address and telephone number of employer(s).

(3~~C~~) A completed application; and

(4~~D~~) A completed Oklahoma State Bureau of Investigation background check and a similar background check from any other state(s) of residence~~,~~ for the past three (3) years.

(h~~5~~) Each ~~organization, institution or instructor candidate~~ applicant shall be considered for certification by ODMHSAS in accordance with these standards and criteria and shall be notified of approval or denial of certification in writing by ~~an ODMHSAS representative~~. ~~Reasons for any denial shall be provided by ODMHSAS~~ the Commissioner of Mental Health and Substance Abuse Services. Certification shall be effective for three (3) years (thirty-six (36) months) commencing with the date of issue.

450:21-1-7. Minimum curriculum requirements, ten (10) hour courses

(a) ~~Prior to being approved to conduct ten (10) hour ADSAC courses, an organization or institution shall submit a curriculum to ODMHSAS for approval. The curriculum must include, but is not limited to, appropriate~~ The standardized ADSAC curriculum approved by ODMHSAS shall be utilized by all ADSAC organizations, institutions and instructors for the ten (10) hour ADSAC course. Any additional materials must be consistent with the format of the main curricula and follow the transtheoretical model of change.

(b) The ten (10) hour Alcohol and Drug Substance Abuse Course shall at a minimum include instruction on:

(1) Legal aspects of drinking or using other drugs and driving;

(2) Physiological aspects of using alcohol and other drugs;

(3) Sociological aspects of using alcohol and other drugs;

(4) Effects and possible outcomes of drinking or using other drugs and driving,

(5) Scope of the problem of drinking or using other drugs and driving,

(6) The history/origins of alcohol and other drugs;

(7) The effects on family and friends in the abuse of alcohol and other drugs

(8) Alternative plans/strategies to using alcohol or other drugs and driving, and

(~~b~~c) Each curriculum shall provide for a full ten (10) hours of block-teaching classroom instruction, and shall be conducted in no less than two (2) sessions on two (2) separate days. These hours shall not be inclusive of:

(1) Meal or break times; or

(2) ~~School~~ ADSAC administrative functions except for enrollment form completion and fee payment~~; and~~.

(~~3~~d) Students may be admitted for fifteen (15) minutes after the official starting time of the class without having to make up this time.

(~~c~~e) Each curriculum shall provide for a discussion period following each audio-visual presentation. Audio-visual materials shall not comprise more than ~~twenty (20)~~ ten (10) percent of the class and must have been submitted and approved at the time of application for certification.

(~~d~~f) Each ten (10) hour curriculum shall provide for a pre- and post-test~~, as prescribed by ODMHSAS~~. The Pre-test shall be given during the first two (2) hours of the beginning of each course, and the Post-test at the end of each course. The purpose ~~being~~ is to determine student gain in knowledge of the material.

(~~e~~g) ~~Each~~ The ADSAC organization, institution or instructor shall provide each student ~~will be given~~ a list of community referrals and resources.

(~~f~~h) Class size shall not exceed twelve (12) students.

450:21-1-7.2. Minimum curriculum requirements, twenty-four (24) hour courses

(a) The standardized ADSAC curriculum approved by ODMHSAS shall be utilized by all ADSAC organizations, institutions and instructors for the twenty-four (24) hour ADSAC course. Any additional materials must be consistent with the format of the main curricula and follow the transtheoretical model of change. ~~The curriculum shall be approved by ODMHSAS.~~

(b) The minimum curriculum requirements for the twenty-four (24) hour ADSAC course for ~~adults (~~second and subsequent offenders~~)~~ includes~~,~~ but is not limited to~~,~~ appropriate instruction on:

(1) Legal aspects of drinking or using other drugs and driving;

(2) Physiological aspects of using alcohol and other drugs;

(3) Sociological aspects of using alcohol and other drugs;

(4) Effects and possible outcomes of drinking or using other drugs and driving;

(5) Scope of the problem of drinking or using other drugs and driving;

(6) The history/origins of alcohol and other drug abuse;

(7) Alternatives to using alcohol or other drugs and driving; and

(8) The effects on family and friends in the abuse of alcohol and other drugs.

(~~b~~c) The curriculum shall be covered within the following time-frames:

(1) Not more than two (2) hours of education on a single day.

(2) Not more than four (4) hours of education in a single week.

(3) The time-frames ~~given in 450:21-1-7.2(b)(1 and 2)~~ shall not be inclusive of:

(A) Meal or break times; or

(B) ~~School~~ ADSAC administrative functions except for enrollment form completion and fee payment.

(4) Students may be admitted up to fifteen (15) minutes after the official time of the class without having to make up the time.

(~~c~~d) The curriculum shall provide for a discussion period following each audiovisual presentation. Audiovisual presentation shall not be used for more than ~~twenty (20)~~ ten (10) percent of the total class time.

(~~d~~e) The curriculum shall provide for a Pre- and Post-test, as prescribed by ODMHSAS. The Pre-test shall be given in the first two (2) hour block of classroom instruction, and the Post-test shall be given at the end of the final block of classroom instruction. These tests are to determine the student knowledge gain of the material.

(~~e~~f) Each student shall be given community referrals and resources as appropriate.

(~~f~~g) Class size shall not exceed twelve (12) students.

450:21-1-8. Administrative responsibilities, institutions or organizations conducting ADSAC

(a) Each organization or institution certified to conduct ADSAC shall provide ODMHSAS a monthly schedule of courses to be conducted. The scheduled courses shall be provided per the submitted course schedule and the course may only be canceled if zero (0) students show up for the course within fifteen (15) minutes after the scheduled course starting time. The monthly course schedule shall be submitted no later than thirty (30) days in advance of any course start and ~~will~~ shall include;

(1) The complete address, street, building name and suite where applicable, city and zip code, where each course will be conducted;

(2) The course instructor;

(3) The beginning and ending times of each session of the course; and

(4) Enrollment in ten or twenty-four hour classes shall be limited to twelve (12) students.

(b) ~~Requests from Certified ADSAC provider organizations for additional, or replacement course sites shall be submitted to the ODMHSAS as set forth in 450:21-1-6(2)(J).~~

(~~c~~) Each organization or institution certified to conduct ADSAC shall advise ODMHSAS seven (7) days in advance of:

(1) A 10 Hour or 24 Hour Course cancellation; or

(2) A scheduled instructor change (unless change is due to illness or other instructor emergency); or

(3) Any change of the date or hour of the scheduled 10 Hour or 24 Hour Course.

(~~d~~c) Failure to offer either a 10 Hour or 24 Hour Course at an approved site for three (3) consecutive months shall constitute a withdrawal from that site and require another ~~request as in 450:21-1-6(2)(J)~~ application for certification. ~~This is not applicable when an institution or organization providing ADSAC is under formal suspension by ODMHSAS.~~

~~(1) ODMHSAS personnel shall be admitted to any course without charge, upon request and display of proper credentials.~~

(d~~2~~) If no students attend the first session of a ten (10) or twenty-four (24) hour course, a second or subsequent session is not required.

(e) Failure to either provide a scheduled course to one (1) or more attending students, or staff a scheduled course site for up to fifteen (15) minutes after the scheduled course beginning time~~, when zero (0) students show up,~~ may result in administrative reprimand, suspension or revocation ~~as set forth in 450:21-3-2~~. Class may be cancelled when zero (0) students show up after fifteen (15) minutes of the scheduled course beginning time.

(f) ODMHSAS personnel shall be admitted to any course without charge, upon request and display of proper credentials for the purpose of audit and review.

450:21-1-9. Facilities, equipment and instructional material

(a) Each facility where an ADSAC course is held must meet local and state fire and safety standards. ODMHSAS may request state or local fire inspectors or other state safety officials to conduct an inspection of any facility suspected of being hazardous.

(b) Each facility must provide a safe, confidential and comfortable environment for students and instructors, with minimum distractions.

(c) All equipment must be in good working condition. ~~Equipment in poor condition must be repaired quickly to promote a smooth and efficient course delivery.~~

(d) ~~Prior to actual use, all instructional~~ Instructional material issued to students such as handouts, pamphlets, workbooks, etc., must ~~be timely~~ have been submitted ~~and approved by~~ to ODMHSAS upon application by the organization or institution for certification.

(e) ~~All facilities will be approved by ODMHSAS prior to use as a classroom.~~

~~(1)~~ ~~Site~~ Each facility shall be a professional setting as appropriate for the educational purposes of ADSAC.

(~~2~~f) ~~Sites having been~~ Facilities shall not be designed~~,~~ or used~~,~~ for the primary purpose of eating or sleeping (hotel/motel sleeping rooms, restaurant dining rooms, etc.) ~~shall not be approved~~.

450:21-1-10. Instructor certification, qualification and disqualification

(a) Minimum qualifications for certification of 10 Hour ~~and 24 Hour~~ ADSAC instructors are as follows~~:~~:

(1) ~~An applicant for Certified Instructor for the ten (10) hour ADSAC Course shall meet the following qualifications:~~

~~(A)~~ Possess a bachelor's degree in behavioral or healthcare sciences education, psychology, social work~~,~~ or chemical dependency~~, or be an alcohol/drug abuse counselor~~ with at least two (2) years verifiable full-time equivalent experience in the addiction treatment field~~, or be a Certified Alcohol and Drug Counselor or working toward such certification or a similar credential from another state or United States territory;~~.

(2~~B~~) ~~Have a~~ A valid driver's license~~;~~.

(3~~C~~) ~~Complete~~ Completion of the following ~~training~~ in the order listed below:

(A~~i~~) Observe one (1) complete ADSAC course conducted by a certified instructor. This observation must be completed and verified to ODMHSAS prior to attending instructor training.

(B~~ii~~) ~~Complete an ODMHSAS-approved instructor~~ Instructor training and pass the ODMHSAS Certification Examination ~~For~~ for 10 Hour ADSAC Instructor, and

(C~~iii~~) Conduct a complete ADSAC course under the supervision of a certified ADSAC instructor or an ODMHSAS representative.

~~(D) An applicant for 10 Hour ADSAC Course Certified Instructor shall be ineligible for certification for:~~

~~(i) A non-pardoned felony conviction within the last ten (10) years;~~

~~(ii) An alcohol- or other drug-related entry on the driving record, whether conviction or implied consent law related, for five (5) years prior to the application for certification; or,~~

~~(iii) Having involvement in any business or endeavor which is a conflict of interest as defined in 450:21-1-3, ODMHSAS may on its own initiative, or upon complaint, investigate potential or alleged conflict of interest, or any other alleged, or suspected, violation of these standards.~~

(4~~E~~) The instructor candidate shall be allowed one (1) year to complete all training requirements. Failure to meet all requirements within one (1) year will result in denial of certification. To be reconsidered, the candidate will be required to re-apply to ODMHSAS.

(5~~F~~) ~~After training requirements have been met, and upon request of a contracting or employing organization or institution, such 10 Hour ADSAC New Instructor shall be certified.~~

~~(G) The 10 Hour ADSAC Instructor certification shall be valid for a three (3) year period, unless revoked for cause.~~

(6~~H~~) Continued certification of each 10 Hour ADSAC Course Instructor shall be dependent upon renewal application and the accomplishment of minimum standards. These standards are:

(A~~i~~) Each instructor shall conduct at least two (2) complete courses during each twelve (12) month period beginning with the date of initial certification.

(B~~ii~~) Documentation of receiving ~~eight (8)~~ ten (10) continuing education hours each twelve (12) month period beginning with the date of initial certification. These hours ~~may be in~~ shall be from each of the following areas:

(i) adult education,

(ii) social work, sociology or psychology, and

(iii) alcohol/drug training.

(b~~2~~) An applicant for Certified Instructor for the twenty-four (24) hour ADSAC Course shall meet the following qualifications:

(1~~A~~) Be a Qualified Practitioner as set forth in OAC 450:22-1-13 and certified as a 10 Hour ADSAC Instructor (in good standing) for at least one (1) year, or be a Certified 10 Hour ADSAC Instructor for at least ~~five (5)~~ three (3) years;

(2~~B~~) Observe at least six (6) hours of a 24 Hour ADSAC Course; and

(3~~C~~) Present at least six (6) hours of a 24 Hour ADSAC under the observation of a certified 24 Hour ADSAC Instructor, and receive written recommendation for certification from said observer.

(c~~D~~) ~~An applicant for 24 Hour ADSAC Certified Instructor shall be disqualified and ineligible for certification, as set forth in 450:21-1-10(1)(D).~~

~~(E) For 24 Hour ADSAC applicants, instructor candidate status shall be applied for, and granted, as set forth in 450:21-1-10(1) (E).~~

~~(F) After training and instructor candidate requirements have been met, and upon request of a contracting or employing organization or institution, such new 24 Hour ADSAC Instructor shall be certified.~~

~~(G) The 24 Hour ADSAC Instructor certification shall be valid for a three (3) year period, unless revoked for cause.~~

(d~~H~~) Continued certification of each 24 Hour ADSAC Course Instructor shall be dependent upon application for recertification and the accomplishment ~~of minimum standards. These standards are~~ the following:

(1~~i~~) Each instructor shall conduct at least two (2) complete courses during each twelve (12) month period beginning with the initial certification.

(2~~ii~~) Documentation of receiving ~~eight (8)~~ ten (10) continuing education hours each twelve (12) month period beginning with the date of initial certification. These hours ~~may~~ shall be ~~in~~ from each of the following areas:

(A) education,
(B) social work, psychology~~,~~ or sociology, and
(C) alcohol/drug training.

(e) An applicant may not be certified nor certification as an ADSAC instructor renewed under any of the following conditions:

(1) A non-pardoned felony conviction within the last five (5) years;

(2) Conviction of driving under the influence of alcohol or other intoxicating substances or receiving an alcohol or drug related revocation or suspension of driving privileges for five (5) years prior to the application for certification; or,

(3) Having involvement in any business or endeavor which is a conflict of interest. ODMHSAS may on its own initiative, or upon complaint, investigate potential or alleged conflict of interest, or any other alleged, or suspected violation of these standards.

450:21-1-11. Instructor training

(a) Minimum qualifications for organizations or institutions conducting ~~10 Hour and 24 Hour~~ ADSAC ~~Course~~ Instructor training, and the minimum qualifications for ~~instructors of~~ individuals conducting instructor training are as follows:

(1) All ADSAC Instructor training shall only be conducted by non-profit organizations, educational institutions or governmental agencies.

(2) ~~Student tuition for Instructor Training shall be approved, in advance by ODMHSAS.~~

~~(3)~~ The Curricula for the training shall be as follows:

(A) ~~The Curricula for 10 Hour and 24 Hour ADSAC Course Instructors shall provide for a~~ A minimum of twenty-four (24) hours of instruction. These hours shall be offered in no less than ~~three (3)~~ four (4) days and for no more than ~~ten (10)~~ eight (8) hours per day.

(3~~B~~) ~~Instructors~~ Teachers for instructor training must have:

(A~~i~~) A minimum of two (2) years ~~ADSAC instructional~~ experience as an ADSAC instructor; or

(B~~ii~~) A ~~bachelor's~~ masters degree from an accredited college or university; or

(C~~iii~~) Four (4) years related experience in the subject matter to be taught.

(4~~C~~) Each facility where instructor training courses are conducted shall:

(A~~i~~) Meet local and state fire and safety standards; and

(B~~ii~~) Provide a safe and comfortable environment for instructors and instructor candidates.

(5~~D~~) Instructional equipment must be in good working order.

~~(E) Instructional material must be approved by ODMHSAS.~~

~~(5) Each organization or institution must submit course curriculum and resumes, unless previously submitted, on instructors to ODMHSAS for approval.~~

~~(6) ODMHSAS shall advise each organization or instructor in writing of approval or denial of certification to conduct instructor training. Reason(s) for denial shall be provided by ODMHSAS.~~

~~(7) Each certified organization, institution or agency shall request approval of ODMHSAS not less than sixty (60) days in advance of each instructor training.~~

~~(8) Prior to being admitted to Instructor Training for Certification credit each Instructor Candidate shall have submitted to ODMHSAS a resume, application, OSBI check or similar background check(s) from all states of residence during the past three (3) years, copy of his or her current Driver's License, documentation of sponsorship by a certified ADSAC provider organization and have completed observation of a full 10 Hour Course (for 10 Hour ADSAC Instructor applicants).~~

(~~9~~6) Instructor Training organizations or institutions shall notify potential students, in writing, that ~~any Instructor Training Received~~ instructor training received prior to written ~~candidate approval by~~ application to ODMHSAS shall not be accepted for Instructor Certification requirements.

(~~10~~7) Each organization or institution shall advise ODMHSAS of candidates who have successfully completed the instructor training on a form prescribed by ODMHSAS.

SUBCHAPTER 3. CERTIFICATION DENIAL OR SANCTIONS

450:21-3-1. Administrative denial, suspension, or revocation of certification

~~Rules governing denial or revocation of organization or institutional certification and rules governing denial or revocation of instructor certification are:~~

(a~~1~~) ODMHSAS may deny the certification of any organization, institution, or instructor (10 Hour or 24 Hour) to conduct ADSAC who fails to qualify for, or comply with, the provisions of ~~(rules in)~~ this chapter.

(b~~2~~) ODMHSAS may reprimand, suspend, ~~or~~ revoke or deny renewal of the certification of any organization, institution, or instructor (10 Hour or 24 Hour) who fails to qualify for~~,~~ or comply with~~,~~ the provisions of ~~(rules in)~~ this chapter.

(c~~3~~) In the event ODMHSAS ~~has determined that a certification~~ determines action should be ~~suspended, or revoked, the following shall apply~~ taken against any person certified under this Chapter, the proceeding shall be initiated pursuant to the rules of ODMHSAS as set forth in Oklahoma Administrative Code, Title 450, Chapter 1, Subchapter 5 and the Administrative Procedures Act.

~~(A) ODMHSAS shall send by certified mail, return receipt requested, notice of the proposed action containing all reasons for the action to the concerned applicant, certified organization or institution, or certified instructor, at his or her last known address as reflected by ODMHSAS records.~~

~~(B) The notice shall provide that ODMHSAS action shall become effective ten (10) days after receipt thereof by the applicant, certified organization or institution, or certified instructor, unless said applicant, certified organization or institution or certified instructor timely files a written request for a hearing. Such request shall be timely filed prior to the effective date of ODMHSAS action.~~

~~(4) All appeals and hearings of any ODMHSAS action(s) of denial, reprimand, revocation, or any other administrative sanction shall be carried out in conformance with OAC 450:1, Subchapters 1institution and 5.~~

(d~~5~~) Organizations or institutions or instructors, 10 Hour or 24 Hour, who have had certification renewal denied~~,~~ or revoked, shall ~~not~~ be ~~eligible~~ ineligible for reapplication for a period of five (5) years.

(e) Organizations, institutions or individuals whose certification has expired may apply for initial certification.

450:21-3-2. Grounds for reprimand, suspension or revocation of certification, organizations and institutions, and instructors

~~Grounds for reprimand, suspension or revocation of authority to conduct ADSAC, and for revocation of an instructor's certification (10 Hour or 24 Hour), are as follows. Two reprimands within a one (1) year period is grounds for suspension or revocation.~~

(a~~1~~) ~~An~~ Administrative sanctions may be taken against an organization or institution certified to conduct ADSAC ~~may have such certification revoked~~ for any of the following reasons:

(1~~A~~) Erroneous or false information supplied in any part of the application for certification;

(2~~B~~) Allowing more than ~~thirty (30)~~ twelve (12) students in any one 10 Hour or 24 Hour course;

(3~~C~~) Tardiness or failure to make reports, or to transmit funds required by this chapter;

(4~~D~~) Erroneous or falsified information relating to any documents submitted to ODMHSAS;

(5~~E~~) Conflict of interest by the organization~~/institution~~ or institution or its personnel;

(6~~F~~) Allowing a non-certified, non-approved, or intern instructor to conduct and ADSAC course without a certified ADSAC instructor (10 Hour or 24 Hour, as required by the ADSAC course being given) present;

(7~~G~~) Failure to maintain all records required by ODMHSAS;

(8~~H~~) Using facilities not approved by ODMHSAS;

(9~~I~~) Knowingly permitting any 10 Hour or 24 Hour ADSAC instructor to violate any rule of this Chapter, or any other relevant Chapter of these Administrative Rules;

(10~~J~~) Use of unapproved curriculum or instructional material not pre-approved by ODMHSAS;

(11~~K~~) ~~Continued use~~ Use of inappropriate materials/equipment or materials/equipment in poor repair;

(12~~L~~) Failure to provide at least two (2) complete 10 Hour courses ~~during any calendar year~~ within twelve (12) months;

(13~~M~~) Failure to provide certified instructors for courses;

(14~~N~~) Beginning a course prior to the scheduled time;

(15~~O~~) Failure to wait at least a full fifteen (15) minutes when zero (0) students are present at the scheduled beginning time for a course;

(16P) Failure to provide the complete course for any students arriving within ~~the~~ fifteen (15) minutes ~~stated in 450:21-3-2(1)(O).~~:

(17~~Q~~) Failure to provide ODMHSAS with a class schedule at least thirty (30) days in advance of presentation;

(18~~R~~) Failure to provide ODMHSAS class schedule changes at least seven (7) days in advance of presentation except when instructor changes are due to illness or other emergency;

(19~~S~~) Failure to complete ODMHSAS requirements for adding class sites ~~as delineated in 450:21-1-6(2)(J)~~;

(20~~T~~) Failure to notify ODMHSAS of any instructor violations of this chapter, or of instructor terminations due to violations of this chapter;

(21~~U~~) Establishing the legal business residence of the institution or organization outside the State of Oklahoma;

(22~~V~~) Issuance of completion certificates to students who fail to complete the full ten (10) hours of instruction ~~(~~for first offenders~~)~~ or the full twenty-four hours of instruction for second and subsequent offenders~~);~~ or who fail to meet any other course requirement;

(23~~W~~) Violation of, or failure to meet, any other applicable standard contained in this chapter;

(24~~X~~) Knowingly allowing an ADSAC Instructor to collect fees for~~;~~ or issue receipts for~~;~~ or issuing completion certificates for~~;~~ or conducting an assessment during~~;~~ or solicit students for assessments, at a later date during the course of an ADSAC.

(25~~Y~~) Refusal to allow ~~a Probationary~~ an instructor candidate to observe an ADSAC when assigned by ODMHSAS.

(26~~Z~~) Any other just and verifiable cause ~~(~~including~~,~~ but not limited to~~,~~ unethical or illegal activities~~)~~.

(b~~2~~) ~~Any~~ Administrative sanctions may be taken against an instructor ~~(10 Hour or 24 Hour)~~ certified to conduct 10 Hour or 24 Hour ADSAC ~~may have such certification suspended, revoked or be subject to reprimand~~ for any of the following reasons:

(1~~A~~) Erroneous or false information contained in the individual's application for certification~~.~~:

(2~~B~~) ~~An alcohol related or other drug related entry on the driving record, whether conviction or related to implied consent law, or loss of driving privilege~~ A conviction of driving under the influence of alcohol or other intoxicating substances or receiving an alcohol or drug related revocation or suspension of driving privileges;

(3~~C~~) Conviction of any alcohol or other drug related misdemeanor or any felony conviction;

(4~~D~~) Unlawful conduct on duty or in the presence of students;

(5~~E~~) Any activity which is a conflict of interest;

(6~~F~~) Use or abuse of intoxicating beverages or other drugs while teaching ADSAC course;
(7~~G~~) Permitting a student to attend a course while using or under the influence of any mood-altering substances, including alcohol;
(8~~H~~) Dismissal by a certified organization or institution for violation of state statutes, or of the standards and criteria in this chapter;
(9~~I~~) Use of curriculum or instructional material not approved by ODMHSAS;
(10~~J~~) Willful failure, or refusal, to cooperate with an investigation by ODMHSAS, or employing ADSAC agency, into a potential or alleged violation of applicable rules in this chapter;
(11~~K~~) Refusal to allow ~~a probationary~~ an instructor candidate to observe an ADSAC course, when assigned by ODMHSAS;
~~(L) Refusal to allow the bi-annual Department of Public Safety check (for violations which may be grounds for revocation of certification) to be transmitted to ODMHSAS;~~
(12~~M~~) Issuance of completion certificate(s) to student(s) who have not completed a full ten (10) hours of instruction for a first offender, or who fail to complete the full twenty-four (24) hours of instruction for a second or subsequent offender, or failure to meet any other ADSAC course requirement;
(13~~N~~) Violation of any applicable rule in this chapter, or any other applicable chapter;
(14~~O~~) Falsification of any report, or document submitted, or prepared for submission, to ODMHSAS.
(15~~P~~) Collecting fees for; or issuing receipts for; or issuing completion certificates for; or conducting an assessment during; or soliciting students for assessments at a later date during the course of an ADSAC.
(16~~Q~~) Any verbal or physical sexual misconduct with or toward a student enrolled in ADSAC.
(17~~R~~) Failure to provide at least two (2) complete 10 Hour courses within twelve (12) months.
(18) Any other just and verifiable cause ~~(~~including~~,~~ but not limited to~~,~~ unethical or illegal activities.

450:21-3-3. Sanctions and hearings

All sanctions regarding ~~certification either application for, or existing concerning agencies or~~ ADSAC organizations, institutions~~,~~ and 10 Hour or 24 Hour instructors~~;~~ and all administrative hearings and appeals related to such sanctions shall be made and carried out in accordance with ~~OAC~~ Oklahoma Administrative Code, Title 450, Chapter 1~~. Administration, Subchapter~~, Subchapter 5~~ Administrative Sanctions - Hearings and Appeals~~ and ~~Subchapter 9. Certification of Facilities/Services~~ and the Administrative Procedures Act.

SUBCHAPTER 5. COURSE ATTENDANCE AND COMPLETION

450:21-5-1. Student attendance and completion of ADSAC course

(a) ~~Students~~ The ADSAC organization or institution shall ~~be required~~ require students to complete all portions of an approved curriculum schedule.
(b ~~1~~) ~~Any~~ The ADSAC shall allow a student unable to attend one (1) or more portions ~~shall be allowed~~ to make up portion or portions missed at another regularly scheduled course at the certified organization or institution at which the course was originally scheduled.
(c~~A~~) All 10 Hour course work ~~and fee payments must~~ shall be completed ~~and paid~~ within sixty (60) days of the first course. Failure to complete all course work within the ~~sixty (60)~~ sixty (60) days shall result in ~~the forfeiture of any fees paid and~~ the loss of course credit. Re-enrollment in either the same or a different ADSAC following failure to complete an ADSAC within the stated time limit shall require ~~both the payment of full fees and~~ full course attendance prior to the issuance of a Certificate of Completion.
(d~~B~~) All 24 Hour course work ~~and fee payments~~ shall be completed and paid within one hundred eighty (180) days of the first course. Failure to complete all course work within the one hundred eighty (180) days shall result in ~~the forfeiture of any fees paid and~~ the loss of course credit. Re-enrollment in either the same, or a different ADSAC following failure to complete and ADSAC within the state time limit shall require ~~the payment of full fees and of~~ full course attendance prior to the issuance of a Certificate of Completion.
(e~~2~~) ADSACs shall make required course work available to enrolled students within the times frames set forth in ~~450:21-5-1(1)(A and B)~~ this standard. ADSACs failing to make required course work available within the stipulated time frames, for any reason, shall refund to student any fees paid for said course.
(f~~3~~) Each organization or institution shall issue a receipt from a pre-numbered duplicate receipt set to each student upon receipt of all or part of the required enrollment fee. Each organization or institution shall have receipts to be used specifically for ADSAC courses.
(g~~4~~) Each organization or institution shall maintain the pre-numbered receipts and a file on both course and student for five (5) years after completion of said course. Such files shall also consist of:
(1~~A~~) Course~~:~~
~~(i)~~ Completion roster~~,~~ and
~~(ii)~~ Attendance records~~;~~ and
(2~~B~~) Student:
~~(i)~~ Enrollment form ~~(prescribed by ODMHSAS)~~,
~~(ii)~~ Pre- and Post-Test ~~(prescribed by ODMHSAS)~~,
~~(iii)~~ Evaluation Form completed by student ~~(prescribed by ODMHSAS)~~, and
~~(iv)~~ Copy of the Completion Certificate.

450:21-5-2. ADSAC reporting of completions

(a) ~~The following applies for certifying to ODMHSAS a student's successful completion of an ADSAC:~~

~~(1)~~ Each certified ADSAC organization or institution shall report successful course completions to ODMHSAS within seven (7) days from the date the course is completed, on a form prescribed by ODMHSAS.

(1~~A~~) A check for the appropriate ~~administrative~~ fee as provided for in 450:21-1-5 shall accompany the completion roster unless otherwise stipulated, in writing, by ODMHSAS.

(2~~B~~) Certified organizations or institutions shall not report a completion until all course requirements have been met, to include the student's payment of the full required ADSAC fee.

(b~~2~~) Each student who successfully completes the course, 10 Hour or 24 Hour, shall be issued a ~~certification~~ certificate of completion by the ADSAC. Certificates shall include the appropriate Action Code as listed below:

(1~~A~~) 224-10 for persons having completed a 10 Hour course.

(2~~B~~) 224-24 for persons having completed a 24 Hour course.

[OAR Docket #03-537; filed 3-31-03]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 22. CERTIFICATION OF ALCOHOL AND DRUG ASSESSMENT AND EVALUATION PROGRAMS RELATED TO DRIVER'S LICENSE REVOCATION

[OAR Docket #03-538]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
450:22-1-1 [AMENDED]
450:22-1-1.1 [AMENDED]
450:22-1-2 [AMENDED]
450:22-1-3 [AMENDED]
450:22-1-4 [AMENDED]
450:22-1-5 [AMENDED]
450:22-1-6 [AMENDED]
450:22-1-7 [AMENDED]
450:22-1-8 [AMENDED]
450:22-1-9 [AMENDED]
450:22-1-10 [AMENDED]
450:22-1-11 [AMENDED]
450:22-1-12 [AMENDED]
450:22-1-13 [AMENDED]
450:22-1-14 [AMENDED]
450:22-1-15 [AMENDED]
450:22-1-16 [AMENDED]
AUTHORITY:
Oklahoma Board of Mental Health and Substance Abuse Services; 43A O.S. §§ 2-101, 2-202 and 3-415; 47 O.S. §§ 6-212.2 and 11-902; and 22 O.S. §§ 991a and 991c.
DATES:
Comment period:
December 2, 2002 through January 6, 2003
Public hearing:
January 7, 2003
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January 21, 2003
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January 21, 2003
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SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
Incorporating standards:
Addiction Severity Index, 5th Edition; Defendant Questionnaire, published by Behavioral Data Systems; and Driver Risk Inventory-II, published by Behavioral Data Systems
Incorporating rules:
450:22-1-11
Availability:
7:30 a.m. to 2:30 p.m., Monday through Friday in the Substance Abuse Programs Division of the ODMHSAS, 1200 N.E. 13th Street, Oklahoma City, OK 73117, 405/522-3858
ANALYSIS:
In compliance with the Administrative Procedures Act the proposed rule revisions to Chapter 22 are part of the Department's review of Title 450. These proposed amendments are intended to comply with statutory changes, amendment or repeal of rules, delete redundant or superfluous language, and correct scrivener's errors.
CONTACT PERSON:
Linda Winton, Policy Analyst and Agency Liaison Officer, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, 405/522-6765

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2003:

450:22-1-1. Purpose and applicability

This chapter implements 43 A O.S. § 3-460 and. sets forth the standards and criteria for ~~the certification of assessment agencies and practitioners either~~ persons applying for certification~~, or~~ and certified by~~,~~ ODMHSAS to conduct ~~Alcohol and Drug Substance Abuse Evaluations~~ alcohol and drug assessment and evaluation related to driver's license revocation.

450:22-1-1.1. Certification duration

~~The duration of certifications which may be granted under the conditions set forth in this chapter are:~~

(a~~1~~) ~~Certified Drinking Driver~~ ODMHSAS may certify Assessment Agencies - for three (3) years ~~unless revoked under the provisions contained in 450:22-1-15~~.

(b~~2~~) ODMHSAS may certify Qualified Practitioners ~~[47 O.S.§11-902(H)]~~ and ~~assessment~~ agency ~~personnel -~~ assessors for ~~One~~ one (1) year ~~unless revoked under the provisions contained in 450:22-1-1 et seq~~.

450:22-1-2. Statutory authority [REVOKED]

~~The ODMHSAS is the certifying authority for the State of Oklahoma under 47 O.S., §§ 11-902(G) and 6-212.2, and 22 O.S., §§ 991a (B) and 991c (B) for assessment agencies and practitioners conducting alcohol and drug assessment and evaluation programs related to driver's license revocation.~~

450:22-1-3. Definitions

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

"Addiction Severity Index" or **"ASI"** is a multidimensional clinical and research instrument that rates the severity of a substance use or abuse problems for diagnostic evaluation and assesses change(s) in treatment status and outcome.

"Agency Assessor" means an individual who conducts ADSAC assessments while employed by and under the auspices of an ADSAC agency or organization.

"Assessment" means a face-to-face clinical interview evaluating ~~a person's~~ an individual's need and receptivity to substance abuse treatment and ~~consumer's~~ his or her prognosis.

"CADC" means Certified Alcoholism and Drug Counselor.

"Catchment area" or **"service area"** means a geographic area established by the Department of Mental Health and Substance Abuse Services for support of mental health and substance abuse services.

"Certification" means ODMHSAS approval for an agency or individual to conduct alcohol and other drug ~~approved to provide~~ assessments.

"Conflict of Interest" means a conflict between the private interests and public obligations of a certified organization~~, institution,~~ or assessor.

"Consumer" means an individual, adult or child, who is receiving services, evaluation or treatment, from an entity operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in OAC Title 450 Chapters 16, 17, 18, 19 and 23 as client(s) or patient(s) or resident(s) or a combination thereof.

"Defendant Questionnaire" or **"DQ"** is an automated assessment or screening instrument used in assessing an offender with alcohol or other drug involvement and contains scales to measure truthfulness, stress coping ability, and severity of alcohol or other drug abuse and classifies an individual as being either a substance abuser or substance dependent using the American Society of Addiction Medicine, patient placement criteria.

"DPS" means the Oklahoma Department of Public Safety.

"Driver Risk Inventory-II" or "DRI-II" is an assessment or screening instrument which contains six scales measuring truthfulness, driver risk, stress coping ability, and severity of alcohol or other drug abuse and classifies an individual as being either a substance abuser or substance dependent.

"MAC" means Master Addiction Counselor.

"NCAC" means National Certified Addiction Counselor.

"NAADAC" means National Association of Alcoholism and Drug Abuse Counselors.

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"ODPACA" means Oklahoma Drug and Alcohol Professional Counselor Association.

"Offender" means a person convicted of driving under the influence of alcohol or other intoxicating substances or who has received an alcohol or drug- related revocation or suspension of driving privileges.

"Psychosocial History" means an individual and family history of alcohol and drug abuse; an individual and family psychiatric history~~;~~, and a medical history of the individual.

~~**"QP"** means qualified practitioner.~~

"Qualified practitioner" means a person with at least a bachelor's degree in substance abuse treatment, mental health or a related health care field, and at least two (2) years experience in providing alcohol treatment, or other drug abuse treatment~~;~~, or both alcohol and other drug abuse treatment, and who is certified each year by ODMHSAS to provide assessments.

450:22-1-4. Meaning of verbs in rules

The attention of the ~~facility~~ assessment agency and practitioner is drawn to the distinction between the use of the words "shall," "should," and "may" in this chapter:

(1) **"Shall"** is the term used to indicate a mandatory statement, the only acceptable method under the present standards.

(2) **"Should"** is the term used to reflect the most preferable procedure, yet allowing for the use of effective alternatives.

(3) **"May"** is the term used to reflect an acceptable method that is recognized but not necessarily preferred.

450:22-1-5. General statement

~~(3) Staff: Pursuant to the cited statutory authority, ODMHSAS adopts the~~ The following standards and criteria ~~necessary to regulate~~ govern:

(1) Certification of agencies and ~~staff~~ individuals approved to provide assessment services;

(2) Assessment responsibilities and activities of certified agencies;

(3) Assessment standards;

(4) Assessment responsibilities and activities of certified assessors and qualified practitioners; and

(5) Requirements for reporting completed assessments to ODMHSAS.

450:22-1-6. Driver offender assessment agencies

(a) ~~Assessment services will~~ Alcohol and other drug assessments shall be provided by agencies certified by ODMHSAS to provide alcohol and drug assessment and evaluation programs related to driver's license revocation. ~~Only the following agencies shall be considered for such certification:~~ ODMHSAS certified community mental health centers, ODMHSAS certified ~~alcohol/drug~~ alcohol and drug treatment programs, and probation offices shall be considered for such certification.

(b) ~~The certified~~ Certified assessment agencies shall:

(1) Recommend and monitor qualified persons to be assessors;
(2) Provide assessment services only at sites approved by ODMHSAS; and
(3) Assure timely information flow to the Courts, offenders and ODMHSAS.

(~~b~~c) Certified assessment agencies are responsible for:
(1) ~~Program implementation:~~ Providing an appropriate facility, ~~internal procedures~~, recommending assessors, and reporting assessment data to ODMHSAS;
(2) Utilizing ODMHSAS-required assessment tools and forms for assessment and reporting of assessments;
(3) ~~Assure reporting to ODMHSAS on consumer information data base;~~
~~(4)~~ Monitoring of assessors for appropriate assessment recommendations and conflict of interest; and
(~~5~~4) Providing liaison with ODMHSAS, the courts and other agencies.

450:22-1-7. ODMHSAS responsibilities

ODMHSAS shall have the authority and duty to:
(1) Annually review this chapter~~,~~ and amend as needed;
(2) Establish and monitor reporting requirements and report forms;
(3) ~~Develop and maintain a uniform assessment;~~
~~(4) Develop criteria for education/treatment recommendations;~~
~~(5)~~ Monitor assessment agencies, assessors and qualified practitioners for conflict of interest~~; confirmed cases shall result in the decertification of the agency and/or assessor~~;
(~~6~~4) Provide ~~and~~ or approve assessor training, re-training, continuing education and re-certification;
(~~7~~5) Notify all appropriate agencies, assessor applicants and qualified practitioner applicants of ODMHSAS-approved training;
(~~8~~6) Certify assessors, agencies and qualified practitioners;
(~~9~~7) Approve sites for assessment services; and
(~~10~~8) ~~Forward~~ Upon receipt of a valid written consent for release of information, certify to DPS ~~appropriate information on offenders assessed and completion of all requirements for driver's license reinstatement~~ that a person has participated in and successfully completed an alcohol and substance abuse evaluation and assessment program.

450:22-1-8. Consumers with disabilities

Each assessment agency shall have a written policy addressing its awareness of, and intent to comply with, the U.S. Americans with Disabilities Act of 1990.

450:22-1-9. Certified approved sites

~~Assessment services~~ Alcohol and other drug assessment and evaluation shall be provided at sites approved by ODMHSAS. Sites shall meet the following standards for consideration of approval:
(1) Sites shall be in professional, business settings appropriate for the assessment and for safeguarding the confidentiality of the consumer;
(2) Hours and days of operation shall be during regularly scheduled periods which make assessment services accessible to consumers, including those employed between 8:00 a.m. and 5:00 p.m., and to the general public;
(3) The site's days and hours of operation shall be conspicuously displayed on the outside of the building along with a business phone number used for scheduling of appointments;
(4) For sites in multi-office buildings, the days and hours of operation shall be posted in the building directory or on the door of the site office;
(5) Sites for the primary purpose of eating or sleeping, i.e., hotel/motel sleeping rooms, restaurant dining areas, etc., will not be considered for approval; and
(6) Sites shall be handicapped-accessible and meet all other requirements of the Americans with Disabilities Act of 1990. ~~(PL101-336).~~

450:22-1-10. Offender evaluation

The assessment and evaluation of the ~~driver~~ offender shall be as comprehensive as possible and shall ~~have several minimum requirements. The evaluation shall~~ include, but not be limited to:
(1) A formal clinical interview consisting of, at a minimum:
(A) Socio-demographic and background information,
(B) Personal history, and
(C) A completed and scored Addiction Severity Index (ASI). ~~Other appropriate information;~~
(2) ~~Driving~~ The assessor shall obtain the offender's driving history information from public record(s). ~~(as supplied by the offender or referring party)~~ This information shall minimally include the following:
(A) Arrest date,
(B) ~~Charges~~ All charges relating to alcohol and drug offenses, and
(C) Driving record;
(3) Alcohol/drug information~~: (~~as supplied by the offender or referring party~~)~~ :
(A) Blood alcohol concentration at time of arrest,
(B) Prior alcohol/drug treatment,
(C) Polydrug use,
(D) Prior alcohol-related arrest(s), and
(E) Prior drug related arrest(s); and
(4) The use of standardized evaluation instruments.

450:22-1-11. Standardized evaluation instruments

(a) Standardized evaluation instruments ~~as specified by ODMHSAS~~ shall be a component of the overall assessment and recommendations.
(b) The standardized evaluation instruments shall include:
(1~~A~~) The ~~objective evaluation instrument utilized shall include, but not be limited to the~~ Driver Risk Inventory-II

(DRI-II) in a face to face structured interview. However, for an offender convicted of a felony or misdemeanor non-driving, alcohol or other drug offense(s), the Defendant Questionnaire (DQ) shall be used instead of the DRI-II;

(2) A completed and scored Addiction Severity Index (ASI);

(3~~B~~) ~~The evaluation process shall include a clinical interview~~ A third clinical instrument such as the Mortimer Filkens Court Procedures for Identifying Problem Drinkers ~~or the DRI-II clinical interview.~~ and,

(4) A thorough face to face interview.

450:22-1-12. Agency assessment personnel

(a) Applicants for agency assessor shall:

(1) ~~Have the following educational background:~~

~~(A)~~ Possess a bachelor's degree or above in the behavioral or health sciences~~, or~~; and

(2~~B~~) ~~Possess an associate degree with at least two (2) years verifiable documented experience in drug/alcohol counseling, or~~

~~(C)~~ Have at least ~~four (4)~~ two (2) years ~~verifiable~~ documented full-time experience in drug/alcohol treatment counseling; and

(3) Currently have, or currently working toward one of the following certifications:

(A) CADC through ODAPCA; or

(B) NCAC, Level 1 through NAADAC; or

(C) MAC through NAADAC; and,

(4~~2~~) Be trained or have proven experience in the identification and management of alcohol/drug abuse problems and clinical interviewing skills; and

(5~~3~~) Complete the ~~approved~~ ODMHSAS Assessor Training; and

(6~~4~~) Provide assessment services only at the agency for which they have been certified to assess offenders.

(b) ~~The certification process of personnel requires~~ Applications for certification as an agency assessor shall be made in writing to the Department on a form in a manner prescribed by the Commissioner be accompanied by an official education transcript(s) and include the following:

~~(1) Recommending agencies shall submit a letter requesting certification of the person(s) to ODMHSAS;~~

~~(2) The staff member shall provide ODMHSAS:~~

~~(A) A completed application,~~

(1~~B~~) A copy of ~~his or her~~ the applicant's resume ~~which shall include all verifiable~~ documenting all education and ~~a verifiable~~ employment ~~history~~ for the previous ten (10) years~~,~~;

(2~~C~~) A copy of any applicable ~~educational transcript~~ diploma or certificate; and

(3~~D~~) Remission of the $100 fee for initial certification.

(c~~3~~) Before being certified, ~~The~~ the applicant shall ~~complete~~:

(1) Complete the ODMHSAS-approved assessor training;

(4~~2~~) ~~The applicant shall take~~ Take and pass the ODMHSAS assessment skills competency examination~~.~~;

(5~~3~~) ~~An applicant for agency assessor will be considered an intern until they have:~~ Observe one (1) assessment conducted at an agency, with written permission of the consumer; and

~~(A) Observed one (1) assessment at an agency, with written permission of consumer; and~~

(~~B~~4) ~~Performed~~ Conduct two (2) assessments under the supervision of ~~QP~~ a qualified practitioner or a certified Agency Assessor, with written permission of consumer.

(d~~6~~) Upon completion of the above requirements, the individual providing the supervision ~~will~~ shall submit an evaluation of the applicant's skill level on a form provided by ODMHSAS and a copy of one (1) written court report done by the applicant.

(e~~c~~) An agency assessor applying for ~~re-certification~~ renewal must:

(1) Complete ODMHSAS renewal application for ~~recertification~~;

(2) Submit documentation of receiving eight (8) continuing education hours in each twelve (12) month period beginning with the date of original certification. Acceptable continuing education hours shall include subject areas in substance abuse, mental health, or a related health field; however, they shall not include DUI School Instruction; and

(3) ~~Remission of~~ Remit the $25 recertification fee.

(f~~d~~) Failure to ~~meet the recertification requirements~~ timely renew the certification shall result in expiration of certification and forfeiture of the rights and privileges granted by the certification. ~~Reinstatement procedures follow the requirements~~ A person whose certification has expired must make application for an initial certification as set forth in 450:22-1-12~~(b)~~.

450:22-1-13. Qualified practitioner

(a) ~~Applicants for~~ A Qualified Practitioner certified prior to July 1, 2004 shall:

(1) Possess a bachelor's degree in substance abuse treatment, mental health or a related health care field; and

(2) Have two (2) years documented experience in providing~~:~~

~~(A) Alcohol abuse treatment,~~

~~(B) Drug abuse treatment, or~~

~~(C) Alcohol and other drug abuse treatment~~ alcohol or drug abuse treatment; and~~.~~

(3) Currently have, or currently working toward one of the following certifications:

(A) CADC through ODAPCA; or

(B) NCAC, Level 1 through NAADAC; or

(C) MAC through NAADAC.

(b) A Qualified Practitioner receiving initial certification July 1, 2004 or after shall:

(1) Possess a bachelor's degree in substance abuse treatment, mental health or a related health care field; and

(2) Have two (2) years documented experience in providing alcohol or drug abuse treatment; and.

(3) Currently have, or currently working toward one of the following certifications:

(A) CADC through ODAPCA; or

(B) NCAC, Level 1 through NAADAC; or

(C) MAC through NAADAC; and,

(c) ~~Qualified practitioners shall~~ Applications for certification as a qualified practitioner shall be made in writing to the Department on a form and in a manner prescribed by the Commissioner, and shall ~~request, in writing, consideration or certification as an assessor.~~

~~(c) The certification process shall consist of~~ include the following:

(1) ~~Submission of:~~

~~(A) A completed application, and~~ An official certified educational transcript(s);

(2~~B~~) A current copy of ~~his or her~~ the applicant's resume ~~which shall include all verifiable~~ documenting all education and ~~a verifiable~~ employment ~~history~~ for the past ten years, and

(3~~C~~) A copy of any applicable diploma or certificate; and

(4~~D~~) Remission of the $100 fee for the initial certification.

(d~~2~~) Before being certified, Qualified Practitioners shall: ~~Completion of~~

(1) Complete ODMHSAS approved assessor training; and

(~~3~~2) ~~Taking and passing~~ Take and pass the ODMHSAS assessment skills competency examination.

(~~d~~e) A Qualified Practitioner applying for ~~recertification~~ renewal must:

(1) Complete ODMHSAS application for ~~recertification~~ renewal; and

(2) Submit documentation of receiving eight (8) hours of continuing education each twelve (12) month period beginning with the date of original certification. Acceptable continuing education hours shall include subject areas in substance abuse, mental health, or a related health field; however, they shall not include DUI School Instruction; and

(3) ~~Remission of~~Remit the $25 recertification fee.

(~~e~~f) ~~A candidate~~ An applicant for Qualified Practitioner shall be considered an intern until ~~they have~~ he or she has:

(1) Observed one (1) assessment conducted by a certified Assessor or Qualified Practitioner, with written permission of the individual being assessed.

(2) Performed two (2) assessments under the supervision of a Qualified Practitioner or certified Agency Assessor, with the written permission of those persons being assessed.

(~~f~~g) Failure to ~~meet the recertification requirements~~ timely renew the certification shall result in ~~a lapse~~ expiration of certification and forfeiture of the rights and privileges granted by the certification. ~~Reinstatement procedures follow the requirements~~ A person whose certification has expired must make application for an initial certification as set ~~for~~ forth in 450:22-1-13~~(c) (1 through 3)~~.

450:22-1-14. Qualified Practitioner responsibilities

~~Assessment services shall~~ Qualified Practitioners certified by ODMHSAS to conduct alcohol and other drug assessments ~~be provided by Qualified Practitioners certified by ODMHSAS as drinking driver offender assessment providers. Certified Qualified Practitioners~~ shall:

(1) Provide assessment services at only those sites approved by ODMHSAS;

(2) Assure timely and accurate information to the courts, offenders and ODMHSAS;

(3) ~~Utilize ODMHSAS required forms for assessment and reporting of assessments~~ Report assessment data to ODMHSAS;

(4) ~~Assure reporting to ODMHSAS on client information data base;~~

~~(5)~~ Provide liaison with ODMHSAS, the courts and other agencies; and

(~~6~~5) Provide assessment services limited to the ~~Substance Abuse Services Sub-state Planning Area~~ catchment area or service area where the practitioner's primary site is located.

450:22-1-15. Assessor and Qualified Practitioner responsibilities

Certified assessors and Qualified Practitioners shall:

(1) ~~Receive ODMHSAS approved assessment training;~~

~~(2) Provide assessment~~ Conduct assessments and recommend education or treatment or both;

(~~3~~2) ~~If an individual is referred by a Court, report to Court~~ Report to the court within seventy-two (72) hours of assessing ~~the consumer~~ an individual if the individual is referred by the court;

(~~4~~3) ~~Have knowledge of~~ Provide information regarding state and local area ~~education/treatment~~ education and treatment resources to each individual assessed;

(~~5~~4) ~~Report assessment services delivered according to ODMHSAS requirements on a form prescribed by ODMHSAS;~~

(~~6~~5) Manage and distribute all reports according to confidentiality laws and regulations;

(~~7~~6) Assure there is no conflict of interest by:

(A) ~~Not referring persons for services to the agency for at which the assessment is being done nor to any other agency or person in which the assessor has a vested interest (However, such person may be court-ordered or voluntarily utilize treatment services offered by such person, agency or facility.), and;~~Referring individuals to those agencies in which they have no vested;

(B) Providing three (3) outside referral options in writing for each recommended ~~services~~ service; and

(C) Assuring there is no collecting of fees ~~for:~~, issuing receipts, ~~for;~~ performing an assessment ~~during:~~, or soliciting students to perform an assessment at a later date during an individual's Alcohol and Drug Substance Abuse Course.

(~~8~~7) Provide liaison with court officials and related other agencies; and

(~~9~~8) Assure compliance with statute by:

(A) ~~Informing consumers that the assessment fee shall not be waived or reduced except in conformance~~

~~with the Sliding Fee Scale for DUI Assessments. Non-payment is considered non-compliance with the court order and will be reported to the referring court. Consumers should~~ The individual requesting an assessment shall be informed before coming for assessment the amount of the fee and that it is due at the time of assessment. In no case will the report be submitted to the court without payment of the fee or an approved payment plan. The fee for this assessment shall not exceed seventy-five dollars ($75.00).

(B) Explaining possible ~~consumer~~ liability and ability to pay for ODMHSAS-affiliated, private and other ~~education/treatment~~ education and treatment facilities. Education and treatment facilities will be responsible for establishing fees and determining ~~consumer's~~ the financial status of the individual requesting an assessment.

(C) Informing ~~consumers~~ individuals receiving assessments that all contacts, evaluation results and reports are protected through federal regulations of confidentiality, 42 CFR Part 2.

450:22-1-16. ~~Denial/revocation~~ Denial or revocation of assessment certification

Rules governing denial or revocation of organizational or institutional certification~~;~~ and rules governing denial or revocation of qualified assessor or practitioner certification are as follows:

(1) ODMHSAS may ~~deny, suspend or revoke the certification of~~ impose administrative sanctions against any organization ~~or institution~~ certified to conduct ~~DUI~~ alcohol and other drug assessments which fails to ~~qualify therefore provided in the foregoing~~ comply with these standards and criteria.

(2) ODMHSAS may ~~deny, suspend or revoke the certification of~~ impose administrative sanctions against any assessor or qualified practitioner certified to conduct ~~DUI~~ alcohol and other drug assessments who fails to ~~qualify therefore provided in the foregoing~~ comply with these standards and criteria.

(3) ~~ODMHSAS may deny, suspend or revoke the certification of any organization, institution, or assessor who has committed a violation of these standards and criteria.~~

~~(4)~~ In the event that ODMHSAS ~~has determined~~ determines action should be ~~that a certification should be denied, suspended or revoked, the following shall apply:~~ taken against any person certified under this Chapter, the proceeding shall be initiated pursuant to the rules of ODMHSAS as set forth in Oklahoma Administrative Code, Title 450, Chapter 1, Subchapter 5 and the Administrative Procedures Act.

~~(A) ODMHSAS shall send by certified mail, return receipt requested, notice of proposed ODMHSAS action containing all information required by §§ 307, et seq., Title 75 of the Oklahoma Statutes, to the concerned applicant, certified organization or institution, or certified assessor, at his or her last known address as reflected by records of ODMHSAS.~~

~~(B) The notice shall provide that ODMHSAS action shall become effective ten (10) days after receipt thereof by the applicant, certified organization or institution, or certified assessor, unless said applicant, certified organization or institution or certified assessor timely files a written request for a hearing with ODMHSAS. Such request shall be timely filed prior to the effective date of ODMHSAS action.~~

~~(C) All hearings and appeals shall be in compliance with OAC 450:1, Subchapter 1.~~

(4~~D~~) Organizations or assessors who have had certification renewal ~~canceled,~~ denied or certification revoked shall not be eligible for re-application for a period of five (5) years.

(5) Assessors whose certification has expired may apply for certification in accordance with 450:22-1-13.

[OAR Docket #03-538; filed 3-31-03]

TITLE 465. OKLAHOMA MOTOR VEHICLE COMMISSION
CHAPTER 10. LICENSE

[OAR Docket #03-592]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Commission Licensing Procedures
465:10-1-2. [AMENDED]
465:10-1-3. [AMENDED]
465:10-1-4. [AMENDED]
465:10-1-5. [AMENDED]
465:10-1-6. [AMENDED]
465:10-1-7. [AMENDED]
Subchapter 3. License Identification and Changes
465:10-3-3. [AMENDED]
Subchapter 7. Off Premise Sale and Display
465:10-7-3. [AMENDED]
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No public hearing was scheduled.
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February 20, 2003
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March 26, 2003
Effective:
May 12, 2003
SUPERSEDED EMERGENCY ACTIONS:
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INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:

Subchapter 1 is being amended to accurately reflect and correspond with the normal method of operations. Subchapter 3 provides clarification for salesperson licenses and terminations. Subchapter 7 defines the type of sales activities that are not allowed by new motor vehicle dealers at an off premise display event.

CONTACT PERSON:

Marilyn Maxwell, Deputy Director, Oklahoma Motor Vehicle Commission, 4334 N.W. Expressway, Suite 183, Oklahoma City, OK 73116, (405) 521-2375.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2003:

SUBCHAPTER 1. COMMISSION LICENSING PROCEDURES

465:10-1-2. Consideration of ~~dealer~~ initial applications for license

All initial dealer, manufacturer, and distributor applications received for licenses by the Commission pursuant to 47 O.S. Supp. 1985 Section 564(B) shall be considered at the next regularly scheduled meeting of the Commission. When considering an application received pursuant to 47 O.S. Supp 1985, Section 564(B), the Commission shall take one of the following orders:

(1) Approval

(2) Approval contingent upon receipt of certain additional designated information or documents

(3) Defer consideration pending receipt of additional information or documents or

(4) Recommendation of denial.

465:10-1-3. ~~Dealer application~~ Application approved

In the event that the Commission issues an Order approving the application, then the Executive Director shall issue the applied for license within ten days.

465:10-1-4. ~~Dealer application~~ Application approved upon contingency

In the event the Commission issues an Order approving an application contingent upon subsequent receipt of additional information or documents, the Commission shall so notify in writing the affected applicant of its decision within ten days. Then the Executive Director shall, upon receipt of the needed additional information or documents, issue the applied for license.

465:10-1-5. ~~Dealer application~~ Application deferred

In the event that the Commission issues an Order deferring consideration on the applied for license pending receipt of additional information or documents, then the Commission shall reconsider the application at its next regularly scheduled meeting. The Commission shall so notify in writing the affected applicant of this decision within ten days.

465:10-1-6. ~~Dealer application~~ Application denied

In the event the Commission acts upon an application by recommending that it be denied, then the Commission's Executive Director shall so notify the affected applicant in writing within ten days. This notice shall apprise the affected applicant of the recommended denial and shall further notify the applicant that a hearing will be held at the next regularly scheduled meeting of the Commission to consider the previously issued recommendation of denial. This Notice shall further advise the affected applicant that he shall have a right to be heard at this subsequent hearing.

465:10-1-7. Consideration of other applications for license

All other applications received for licenses by the Commission (~~manufacturer, distributor,~~ manufacturer representative, distributor representative, motor vehicle salesperson, off premise display, off premise sale, and off premise sponsoring entity) shall be reviewed by the Executive Director. In reviewing these applications for licenses, the Executive Director shall follow the same procedures as outlined above for review of ~~dealer~~ initial licenses.

SUBCHAPTER 3. LICENSE IDENTIFICATION AND CHANGES

465:10-3-3. Salespersons' license

(a) **License.** At the same time and contemporaneous with a new Salesperson being employed, an application for Salesperson License shall be submitted to the Commission on forms prescribed by the Commission along with the appropriate fee. A license for a Motor Vehicle Salesperson will not be issued, renewed, or endorsed until the employing Dealer is licensed and has certified that the applicant for said license is in his or her employ. It is not intended that the Dealer pay for licenses for its Salespersons. However, for convenience, the Dealer may do so on a reimbursable basis or any other plan satisfactory to its organization. All ~~salesperson~~ Salesperson licenses will be sent to the Dealer for distribution to his or her respective applicants, and the Dealer will determine that all its personnel required to obtain license have done so. Salesperson Licenses are required for anyone involved in the selling of new or used vehicles, including sales managers and F&I personnel.

(b) **Identification card.** A Salesperson's license shall consist of an identification card. The card shall be carried upon his or her person when acting as a Salesperson.

(c) **Termination of employment.** ~~A certificate will be issued by the Commission to be retained by the employing Dealer as evidence that its Salespersons are properly licensed. Upon termination of employment, the Certificate will be returned by the Dealer to the Office of the Oklahoma Motor Vehicle Commission within ten days.~~ Upon termination of employment of a licensed Salesperson, the dealership must

notify the Motor Vehicle Commission in writing within ten days.

(d) **One license and employer at a time.** No Salesperson may hold more than one license at any one time or be employed by, or sell for, any Dealer other than the Dealer designated on the Salesperson's license.

(e) **Change of employment.** A licensed Salesperson shall, on change of employment, submit his or her Salesperson's License Certificate to his or her new employer for submission to the Commission for endorsement reflecting the change of employers.

SUBCHAPTER 7. OFF PREMISE SALE AND DISPLAY

465:10-7-3. Off premise display

(a) ~~**Presence of salespersons.**~~ **No sales activities.** No sales activities shall be conducted at an off premise display, including but not limited to, negotiations, financing, and accepting credit applications. The presence of ~~salespersons~~ sales or finance personnel at ~~an~~ a off premise display, ~~licensed pursuant to 47 O.S. Supp. 1985, Section 564.1(1), shall create~~ creates a rebuttable presumption that sales activities are being conducted at the off premise display event.

(b) **License affixed to windshield.** An Off Premise Display License issued by the Commission pursuant to 47 O.S. Supp. 1985, Section 564.1(1) shall be prominently affixed to the windshield of each motor vehicle displayed and shall conspicuously state "This Vehicle For Display Only, Not For Sale".

[OAR Docket #03-592; filed 4-7-03]

TITLE 465. OKLAHOMA MOTOR VEHICLE COMMISSION
CHAPTER 15. ADVERTISING

[OAR Docket #03-591]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
465:15-1-2 [AMENDED]
Subchapter 3. Specific Advertising Regulations
465:15-3-14 [AMENDED]
Subchapter 7. Enforcement
465:15-7-1 through 465:15-7-2 [AMENDED]
AUTHORITY:
Oklahoma Motor Vehicle Commission, Title 47, Section 563(F)
DATES:
Comment Period:
December 3, 2002 through January 3, 2003
Public hearing:
No public hearing was scheduled.
Adoption:
January 14, 2003
Submitted to Governor:
January 21, 2003
Submitted to House:
January 21, 2003
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January 21, 2003
Gubernatorial approval:
February 20, 2003
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 26, 2003
Final adoption:
March 26, 2003
Effective:
May 12, 2003
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Advertising rules needed to be amended in order to address current dealer advertising practices and to provide further clarification for dealers in understanding the Advertising Enforcement Procedures.
CONTACT PERSON:
Marilyn Maxwell, Deputy Director, Oklahoma Motor Vehicle Commission, 4334 N.W. Expressway, Suite 183, Oklahoma City, OK 73116, (405) 521-2375.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2003:

SUBCHAPTER 1. GENERAL PROVISIONS

465:15-1-2. Definitions

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

"Advertisement" means an oral, written, graphic, or pictorial statement made in the course of soliciting business, including, without limitation, a statement or representation made in a newspaper, magazine, or other publication, or contained in a notice, sign, poster, display, circular, pamphlet, or letter, or on the Internet, radio or ~~on~~ television.

"Bait advertisement" means an alluring but insincere offer to sell a product of which the primary purpose is to obtain leads to persons interested in buying merchandise of the type advertised and to switch consumers from buying the advertised product in order to sell some other product at a higher price or on a basis more advantageous to the advertiser.

"Clear and conspicuous" means that the statement, representation, or disclosure is of such size, color, contrast, and audibility and is presented so as to be readily noticed and understood. All language and terms, including abbreviations, shall be used in accordance with their common or ordinary usage and meaning. This standard shall be met by the following:

(A) In a print advertisement:

(i) The type size of "AGATE (5 $\frac{1}{2}$ point) CAPS" or larger shall be used in all disclosures.

(ii) The disclosure statement shall be disclosed adjacent to the price or in a box with a heading such as "Restrictions" or "Disclosures". All reference

symbol marks, such as asterisks, must be type size "AGATE" or larger.

(B) In a broadcast commercial:

(i) The statement is made orally and is clear and understandable in pace and volume; or,

(ii) The statement is in visual form so that the average viewer can easily read and understand it.

(iii) The disclosure size shall be at least twenty (20) scan lines and each disclosure shall appear continuously on the screen at least ten (10) seconds for a television advertisement.

"Dealership addendum" means a form which is to be displayed on a window of a new motor vehicle when the dealer installs special features, equipment, parts or accessories, or charges for services required to prepare a vehicle for delivery to a buyer. The addendum is to disclose:

(A) That it is supplemental and it should not be deceptively similar in appearance to the manufacturer's label, which is required to be affixed by every manufacturer to the windshield or side window of each new motor vehicle under the Automobile Information Disclosure Act;

(B) Any added feature, service, equipment, part, or accessory charged and added by the dealership and the retail price thereof;

(C) Any additional charge to the selling price such as additional dealership markup; and,

(D) The total dealer selling price

"Demonstrator" means those vehicles that are of the current or previous model year which have not been sold, titled or registered to any type of purchaser and are used by dealership personnel for demonstration purposes. Service vehicles, courtesy cars, daily rentals, loaners, driver education and factory executive cars shall not be described as "demonstrator" vehicles. Demonstrators may be advertised for sale, as such, only by a franchised dealer of the same line-make of vehicle.

"Disclosure" means required information that is clear, conspicuous, and accurate.

"Factory executive/official vehicle" means a new motor vehicle with an original Manufacturer's Statement of Origin, that has been used exclusively by an executive or official of the dealer's franchising manufacturer, distributor, or their subsidiaries.

"Licensee" means any person required to obtain a license from the Oklahoma Motor Vehicle Commission.

"Manufacturer's label" means the label required by the Automobile Information Disclosure Act, 15 U.S.C. Sections 1231-1233, (normally referred to as Monroney Label), to be affixed by the manufacturer to the windshield or side window of each new automobile delivered to a dealer.

"Program car" means a car that is purchased at a manufacturer's closed auction or sold by or directly from the manufacturer or distributor which is a current or previous year model, that has been previously tagged and/or titled, and returned to the manufacturer for disposal.

"Rebate" or "Cash back" means a sum of money refunded to a purchaser or for the benefit of the purchaser. The purchaser may choose to reduce the amount of the purchase price by the sum of money or the purchaser may opt for the money to be returned to the purchaser for his or her benefit.

SUBCHAPTER 3. SPECIFIC ADVERTISING REGULATIONS

465:15-3-14. Prohibited statements

The following statements are presumptively false and misleading, and the burden of proving otherwise shall be on the Advertiser/Licensee:

~~(1) Statements such as "write your own deal", "name your own price", "name your own monthly payment", or statements with similar meaning.~~

(1~~2~~) Statements such as "everybody financed", "no credit rejected", "we finance anyone", and other similar statements representing or implying that no prospective credit purchaser will be rejected because of his inability to qualify for credit.

(2~~3~~) Statements representing that no other dealer grants greater allowances for trade-ins, however stated, unless such is the case.

(3~~4~~) Statements representing that because of its large sales volume a dealer is able to purchase vehicles for less than another dealer selling the same make of vehicles, unless such is the case.

(4~~5~~) Statements such as "manufacturer's sales or wholesale prices" shall not be utilized in advertising of a new motor vehicle dealer that creates the impression it is being offered for sale by the manufacturer or distributor of the vehicle. Advertisements by dealers shall not contain terms such as "factory sale", "wholesale prices", "factory approved", "factory sponsored", or any other similar terms which indicate sales other than from the dealer.

(5~~6~~) A savings claim or discount offer is prohibited except to advertise a new or demonstrator vehicle. Statements such as "up to", "as much as", "from", shall not be used in connection with savings or discount claims. Savings claims can only be offered from the bottom line MSRP sticker price. Discounts shown on the Monroney Sticker Label shall not be included in the advertised discount or savings claim.

(6~~7~~) The use of the term "Free" is prohibited if a consumer must make a purchase to obtain the "free" offer.

(7~~8~~) The terms "dealer's cost", "invoice", "invoice price" or other reference to the cost of the vehicle to the dealer shall not be used.

(8~~9~~) No ~~"guaranteed~~ trade-in amount~~"~~ or range of amounts shall be advertised.

(9~~10~~) A used vehicle shall not be advertised in any manner that creates the impression it is new.

(10~~11~~) Statements such as "we pay tag, tax and license", "we buy tag, tax and license", "we pay tag, title and tax" or statements with similar meaning shall not be used.

(11~~12~~) The use of the term "Liquidation" is prohibited unless a dealer is actually going out of business. A dealer that is going out of business may only use the term "liquidation" in advertising for a maximum of thirty (30) days.

(12) An offer of a buy down rate is prohibited without the appropriate disclaimer: "This is a buy down rate. The amount of the buy down may affect the price of the vehicle".

(13) Terminology such as "we will pay off your trade no matter how much you owe" or statements with similar meaning shall not be used, unless accompanied by a disclaimer indicating that pay off is dependent upon approved credit.

SUBCHAPTER 7. ENFORCEMENT

465:15-7-1. Purpose

The rules in this Subchapter outline specific procedures the Commission shall use for enforcing the Advertising Rules and Regulations. However, at any time, the Commission has the authority, under Title 47, Section 565, to schedule a hearing concerning advertising violations.

465:15-7-2. Enforcement Procedures

(a) **Finding.** Upon a finding that an advertisement is in violation of the advertising regulations,
referenced in Subchapter 3, the Commission shall apply the following procedures:

(1) **Violation.** Any violation for unlawful advertising for each dealership location will result in a letter advising the dealer of the violation.

(2) **Second violation.** A second violation within the last six months will result in a letter, sent by certified mail, advising the dealer of the infraction and warning that a third violation within the last six months could require the dealer to appear before a hearing by the Commission to determine the possibility of an imposition of a fine and/or suspension or revocation of the dealer's license.

(3) **Third violation.** A third violation within the last six months will result in a letter, sent by certified mail, advising the dealer of dealer's hearing date to determine the possibility of an imposition of a fine and/or suspension or revocation of the dealer's license. A dealer ~~can consent~~ may offer to pay a fine of $250.00 in lieu of a hearing. The Commission may, at its discretion, accept the fine or schedule a hearing at the next regularly scheduled meeting.

(4) **Fourth violation.** A fourth violation within the last six months will result in a letter sent by certified mail advising the dealer of dealer's hearing date to determine the possibility of an imposition of a fine and/or suspension or revocation of the dealer's license. A dealer ~~can consent~~ may offer to pay a fine of $500.00 in lieu of a hearing. The Commission may, at its discretion, accept the fine or schedule a hearing at the next regularly scheduled meeting.

(5) **Fifth violation.** A fifth violation within the last six months will automatically result in a notice of hearing sent by certified mail. ~~No buy out clause allowed.~~ The dealer may not offer to pay a fine in lieu of a hearing.

(b) **Correspondence.** All certified letters should be addressed to "ADDRESSEE ONLY" Dealer Principal/Operator, Majority Owner/Stockholder or Executive Manager with "RETURN RECEIPT REQUESTED".

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TITLE 485. OKLAHOMA BOARD OF NURSING
CHAPTER 10. LICENSURE OF PRACTICAL AND REGISTERED NURSES

[OAR Docket #03-553]

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Subchapter 7. Requirements for Registration and Licensure as a Registered Nurse
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485:10-7-4. [AMENDED]
Subchapter 9. Requirements for Registration and Licensure as a Licensed Practical Nurse
485:10-9-1. [AMENDED]
485:10-9-4. [AMENDED]
Subchapter 10. Advanced Unlicensed Assistive Personnel
485:10-10-3. [AMENDED]
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Subchapter 15. Requirements for Practice as an Advanced Practice Nurse
485:10-15-9. [AMENDED]
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Subchapter 5 identifies minimum standards that must be met by a nursing education program in order to obtain and maintain approval by the Oklahoma Board of Nursing. [O.S. § 567.12] The revisions add specific clinical practice requirements to nursing program curricula in the areas of care of the adult, care of children, maternal-newborn nursing and (in registered nursing education programs) psychiatric-mental health nursing. The revisions help to ensure that Oklahoma nursing education programs continue to prepare graduates to provide safe nursing care. The revisions also promote consistency within the rules and they facilitate initial licensure and/or endorsement of registered and practical nurses between states.

Subchapter 7 and 9 identify rules for registration and licensure as a Registered Nurse and Licensed Practical Nurse respectively. [59 O.S. §567.5 and 567.6] The revisions promote consistency in the language used in the requirements for licensure and registration of Registered Nurses and Licensed Practical Nurses. The revisions also add requirements that applicants for Oklahoma licensure who have graduated from out-of-state programs have completed board approved programs conducted within member board jurisdictions with curricular requirements that are similar to Oklahoma nursing education programs. This helps to ensure that applicants for initial licensure have the appropriate clinical practice necessary to provide safe and effective care, no matter where the education occurs. Other revisions in Subchapters 7 and 9 update the U.S. Army classification used to designate medics who have completed the U.S. Army practical nursing course and identify the period of time the applications and fees are valid to ensure that candidates meet current requirements for application.

Subchapter 10 identifies requirements for Advanced Unlicensed Assistive Personnel. [59 O.S. §567.3a] The length of the training program has been decreased from 240 hours to 200 hours because of deletion of certain respiratory care skills from the curriculum. Other revisions in Subchapter 10 ensure advanced unlicensed assistive persons meet continued qualifications for practice by inserting language inadvertently omitted when this rule was revised during the 2003 Legislative Session.

Subchapter 15 identifies requirements for practice as an advanced practice nurse. [59 O.S. §567.3a] The revisions correct the Rules to be consistent with the Oklahoma Nursing Practice Act, requiring the Certified Registered Nurse Anesthetist to maintain recertification by the Council on Recertification of Nurse Anesthetists.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. § 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2003:

SUBCHAPTER 5. MINIMUM STANDARDS FOR APPROVED NURSING EDUCATION PROGRAMS

485:10-5-6. Curriculum

(a) The curriculum shall be planned, developed, implemented, and evaluated by the faculty with opportunities for input from students, graduates, and employers.

(b) The curriculum plan shall be based upon the mission, philosophy and objectives of the program and supported by a logical rationale for organizing and sequencing the content. Classroom content shall be taught concurrently with or prior to related clinical experiences.

(c) A syllabus shall be made available to students at the beginning of each course, and shall include course objectives methods of instruction and evaluation, an outline of content, and, when appropriate, a schedule for course activities.

(d) The curriculum of registered nursing programs shall prepare the graduate for licensure and the full scope of practice as a Registered Nurse, as defined in state law, and shall address the NCLEX-RN test content, current standards for nursing practice, and expected competencies of graduates at the appropriate educational level. The curriculum shall include, but not be limited to:

(1) principles and clinical practice in utilization of scientific problem solving for the attainment and maintenance of physical and mental health and the prevention of illness for individuals and groups throughout the life process in a variety of settings, including clinical practice in nursing care of the adult, nursing care of children, maternal-infant nursing, and psychiatric-mental health nursing;

(2) incorporation of principles of nutrition, pharmacology, growth and development, and ethical, legal, and professional roles of the registered nurse; and

(3) supporting content from biological and physical sciences, social and behavioral sciences, and the humanities.

(e) The curriculum of practical nursing programs shall prepare the graduate for licensure and the full scope of practice as a practical nurse, as defined in state law, and shall address the NCLEX-PN test content, current standards for practical nursing practice, and expected competencies of practical nursing graduates. The curriculum shall include, but not be limited to:

(1) principles and clinical practice in utilization of the nursing process, within the scope of practice as a practical nurse, to assist clients in all age groups to meet relatively stable nursing requirements and to assist the Registered Nurse in complex nursing situations, including clinical practice in nursing care of the adult, nursing care of children, and maternal-infant nursing;

(2) incorporation of basic concepts of anatomy and physiology and related sciences, nutrition, pharmacology, growth and development, and ethical, legal, and professional roles of the practical nurse;

(f) A variety of instructional methods, based upon authenticated educational principles, shall be used to provide for individual learning needs.

SUBCHAPTER 7. REQUIREMENTS FOR REGISTRATION AND LICENSURE AS A REGISTERED NURSE

485:10-7-1. Licensure by examination

(a) **Qualifications.** ~~The Board shall issue a license to engage in the practice of Registered Nursing to any applicant who:~~ An applicant for licensure by examination as a Registered Nurse must meet the following qualifications:

(1) Submits an application containing such information as the Board may prescribe.

(2) Submits proof satisfactory to the Board in such manner and upon such forms as the Board may require to show that the applicant has completed the basic professional curricula of a state Board-approved registered

nursing education program conducted in a member board jurisdiction that meets the requirements of 485: 10-5-6 (d-1,2, and 3), and holds or is entitled to hold a diploma or degree therefrom.

(A) Applicants who are enrolled in a nursing education program leading to a masters degree in nursing who have a baccalaureate degree in another field, will be eligible to apply for licensure at the time that they have completed the basic professional curricula as approved by the Board for registered nurse licensure. The Board may accept a verification statement on such forms as prescribed by the Board from the nursing education program director as proof of completion of the approved basic professional curricula of the registered nursing education program.

(b) **Applications.**

(1) Applications for licensure by examination must be completed, notarized, and filed with the Board prior to the examination. If the application is not completed within one (1) year, a new application and new fee will be required.

(2) One (1) photograph signed by the applicant must be filed with the application.

(c) **Admission to the examination.** The candidate must register with the authorized testing service and submit required fee. An authorization to test will be ~~mailed~~ issued, allowing the candidate to schedule the examination.

(d) **Fee for examination.**

(1) The fee for writing the licensing examination adopted by the Board for Registered Nurse licensure shall be established by the Board in accordance with statutory guidelines and shall accompany the application.

(2) The fee for rewriting the licensing examination adopted by the Board for Registered Nurse licensure shall be the same as the fee established for the first-time writing.

(3) The fee for the examination is not refundable.

(e) **Policies for the examination.**

(1) Applicants must pass the licensing examination adopted by the Board.

(2) Applicants who fail the examination shall be eligible to repeat the examination upon filing an application and fee meeting Board requirements.

485:10-7-4. Reinstatement of license

(a) The Registered Nurse license is lapsed if not renewed by expiration date thereof.

(b) A completed application for reinstatement must be submitted to the Board office with the required fee. If the application is not completed within one (1) year, a new application and new fee will be required.

(c) The fee for reinstatement of license shall be established by the Board.

(d) An application for reinstatement for a license that has been suspended or surrendered must be in compliance with all terms and conditions of any Order entered with regard to the suspension or surrender and shall be considered by the Board.

(e) An application for reinstatement of a license that has been revoked by the Board shall be considered by the Board.

(f) An application for reinstatement for a license not previously revoked, suspended or surrendered shall be granted on such terms and conditions as the Board may require.

SUBCHAPTER 9. REQUIREMENTS FOR REGISTRATION AND LICENSURE AS A LICENSED PRACTICAL NURSE

485:10-9-1. Licensure by examination

(a) **Qualifications** An applicant for licensure by examination as a Licensed Practical Nurse must meet the following qualifications:

(1) has received a high school diploma or a high school equivalency certificate (GED), or meets criteria for an Adult High School Diploma;

(2) ~~has completed the basic curriculum of a program of practical nursing approved by the Board and holds or is entitled to receive a diploma therefrom; [59 O.S. Section 567.6(A)]~~ submits an application containing such information as the Board may prescribe.

(3) submits proof satisfactory to the Board in such manner and upon such forms as the Board may require to show that the applicant has completed the basic curricula of a state Board-approved practical nursing education program conducted in a member board jurisdiction that meets the requirements of 485: 10-5-6 (e-1,2), and holds or is entitled to hold a diploma or degree therefrom.

(~~3~~4) has completed equivalent courses through one of the following methods:

(A) in a state approved program of nursing with a minimum overall grade point average of 2.0, and a grade of a "C" or higher in all nursing courses. Evidence must be provided that verifies successful completion of a minimum of one academic year of instruction in a registered nursing education program, including classroom instruction and clinical practice in nursing care of the adult, nursing care of children, and maternal-infant nursing. Course content in anatomy and physiology, growth and development, mental health, pharmacology and nutrition also must have been successfully completed. Courses in external degree programs are not acceptable for PN equivalency; or

(B) has completed an equivalent level of training as a military medic. The following level of training have been evaluated and determined to be equivalent training:

(i) U.S.Army ~~91C~~ 91WM6 (previously known as 91C)

(ii) Air Force Medical Service Specialist 4NO51 (previously known as 90250) or 4NO71 (previously known as 90270); or

(C) has completed a registered nursing education program in a foreign country and meets the requirements of 485:10-7-2(d).

(~~4~~5) Board-approved role transition learning packet related to legal and ethical aspects of practical nursing

must be completed by all PN equivalency applicants prior to approval to write the examination for licensure.

(b) **Applications.**

(1) Applications for licensure by examination must be completed, notarized and filed with the Board prior to the examination. If the application is not completed within one (1) year, a new application and new fee will be required.

(2) One (1) photograph signed by the applicant must be filed with the application.

(c) **Admission to the examination.** The candidate must register with the authorized testing service and submit required fee. An authorization to test will be mailed to the candidate allowing them to schedule the exam.

(d) **Fee for examination.**

(1) The fee for writing the licensing examination adopted by the Board for practical nurse licensure shall be established by the Board in accordance with statutory guidelines and shall accompany the application.

(2) The fee for rewriting the licensing examination adopted by the Board for practical nurse licensure shall be the same as the fee established for the first-time writing and shall be submitted at least eight (8) weeks prior to the examination date.

(3) The fee for the examination (first time and rewrite) is not refundable.

(e) **Policies for the examination.**

(1) Applicants must pass the licensing examination adopted by the Board.

(2) Applicants who fail the examination shall be eligible to repeat the examination upon filing an application and fee meeting Board requirements.

485:10-9-4. Reinstatement of license

(a) The Licensed Practical Nurse license is lapsed if not renewed by expiration date thereof.

(b) A completed application for reinstatement must be submitted to the Board office with the required fee. If the application is not completed within one (1) year, a new application and new fee will be required.

(c) The fee for reinstatement of license shall be established by the Board.

(d) An application for reinstatement for a license that has been suspended or surrendered must be in compliance with all terms and conditions of any Order entered with regard to the suspension or surrender and shall be considered by the Board.

(e) An application for reinstatement of a license that has been revoked by the Board shall be considered by the Board.

(f) An application for reinstatement for a license not previously revoked, suspended or surrendered shall be granted on such terms and conditions as the Board may require.

SUBCHAPTER 10. ADVANCED UNLICENSED ASSISTIVE PERSONNEL

485:10-10-3. Curriculum

(a) The curriculum of the certification training program shall prepare the graduate for certification and practice as an advanced unlicensed assistive person and shall include:

(1) core skills, personal responsibilities, communication and interpersonal skills;

(2) content outlines appropriately sequenced and organized to include purpose of procedure, proper equipment, safety precautions and hazards, step-by-step procedure, appropriate disposal of used equipment and materials, documentation and reporting, and legal and ethical responsibilities; and

(3) classroom/laboratory instruction and supervised clinical practice.

(b) The length of the training program shall be a minimum of ~~240~~ 200 hours with the ratio of classroom instruction and practice appropriate to ensure safe and accurate performance. The program shall include at least 80 hours of classroom/laboratory instruction and at least 40 hours of clinical instruction.

485:10-10-8. Recertification

(a) Certification as an advanced unlicensed assistive person shall be renewed every two years in accordance with the schedule published by the Board.

(b) The application for recertification must be completed, signed and accompanied by the established fee before a new certificate is issued.

(c) The application for recertification must be accompanied by one of the following:

(1) notarized verification of employment as an AUA in an acute care setting for a minimum of 12 months within the previous 24 months immediately prior to renewal of AUA certification; or

(2) documentation verifying successful completion of twelve hours of clinical inservice appropriate to the AUA role within the previous 24 months; or

(3) rewriting the certification examination with a passing score, both the written and core skills portions of the exam, within the 24 months immediately preceding renewal of AUA certification; or

(4) documentation verifying initial certification as an AUA within the 24 months immediately prior to renewal of AUA certification.

(d) The fee for renewal of the certificate shall be established by the Board.

SUBCHAPTER 15. REQUIREMENTS FOR PRACTICE AS AN ADVANCED PRACTICE NURSE

485:10-15-9. Practice as a Certified Registered Nurse Anesthetist

(a) **Educational preparation.** Successful completion of the educational program of a school of nurse anesthetist accredited by the American Association of Nurse Anesthetists' Council on Certification of Nurse Anesthetists.

(b) **Maintenance.** Maintenance of ~~certification~~ recertification through American Association of Nurse Anesthetists' Council on Recertification of Nurse Anesthetists.

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TITLE 485. OKLAHOMA BOARD OF NURSING
CHAPTER 10. LICENSURE OF PRACTICAL AND REGISTERED NURSES

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The revisions to 485:10-11-3 address regulations regarding Informal Dispositions of individual proceedings. Currently, the Informal Disposition Panel can only be conducted when two panel members are present. The revisions to 485:10-11-3 allow the Informal Disposition Panel to be conducted with the presence of one or more panel members. Thus, the proceedings can continue as scheduled if one of the panel members has to recuse from a proceeding or leave the proceedings due to an emergency.

The revisions to 485:10-19-4 address regulations regarding the Peer Assistance Committees. The composition of the Committee specifies one member must have NNSA or CADC certification. The revision deletes the NNSA or CADC certification and adds the certification must be through the Addictions Nursing Certification Board, the National Association of Alcohol and Drug Abuse Counselor Certification Board or the Oklahoma Drug and Alcohol Professional Counselor Certification Board. The NNSA certification's name has changed and its certifying body, Addictions Nursing Certification Board, currently has two certifications for expertise in addictions. The specific designation of CADC was limiting as there are other certifications indicating expertise in addictions granted by the National Association of Alcohol and Drug Abuse Counselor Certification Board and the Oklahoma Drug and Alcohol Professional Counselor Certification Board.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. § 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2003:

SUBCHAPTER 11. DISCIPLINARY ACTION

485:10-11-3. Informal disposition

. . . *Informal disposition may be made of any individual proceeding by stipulation, agreed settlement, consent order, or default.* [75 O.S. Section 309(d)]

(1) **Informal proceedings.** Informal proceedings may be conducted after the filing of a sworn complaint; and information so presented may be considered by the Board as a body or by any designated member or any representative designated therefore~~,~~ with the party or parties affected by correspondence or otherwise in an effort to bring about an adjustment and solution of the problem without a formal Hearing. Such proceedings shall be held without prejudice to the right of the Board, thereafter to institute formal proceedings and conduct Hearings covering the same subject matter.

(2) **Informal conferences.** If deemed advisable to speed the consideration and determination of complaints and controversies which may not justify or require more formal proceedings, the Board may hold an informal conference with the party or parties affected. Thereafter the Board as a body, or any designated member, or representative thereof, shall attempt to resolve the controversy in an equitable manner. Such proceedings shall be without prejudice to the right of the Board thereafter to institute formal proceedings covering the same or related subject matter, or the right of the person involved, if the controversy is not resolved, to request a formal hearing.

(3) **Informal Disposition Panel.** The respondent has a right to a hearing before the full Board. In the alternative informal disposition may be requested under certain circumstances.

(A) Informal Disposition Panel shall be composed of one or more individuals appointed by the Board President, at least one of whom shall be a current Board member. More than one panel may be appointed if warranted by the number of cases.

(B) Informal Disposition Panel may be utilized for the following types of cases or otherwise at the discretion of the Executive Director:

(i) Reinstatement/Return To Active which require Board action such as:

(I) when working with a lapsed license;

(II) after surrender, suspension or revocation of license;

(ii) Voluntary surrenders;

(iii) Termination of Probation;

(iv) Requests to amend orders;

(v) Certain uncontested complaints such as action in another jurisdiction and/or criminal convictions;

(vi) Negotiated disposition of complaint.

(C) If the nurse and the Panel ~~members~~ member(s) do not agree, the case will be set for a Board hearing ~~later that same Board meeting~~. The outcome of the informal disposition will be held in confidence and not admitted into evidence at the hearing. The ~~two~~ Panel ~~members~~ member(s) will not participate in the hearing before the full Board.

(D) If the nurse and the Panel ~~members~~ member(s) do agree but the Board does not accept the recommendations of the Panel, the case will be set for a hearing at the next regularly scheduled Board meeting.

SUBCHAPTER 19. PEER ASSISTANCE PROGRAM

485:10-19-4. Peer Assistance Committee(s)

(a) Members of the Peer Assistance Committee(s) shall have expertise in chemical dependency.

(b) Composition of the Committee shall be:

(1) at least three members,

(2) at least one member who ~~has NNSA or CADC certification,~~ is currently certified through the Addictions Nursing Certification Board, the National Association of Alcohol and Drug Abuse Counselor Certification Board or the Oklahoma Drug and Alcohol Professional Counselor Certification Board,

(3) at least one recovering person, and

(4) the majority to be currently licensed nurses.

(c) The committee shall have the following responsibilities:

(1) determine licensee's acceptance into program,

(2) develop with licensee a contract for program participation,

(3) meet with licensee on a specified basis to monitor and determine progress,

(4) determine successful completion of program,

(5) determine termination from program for failure to comply,

(6) report all terminations to the Board.

(d) The Peer Assistance Committee(s) shall be appointed by the Board from applications for a term of three years.

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TITLE 485. OKLAHOMA BOARD OF NURSING
CHAPTER 10. LICENSURE OF PRACTICAL AND REGISTERED NURSES

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SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
Subchapter 15 addressees the requirements for practice as an advanced practice nurse in Oklahoma. The revisions define the adult and family psychiatric mental health specialties of the Advanced Registered Nurse Practitioner (ARNP). Graduate nursing educational programs are preparing ARNP students to function in the adult and family psychiatric mental health specialties, and there is a national certification examination for this ARNP specialty.

CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. § 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2003:

SUBCHAPTER 15. REQUIREMENTS FOR PRACTICE AS AN ADVANCED PRACTICE NURSE

485:10-15-6. Practice as an Advanced Registered Nurse Practitioner

(a) **Educational programs.** The Board shall recognize educational programs which prepare Registered Nurses in the

role of Advanced Registered Nurse Practitioner. Successful completion of an educational program shall establish eligibility to take recognized advanced practice nurse certification examination in a specialty area. After September 1, 1991, the educational program shall:

(1) Prepare advanced practice nurses as a part of a Master's level preparation in nursing; or

(2) Meet the following requirements:

(A) be based on measurable objectives that relate directly to the scope of practice for the specialty area;

(B) include theoretical and clinical content directed to the objectives;

(C) be equivalent to at least one academic year. A preceptorship which is part of the formal program shall be included as part of the academic year;

(D) be university-based or university-affiliated.

(b) **Certifying body.** The Board shall identify and keep on file the current list of recognized certifying bodies. A licensee may request that a certifying body be considered by the Board for inclusion on the list. A certifying body shall meet the following requirements:

(1) have a formal program of study requirements in the area of certification that meets criteria outlines in these Rules and Regulations;

(2) offer an examination in the area of certification which shall:

(A) measure the theoretical and clinical content based on the scope of practice in the specialty area;

(B) be developed in accordance with generally accepted standards of validity and reliability;

(C) be open only to Registered Nurses who have successfully completed the appropriate formal program of study as defined in these Rules and Regulations;

(D) nurses currently holding recognition by the Oklahoma Board of Nursing as advanced practice nurses and who do not meet the certification requirements of the law, must comply by January 1, 1995. After that date any nurse who practices as an Advanced Registered Nurse Practitioner must meet the requirements for certification as set forth in the Nursing Practice Act.[59 O.S. 567.3(5)]

(c) **Scope of practice for ARNP.** The Advanced Registered Nurse Practitioner's scope of practice includes the full scope of nursing practice and practice in an expanded role as follows:

(1) The Advanced Registered Nurse Practitioner (ARNP) provides comprehensive health care to clients across the life span.

(2) The ARNP is responsible and accountable for the continuous and comprehensive management of a broad range of health services, which include, but are not limited to:

(A) promotion and maintenance of health;

(B) prevention of illness and disability;

(C) diagnosis and prescription of medications, treatments, and devices for acute and chronic conditions and diseases;

(D) management of health care during acute and chronic phases of illness;

(E) guidance and counseling services;

(F) consultation and/or collaboration with other health care providers and community resources;

(G) referral to other health care providers and community resources.

(3) The ARNP will provide services based upon education, experience, or national certification. It is the responsibility of the licensee to document competency of any act, based upon education, experience and/or certification.

(4) The scope of practice as previously defined is incorporated into the following specialty categories and further delineates the population served:

(A) Adult ARNP provides health care to adolescents and adults.

(B) School Nurse ARNP provides health care to preschool, school age and adolescent clients

(C) Family ARNP provides health care to persons across the lifespan.

(D) Geriatric ARNP provides health care to older adults.

(E) Neonatal ARNP provides health care to neonates and infants.

(F) Pediatric ARNP provides health care to persons from newborn to young adulthood.

(G) Women's Health Care ARNP provides health care to adolescent and adult females. Care may also be provided to males with reproductive health needs or problems.

(H) Acute Care ARNP provides health care to adults who are acutely or critically ill.

(I) The Adult Psychiatric and Mental Health Nurse Practitioner provides acute and chronic psychiatric and mental health care to persons age 13 or older.

(J) The Family Psychiatric and Mental Health Nurse Practitioner provides acute and chronic psychiatric and mental health care to persons across the lifespan.

[OAR Docket #03-556; filed 4-2-03]

TITLE 575. STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS
CHAPTER 1. ORGANIZATION OF BOARD AND PROCEDURES FOR HANDLING COMPLAINT

[OAR Docket #03-574]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
575:1-1-2 [AMENDED]
575:1-1-3 [AMENDED]
575:1-1-4 [AMENDED]

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ANALYSIS:
The amendments to these rules interpret Title 59, O.S., 1991, Sections 1351-1376. Specifically, clarifying reimbursement for travel expenses; clarifying the activities performed by the Psychological Consultant; modifying the procedures for appointing an investigator and the Probable Cause Committee's procedure on reporting their recommendations to the Board; and modifying the procedure for monitoring compliance with the Board's orders.
CONTACT PERSON:
Sue A. Fleming, Executive Officer, Oklahoma State Board of Examiners of Psychologists, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, OK 73105, 405-524-9094.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2003.

575:1-1-2. Organization and proceedings of the Board; petitions for rule making; declaratory rulings

(a) **Meetings.** In accordance with the 1977 Open Meeting Law [Title 25, Sections 301 thru 314, of state statutes], all meetings of the Board are open to the public and votes of each member are to be publicly cast and recorded.

(1) **Regularly scheduled meetings.** The Secretary of State shall be given notice of all regularly scheduled meetings by December 15 of each calendar year, showing the date, time and place of such meetings for the following calendar year. If any change is to be made in the date, time, or place of regularly scheduled meetings, then notice in writing shall be given to the Secretary of State not less than 10 days prior to the implementation of such change. At least 24 hours prior to regularly scheduled meetings, excluding Saturdays, Sundays, and holidays legally declared by the State of Oklahoma, public notice will be given setting forth thereon the date, time, place, and agenda for said meeting. Such notice shall not preclude the consideration of new business providing such was not known about or could not have been reasonably foreseen prior to the time of posting. If a meeting is to be continued or reconvened, public notice of the date, time, and place shall be given by announcement at the original meeting, and only matters appearing on the agenda of the meeting which is continued may be discussed at the continued or reconvened meeting.

(2) **Special meetings.** Special meetings shall not be held without public notice, indicating the date, time, and place, being given to the Secretary of State at least 48 hours prior to said meeting. In addition, at least 24 hours prior to such a meeting, public notice giving the time, place, and agenda shall be posted in prominent public view in the building containing the office of the Board. In exceptional circumstances, emergency meetings without public notice may be called.

(3) **Minutes.** The proceedings of all meetings shall be kept in the form of written minutes and shall be open to public inspection.

(b) **Official office; Board records.** The official office of the Board shall be designated by the Board and all records of the Board shall be kept at the official office. Information may be obtained by making written request to said office, the address of which shall be listed in the Annual Directory.

(c) **Submissions to the Board to be in writing.** All submissions to the Board, or requests of the Board, shall be made in writing to said office. All communications with the Board must be in written form as a matter of record before official consideration will be given to issues, requests, or submissions brought before the Board.

(d) **Board monies.** The monies received by the Board shall be kept in the Psychologists Licensing Fund, No. 200. Expenditures from said fund shall be subject to the approval of the Board.

(e) **Reimbursement for ~~members'~~ travel expenses.** Each Board member, staff member, or other persons who are performing substantial and necessary services for the Board may ~~shall~~ be reimbursed for expenses incurred under authorized official travel [Pursuant to O.S. 74, Section 500.2 et seq].

(f) **Formal and informal procedures.** The Board shall have both formal and informal procedures for use, as appropriate, in conducting the business of the Board. Such procedures may involve, but are not limited to, hearings for individuals, questions of legal policy, inquiries concerning Board policies or decisions, or other Board business.

(g) **Forms.** The Board shall have such forms as are required for the conduct of Board business. Such forms shall include, but are not limited to, application for licensure, application for private practice under supervision, and applications for a psychologist to hire a psychological technician in his/her private practice.

(h) **Petitions regarding rules; declaratory rulings.** Any interested person may petition the Board requesting the promulgation, amendment, or repeal of a rule. Petitions requesting declaratory rulings as to the applicability of any rule or order of the Board may also be submitted. The Board shall make prompt disposition of all such petitions.

(i) **Distribution of rules and regulations; annual directory.** The Board shall distribute all regulations and procedures established by the Board to each licensed psychologist and psychologist practicing under supervision. Such distribution shall occur not less than annually, and may be accomplished by inclusion of said rules in the Annual Directory. The Annual Directory shall contain, in addition to those items required by law [59 O.S., Section 1369], a verbatim copy of the licensing law as well as all rules and regulations duly established by the Board.

(j) **Board secretary.** The secretary of the Board, as described in 59 O.S., Sections 1358 and 1360, shall be employed by the Board.

(k) **Psychological consultant.** A qualified individual may be employed by the Board to perform certain activities to further the purposes of the Board. Such activities may include, but are not limited to: issues concerning training, credentialing, professional practice, regulation, ethical matters, and receiving~~,~~ and/or reviewing~~, and/or investigating~~ complaints; advising the chair in the informal conduct of the Board's procedures~~;~~ and providing consultation to the Board during its regular and special meetings. ~~The rate of compensation shall be determined annually by a majority vote of the Board.~~

575:1-1-3. Investigation of complaints

(a) **Choice of investigative mode when unlicensed individuals are involved.** When violations of the law by unlicensed individuals are brought to the attention of the Board, the Board may conduct an investigation in its own behalf, request investigation by appropriate state agencies, and/or refer the matter to the Office of the Attorney General. The choice of an investigative mode shall depend on the circumstances of the case and shall be made at the discretion of the Board.

(b) **Notification of the disposition of complaints against licensed psychologists and investigations of them.** At the point at which any complaint and/or investigation is resolved, the Board shall inform the complainant and the psychologist of the disposition of the matter as well as the supporting rationale based on known facts and applicable laws or rules. The Board shall also notify the Attorney General's Office, the Office of the Governor, and legislative committees as appropriate.

(c) **Investigative procedure.** The following is the procedure for investigation of complaints against licensed psychologists:

(1) **Requirements for complaint.** The investigation of a complaint about a licensed psychologist, whether the complaint be made by the Board or by other complainants, may be initiated only when the complaint is in writing, signed, notarized, and filed with the Board. The notarized complaint must contain a brief statement setting forth the allegations of fact and naming the licensee or licensees against whom the complaint is filed. The complaint provides the basis for the chairperson and/or vice chairperson of the Board to request an informal meeting with the licensee, whose participation is voluntary, and/or for appointment of an investigator for the case.

(2) **Independently verified allegations - written complaint may not be required.** In all matters of complaints or inquiries, the Board shall require the complaint or inquiry to be in writing, signed, and notarized. However, alleged violations of the Psychologists Licensing Act which can be independently verified by the Board may not require written complaint.

(3) **Selection of investigator.** The Board shall select a member or other qualified individual to investigate complaints against psychologists. This selection may be by majority vote of the Board or by appointment by the chairperson~~,~~ or vice chairperson~~, or psychological consultant to the Board~~.

(4) **Compensation for expenses.** The investigator shall be compensated by the Board for necessary and prudent expenses which are properly documented and approved by the Board.

(5) **Investigator's gathering of information.** The Board member or other individual authorized to receive and investigate complaints shall gather all information necessary to adequately apprise a Probable Cause Committee. The investigation may include interviews with the complainant, the licensee complained against, and others as appropriate. The licensee will have the opportunity during the investigator's interview to show compliance with all lawful requirements for the retention of the license. The gathering of information to assist the Board in its disposition of complaints is the only designated function of the investigator during the conduct of the investigation. The investigator shall not offer his/her opinions to the complainant and/or to the licensee. Such opinions shall include but not be limited to the merits of the complaint and/or whether an ethical violation has occurred.

(6) **Presentation of Probable Cause Committee's summary and recommendation.** The Probable Cause Committee, comprised of the investigator and other appropriate individuals, is an advisory body whose function is to summarize the complaint and to make an informed recommendation regarding disposition of the complaint to the Board. The Probable Cause Committee's ~~summary, consisting of the alleged violation(s) and applicable laws, rules, and/or ethical principle(s) and code(s) of conduct, and the~~ recommendation will be presented at an open meeting of the Board. The complainant and the licensee will be given prior notification by mail of the date, time, and place of that meeting. Notice shall be served as specified in Section 1370 (B and D) of the Psychologists Licensing Act. During the Probable Cause Committee's presentation, no questions will be posed by or to the licensee or the complaining witness pertaining to the substance of the case. Such questions may be submitted in writing to the representative of the Attorney General's office following the Board meeting.

(7) **Dismissal of complaint by majority vote.** Upon consideration of the ~~basis of the complaint, the circumstances of the alleged violation, the summary and~~ recommendation of the Probable Cause Committee, ~~or a combination of these,~~ the Board may decide not to pursue

further the allegations, and may dismiss the complaint by an approving vote of a majority of the members present in open meeting.

(8) **Informal disposition of certain complaints.** In some situations including, but not limited to, cases where the inquiry or complaint does not allege conduct as described in the Psychologists Licensing Act in Section 1370(A) or conduct punishable by suspension or revocation of a license, probation, or formal reprimand, the matter may be handled informally. However, no matter can be considered closed until so voted by a majority of the Board in open meeting.

(9) **Recusal of Board member.** A Board member, acting as the appointed investigator or Probable Cause Committee member, shall be recused from all Board decisions relating to the complaint.

575:1-1-4. Hearings for psychologists

(a) **Issuance of formal complaint; setting date for formal hearing.** If the complaint and/or the summary and recommendation of the Probable Cause Committee appear to the Board to warrant and support such action, and upon the affirming vote of a majority of the members present in open meeting, the Board shall file its own complaint (the Board vs. the licensee) and shall set the date, time, and place for a formal hearing in open meeting. Notice shall be served as specified in Section 1370 (B and D) of the Psychologists Licensing Act, except that notice shall be served twenty (20) days before the date of the hearing.

(b) **Purpose of formal hearing.** The formal hearing will be an administrative proceeding held to determine whether or not a licensee should be disciplined due to alleged improper conduct. The purpose of the proceeding will be that of insuring the overall public interest inherent in such matters and not that of vindicating a private wrong alleged to have occurred to the complainant. As such, the complainant will become a witness only in the Board's proceedings and is not a party to the Board's action.

(c) **Notice to licensee.** The chairperson or vice chairperson of the Board shall then notify the licensee named in the Board's complaint by certified or registered mail. This notification shall include a copy of the Board's complaint, an explanation of rights, and the date, time, and location of the Board meeting at which the Board will hold its formal hearing regarding the complaint. The notice shall also include other information as required in the Administrative Procedures Act. The explanation of rights shall include the following alternatives regarding the licensee's response to the Board's complaint: The licensee may be represented at the hearing in writing, in person, or by counsel. If the licensee does not so appear, the Board may, within its discretion, summarily revoke or suspend the accused's license or may issue a formal reprimand. The Board shall record its findings and order in writing.

(d) **Notice to other persons.** The Board shall also notify other persons whose presence is required of the date, time, and place of the hearing. Notice shall be served as specified in Section 1370 (B and D) of the Psychologists Licensing Act.

(e) **Issuance of subpoenas for witnesses and physical evidence.** The Board may compel the attendance of witnesses, and the production of physical evidence before it from witnesses, upon whom process is served by subpoena anywhere within the state. Such subpoenas will be issued over the signature of the chairperson or vice chairperson and the seal of the Board.

(f) **Service of subpoenas.**

(1) From the institution of formal Board proceedings, subpoenas will be issued on behalf of the licensee or the Board as specified in Section 1370(D) of the Psychologists Licensing Act. Service of the subpoena will be the responsibility of the requesting party.

(2) Subpoenas shall be served and return made in the manner prescribed by general civil law.

(g) **Order of procedure.** In an individual hearing, the order of procedure shall follow that which applies in civil legal proceedings.

(h) **Rules of evidence.** Rules of evidence shall be those specified in the Administrative Procedures Act.

(i) **Hearing officer.** In accordance with 1370 (C), the Board or the presiding member of the Board may direct that the board utilize a hearing officer to hear matters specified by the Board or by the presiding member. The duties of the hearing officer shall be specified in writing prior to the assumption of the duties. The duties may include, but are not limited to, any of the following:

(1) to hear and rule upon pretrial discovery disputes.

(2) to hear and rule on Motions in Limine.

(3) to review Motions to Dismiss in order to advise the Board on questions of law therein.

(4) to hear and rule on Motions for Continuance of a hearing.

(5) to hear and rule on other preliminary motions.

(6) to hear and rule on motions to have a Board member recused from a hearing.

(7) to mark, identify and admit or deny exhibits.

(8) to rule upon objections made during the hearing.

(j) **Questioning of witnesses.** Notwithstanding subsection (i), a quorum of the Board shall be present at the hearing and may, in accordance with the procedures noted in the Administrative Procedures Act, direct questions to the witnesses.

(k) **Administration of oaths.** The Board may administer oaths through the chairperson, vice chairperson, or the hearing officer.

(l) **Evidentiary rulings.** Subject to subsection (i), the presiding member of the Board shall rule on the admissibility of evidence. The rulings of the presiding member shall be the rulings of the Board unless reversed by a majority vote of the Board.

(m) **Attorneys.** A representative of the Attorney General's Office or, if the Board chooses, a private attorney licensed in the State of Oklahoma and engaged by the Board, shall serve as the prosecutor of the Board's case. The respondent psychologist may be represented by a personally engaged attorney.

(n) **Majority vote.** Disciplinary action to be taken as a result of the hearing shall require a majority vote of the Board members present.

(o) **Record of hearing.** A record of the formal hearing will be made by audiotape and/or by a court reporter. A written

transcript shall be provided by the secretary of the Board upon written application and a deposit sufficient in amount to have the record transcribed or copied, the deposit to be paid by the individual requesting the written transcript. The tape and/or transcript shall be kept on file in the Board office for one year.

(p) **Order setting forth findings of fact and conclusions of law.**

(1) The Board shall establish the findings of fact and conclusions of law in summarizing the outcome of a hearing. The Board will issue and record its order as authorized in Section 1370(C) of the Psychologists Licensing Act.

(2) The order of the Board will be effective immediately.

(3) The Board may revoke a license, suspend it for a period of time, place the psychologist on probation with specific conditions of time, place the psychologist on probation with specific conditions of probation, reprimand the psychologist, or impose a combination of such sanctions. The Board may revoke the probation for failure to comply with the conditions and exact the penalty.

(4) As authorized in Section 1370(A) of the Psychologists Licensing Act, the Board may impose a financial penalty not to exceed $10,000.00, and/or may assess the psychologist the reasonable costs of the proceedings against him or her.

(5) Copies of the order shall be sent by certified mail to the licensee and to the licensee's attorney, kept in the permanent Board file, and made available to other psychologist licensing jurisdictions.

(q) **Petitions for rehearing.** A petition for rehearing, reopening, or reconsideration of an adverse final order may be filed with the Board within 10 days from the day upon which the licensee is served with the written order of the Board. It must be signed by the penalized licensee, or that licensee's attorney, and must set forth with particularity the statutory ground upon which it is based. However, a petition for rehearing based upon fraud by any party or procurement of the order by perjured testimony or fictitious evidence may be filed at any time. Such petition must be accompanied by sworn affidavit. Upon receipt of such petition, it shall be turned over to the Board member or other authorized individual responsible for complaints, who shall proceed to investigate in the manner prescribed in 575:1-1-3 for investigation of complaints.

(r) **Monitoring compliance with Board order.** The ~~chairperson of the~~ Board shall be responsible for monitoring compliance with an order of the Board.

(s) **Procedure for appeal of Board rulings.** A psychologist who feels aggrieved by reason of the suspension or revocation of his/her license, or of a probation or reprimand, may file suit within thirty (30) days after receiving notice of the Board's order in the district court of Oklahoma County, or in the district court of the county of his residence, to annul or vacate the order of the Board. The suit shall be filed against the Board as defendant, and service of process shall be upon either the chairperson or secretary of the Board. The suit shall be tried by the court without a jury and shall be a review of the record, but the burden of proof and the cost of transcribing the record are upon the plaintiff assailing the order of the Board. The judgment of the district court may be appealed to the Supreme Court of Oklahoma in the same manner as other civil cases.

[OAR Docket #03-574; filed 4-4-03]

TITLE 575. STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS
CHAPTER 10. LICENSURE OF PSYCHOLOGISTS

[OAR Docket #03-575]

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ANALYSIS:
The amendments to these rules interpret Title 59, O.S., 1991, Sections 1351-1376. Specifically modifying the procedures for submitting an application for licensure; modifying the requirements for requesting permission to practice under supervision, and the requirements for supervision; clarifying the way inquiries are reported concerning the status of a psychologist who has not renewed their license; modifying the listing for a diplomate of the American Board of Professional Psychology and the requirements for Health Service Psychologist; revise the requirements for QMRP status for Psychological Technicians; including the word professional in the term continuing education; and to revise the current revision to the Association of State and Provincial Psychology Board's Code of Conduct which has been adopted by the Board.
CONTACT PERSON:
Sue A. Fleming, Executive Officer, Oklahoma State Board of Examiners of Psychologists, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, OK 73105, 405-524-9094.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2003:

575:10-1-2. Requirements to become licensed as a psychologist

(a) **Application.** Persons desiring licensure as a psychologist may obtain an official application form from the ~~secretary~~ Board. The application and all necessary papers must be filed with the secretary at the Board office at least 30 days prior to the Board meeting preceding the date of the examination, if examination is required. The application must be accompanied by four hundred dollars ($400.00) ~~plus the cost of the Examination for the Professional Practice in Psychology if required,~~ in the form of a personal or certified check or acceptable money order. The application fee is non-refundable. A minimum of three references from licensed psychologists shall be required for each applicant. Board members shall not serve as references for applicants except to verify portions of completed training or experience. ~~A failure to appear for an examination without prior notice, or a failure of the examination shall be cause for forfeiture of the payment. If the applicant is not eligible for examination, or for licensure without examination, or if the applicant withdraws the application prior to examination, the cost of the professional examination shall be returned to said applicant~~.

(b) **Consideration of application.** The Board shall consider, on an individual basis, the request of each applicant to take the examination for licensure as a psychologist under O.S. 59, Section 1362(1).

(c) **Doctoral programs.** All applicants for licensure as a psychologist shall have a doctoral degree based upon a curriculum from an institution regionally accredited by an organization recognized by the U.S. Department of Education consisting of at least three academic years, which shall be defined as 90 semester hours (excluding internship credit), leading to said degree. The applicant's doctoral degree must be from a program accredited by the American Psychological Association or meet all of the following criteria. By January 1, 1997, applicants for licensure shall have completed a doctoral program in psychology that is accredited by the American Psychological Association, or the Canadian Psychological Association, or designated as a psychology program by the Designation Committee of the National Register of Health Service Providers in Psychology and the Association of State and Provincial Psychology Board, and meet all of the following criteria:

(1) The doctoral program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogs and brochures its intent to educate and train psychologists.

(2) The psychology program must stand as a recognizable coherent organizational entity within the institution.

(3) There must be clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines.

(4) The program must be an integrated, organized sequence of study.

(5) The program must have an identifiable psychology faculty and a psychologist responsible for the program.

(6) The program must have an identifiable body of students who are matriculated in that program for a degree.

(d) **Practica and internship required.** The assessment of mental, emotional, or behavioral disorders and/or the treatment of individuals, couples, families, or groups with such disorders, by psychologists, requires a doctoral degree from an academic program designed to train psychologists to provide these services which integrates coursework and other experiences toward the goal of training psychologist practitioners. Practica and an internship experience are required.

(e) **Evaluating doctoral programs.** The doctoral program shall be documented in writing to the Board. The institution is to document the name of the department granting the degree, the date of completion of the degree requirements, and the major program of study such as, but not limited to, clinical, counseling, developmental, educational, experimental, industrial-personnel, psychometrics, school, or social-personality, unless this information is indicated on the applicant's official transcript. A certified letter from the Registrar may be submitted as documentation of the date of completion of the degree requirements. This academic program will then be evaluated by the following criteria:

(1) Except in school psychology, the three academic years leading to the doctoral degree must include a minimum of two years of full-time, on campus, graduate study (excluding internship). In school psychology, the three academic years leading to the doctoral degree must include a minimum of one year of full-time postmaster's graduate study as defined by the institution (excluding internship).

(2) At least forty-two (42) hours of the specified course work must be primarily psychological in content. The applicant must have a minimum of three (3) or more graduate semester hours in each of the following substantive content areas, for a total of twenty-one (21) hours:

(A) scientific and professional ethics and standards,

(B) research design and methodology,

(C) statistics and psychometrics,

(D) biological bases of behavior [e.g. physiological psychology, comparative psychology, neuropsychology, sensation, psychopharmacology].

(E) cognitive-affective bases of behavior [e.g. learning, memory, perception, cognition, thinking, motivation, emotion].

(F) social bases of behavior [e.g. social psychology, cultural, ethnic, and group processes, sex roles, organization and systems theory], and

(G) individual behavior [e.g. personality theory, human development, individual differences, abnormal psychology].

(3) The remaining twenty-one (21) hours of specified course work may be in the foregoing basic areas or in courses pertaining to the specific program of study.

(f) **Doctoral degree in area related to psychology not sufficient.** The possession of a doctoral degree from an area related to psychology does not qualify one for licensure as a psychologist. This includes, but is not limited to, applicants with degrees in special education, pastoral psychology (or counseling), counseling and guidance, speech and hearing, and counselor education.

(g) **Supervised experience.** An applicant for licensure as a psychologist must have two years of supervised experience satisfactory to the Board. Supervisors may not be members of the psychologist's immediate family or other individuals with whom the necessary level of objectivity cannot be maintained. This will include, but is not limited to, spouses, children, siblings, and parents or anyone with whom the psychologist has an emotionally or sexually intimate relationship. Any experience gained under such supervision will be disallowed. This two years of experience must be as a psychologist and in line with the applicant's major program of study for the doctoral degree as determined according to the procedure stated in 575:10-1-2(e). Applicants in the areas of clinical, counseling, and school psychology must have an internship experience. Applicants from psychology programs other than clinical, counseling, or school psychology, who assert the program's purpose to be the training of individuals to provide professional psychological services to the public, must have an internship experience. Internships of applicants from psychology programs with titles other than clinical, counseling, or school psychology programs will be evaluated using the same rules as those used to evaluate applicants with degrees from either clinical, counseling, or school psychology programs, depending upon which the Board deems is the most appropriate corollary based upon the program's training goals and objectives. A predoctoral internship may be used to partially fulfill the two-year experience requirement for licensure. Under no circumstances may more than one year of predoctoral experience as an intern be accepted. The internship must be consistent with the major program of study in the doctoral program which was documented in writing to the Board by the accredited institution [see 575:10-1-2(e)]. Internships in clinical psychology require a full-time experience (40 hours per week) either for one calendar year, or for two years of half-time experience. Counseling and school psychology internships require either a full-time experience (40 hours per week) for one calendar year or one academic contract year or a half-time experience for two calendar years or two academic contract years. An academic contract year means the school year of the elementary or secondary school setting in which an intern is fulfilling the internship requirement. If the counseling or school psychology internship is completed in other than an elementary or secondary school setting, the one calendar year requirement shall apply.

(h) **General requirements for internships.** Internships must be designed to provide a planned, programmed sequence of training experience. The primary focus and purpose of the internship must assure breadth and quality of training. An internship is an organized program of planned experiences in contrast to simply supervised experience or on-the-job training. The internship must provide training in a range of assessment and treatment activities conducted directly with patients or clients seeking psychological services. At least 25 percent of the trainee's time must be in direct patient or client contact. Internship training is at the post-clerkship, post-practicum, post-externship level. A written statement or brochure must be available which describes the goals and content of the internship, states clear expectations for the quantity and quality of trainee's work, and is furnished to prospective interns.

(i) **Supervision in internships.** A clinical or counseling psychology internship agency must have a clearly designated staff psychologist, who is responsible for the integrity and quality of the training program and who is licensed. In a counseling or clinical psychology internship, the basic supervision must be conducted by a staff psychologist who is trained in the applicant's major program of doctoral study, or a closely related program, and who is licensed. While additional experience with professionals in other disciplines is highly desirable, it is required that clinical and counseling psychology interns have experience with multiple (three or more) supervisors who are licensed as psychologists. Supervision of counseling and clinical psychology interns shall consist of an average of at least 10 percent of the full-time or half-time intern's week. At least half of the supervision of clinical and counseling psychology interns must be regularly scheduled, formal, face-to-face, individual supervision by one or more licensed psychologists with the intent of dealing with psychological services rendered directly by the intern. The remaining half of the supervision may be conducted individually or in a group by licensed psychologists or by other licensed professionals as appropriate to the internship experience. The counseling or clinical psychology internship agency should ordinarily have a minimum of two interns at the internship level of training during the applicant's training period.

(j) **School psychology internships.** School psychology internships must have a clearly designated psychologist who is responsible for the integrity and quality of the training program and who is licensed. In a school psychology internship, the basic supervision must be conducted by a psychologist who is trained in the applicant's major program of doctoral study, or a closely related program, who is licensed, and who may be employed in a setting other than the school district in which the internship is situated. While additional experience with professionals in other disciplines is highly desirable, it is required that school psychology interns have experience with multiple (two or more) supervisors who are licensed as psychologists. Supervision of school psychology interns shall consist of an average of at least 10 percent of the full-time or half-time intern's week. At least half of the supervision of school psychology interns must be regularly scheduled, formal, face-to-face, individual supervision by one or more licensed psychologists with the intent of dealing with psychological services rendered directly by the intern. The remaining half of the supervision may be conducted individually or in a group

by licensed psychologists or by other licensed professionals as appropriate to the internship experience.

(k) **Postdoctoral experience.** At least one year of the two-year experience requirement must be postdoctoral experience as a psychologist and in line with the applicant's major program of doctoral study as determined according to the procedure stated in 575:10-1-2(e). The postdoctoral experience must be a full time (40 hours per week) for at least one calendar year (50 weeks), or a total of 2000 hours of appropriate experience, or equivalent, for a period not to exceed three years, except in school psychology. The postdoctoral experience in school psychology must be full time (40 hours per week) for at least one calendar year (50 weeks) or one academic contract year, or a total of 2000 hours (or the number of hours in an academic contract year) of appropriate experience, or equivalent, for a period not to exceed three years. The postdoctoral experience must be under the supervision of a licensed psychologist(s) who was trained in the applicant's major program of doctoral study, or a closely related program, and who is currently engaged in rendering psychological services relevant to that training. The applicant must have received and accumulated 75 hours of regularly scheduled, formal, face-to-face, individual supervision from his/her supervisor(s) reasonably distributed throughout each 12 months of the postdoctoral experience. The postdoctoral experience does not have to be in a private setting.

(l) **Examination process.** The full examination for licensure shall consist of three component examinations:

(1) **Objective examination.** An objective examination in basic psychology, the Examination for Professional Practice in Psychology, shall be administered each year at sites, dates and times approved by the Board.

(2) **Jurisprudence examination.** A jurisprudence examination based on the Rules of the Board, Psychologists Licensing Act, Code of Ethics and applicable Oklahoma Mental Health Law, will be administered at a time and place determined by the Board. Additional exams may be scheduled for reciprocity applicants at a time and place determined by the chair.

(3) **Oral examination.** An oral examination concerning ethics, professional problems, and any other subject matter the Board shall deem appropriate for the examination will be administered at a time and place determined by the Board. The examinee must pass both the objective and jurisprudence examinations before being admitted to the oral examination.

(m) **Passing scores on examinations.** An applicant is deemed to have passed the objective examination if he/she has obtained at least the minimum pass point designated by the developer of the examination. An applicant is deemed to have passed the jurisprudence examination if he/she has 70 percent of the total items correct. An applicant must pass both the objective and jurisprudence examinations before being eligible for the oral examination. An applicant is deemed to have passed the oral examination when a majority of the examining committee, voting by secret ballot, judges the performance of the applicant as satisfactory for licensure.

(n) **Notification of results.** All applicants will be notified by mail of the results of each component examination within 30 days of the examination date. At the request of the applicant, specific information about his/her performance on any component examination will be provided to the extent the integrity of the exam is not violated.

(o) **Re-examination.** If any of the three component examinations is failed on the first attempt, the applicant will be allowed to retake the failed component at sites, dates, and times approved by the Board providing a minimum of 3 months has elapsed since the previous attempt. No special examination time shall be scheduled. If any of the component examinations is failed a second time, the applicant shall not be allowed to retake the failed component for a period of 6 months. The failed component may be taken two additional times. If any component is failed a total of four times, the application process shall cease. The former applicant may reapply for licensure by submitting a new application for consideration by the Board in accordance with the requirements to become licensed as a psychologist.

(p) **Waiver of portion of examination or re-examination.** Failure on any portion of the licensing examination will be considered failure of the entire examination for purposes of licensing; however, satisfactory performance on the objective examination or jurisprudence examination will be grounds for waiver of that portion of the examination for future re-examination.

(q) **Licensing by reciprocity.** Applicants for licensure under the reciprocity provisions of this act may only be licensed if they meet the requirements in 59 O.S. Section 1366(2).

575:10-1-3. Private Practice Under Supervision

(a) **Purpose.** The purpose of this provision is to provide an opportunity for individuals to fulfill the experience requirements for licensure in psychology in other than academic, governmental, or institutional settings. The applicant for such approval is considered to be requesting entrance into the established practice of a licensed psychologist for the purpose of gaining supervised experience.

(b) **Not an independent practitioner.** The applicant, if approved to conduct Private Practice Under Supervision, is not authorized to represent him/herself as an independent practitioner of psychology to the public.

(c) **Application; eligibility; approval.** Application for approval to Practice Psychology Under Supervision shall be made in the same manner, and on the same forms that are used to apply for licensure. A notarized statement, signed by both the applicant and proposed supervisor, must be submitted with the application. Said notarized statement shall contain an explicit statement indicating that the supervisor agrees to supervise the practice of psychology of the applicant, and that the supervisor has read, understands and agrees to the provisions of the law with respect to practice under supervision, O.S. 59, Section 1353(d) to wit, that the supervisor accepts complete and full responsibility for the psychological activities and services of the applicant. Permission to practice under supervision will be granted only after the applicant has completed all requirements for the doctorate and the Board has been so

notified by the university awarding the degree. Approval will be extended only to those whose training and experience would qualify them for licensure after completion of the experience requirements of the law, except for the second year of supervised experience as required in 575:10-1-2(g), and has been approved by the Board to sit for ~~and the~~ examination ~~process~~. Approval for practice under this provision shall be for a period of one calendar year dating from the date of approval by the Board of the application for Private Practice Under Supervision or until date of licensure. Extension of this approval shall be considered only upon written request of the supervisee and such request must be received prior to the end of the one-year period of previous approval.

(d) **Written agreement between applicant and supervisor.** Applications for approval to engage in Private Practice Under Supervision shall include a written agreement, co-signed by the applicant and his/her supervisor, describing the terms of the supervisory arrangement. Said terms must include supervision time amounting to at least 90 minutes weekly and a statement of fees charged for supervisory time, the extent of the applicant's services rendered to the public while practicing under supervision, and an evaluation of the quality of the applicant's professional and interpersonal skills for rendering services to the public.

(e) **Notice of Board decision.** The individual applicant for approval for Private Practice Under Supervision and his/her proposed supervisor shall be notified by mail as to the decision of the Board with respect to said application. Any Board decision concerning an individual practicing under this provision shall also be communicated by mail to the supervisee and supervisor.

(f) **Preparation and distribution of certain announcements forbidden.** Persons approved for the private practice under supervision are not authorized to represent themselves as independent practitioners of psychology. Preparation or distribution of announcements of practice, independent telephone listings, or other such notices shall be in violation of the authorization to practice under supervision and will lead to automatic revocation of the approval for practice under supervision.

(g) **Terminate responsibilities and obligations.** Any individual practicing psychology under supervision must take the licensing examination no later than one calendar year after the day permission to practice under supervision is granted. Failure to take the examination within the designated time period shall result in automatic revocation of the approval to practice under supervision. An individual approved for Private Practice Under Supervision who fails all or part of the examination for licensure, may be granted an extension of the approval for Private Practice Under Supervision; however, such approval shall be automatically revoked if the individual does not attempt re-examination within one calendar year from the date of the completion of the last part of the examination which was previously attempted. Under unusual circumstance, such as military service or major illness, an applicant may be granted an extension of the approval to practice until the next examination which the supervisee might reasonably be expected to attempt. If the applicant fails any of the three portions of the licensing examination three times, then approval for practice under supervision will automatically be revoked. ~~The applicant may, however, take additional examinations for licensure without limit. More than two attempts at the same form of the objective examination will not be permitted.~~

(h) **Requirements for supervisors.** Permission to practice psychology under supervision shall be granted to applicants who otherwise qualify, only if the supervisor for their practice is:

(1) A licensed psychologist.

(2) Trained in the same major program of study as the applicant's doctoral training and who will supervise the candidate in work consistent with that major program of study.

(3) Currently engaged in a private practice rendering psychological services to the public on at least a 10-hour weekly basis.

(4) Is not a member of the psychologist's immediate family nor an individual with whom the necessary level of objectivity can be maintained. This will include, but is not limited to, a spouse, children, siblings, and parents or anyone with whom the psychologist has an emotionally or sexually intimate relationship.

(i) **Board members not eligible.** Board members shall not be authorized as supervisors under this provision.

(j) **Supervisor's responsibility.** As per O.S. 59, Section 1353(6), the supervising psychologist accepts full and complete responsibility for all professional conduct of the supervisee; all professional responsibility resides with the supervisor, not with the supervisee. The supervisee will be considered to have joined the practice of the supervisor. ~~Nothing in this section shall be construed to prevent psychologists practicing under supervision from working with, or for, psychiatrists. It is expected that some individuals will want to have some considerable portion of their experience with psychiatrists. However, the responsible party for the practice is the supervising psychologist, not the psychiatrist for whom the work is being done.~~ The supervisory psychologist will normally be expected to accept no more than three supervisees under the provision of this section. Exceptions to this limit may be approved by the Board if the Board determines that adequate supervision will be provided by the proposed relationship.

575:10-1-5. Psychologists' licenses; license status; public inquiries

(a) **License issued by Board.** The license shall be issued to each applicant found to meet the requirements for licensure as a psychologist established by the Board. All licensees shall be required to practice only within their major program of doctoral study and supervised experience.

(b) **Status of licenses.** There shall be three types of status for licenses of psychologists:

(1) **Active license.** An active license is a license which has been issued or renewed by the Board for the current calendar year by payment of the appropriate fee. The renewal fee shall be three hundred dollars ($300.00) each year and is due prior to January 1 of each year. The active

status shall be the only status which is valid for the practice of psychology. It is the responsibility of each licensed psychologist to keep the Board informed of his/her current address.

(2) **Inactive license.** A license may be placed on inactive status by payment of a one-time fee of twenty-five dollars ($25.00). Licenses on inactive status shall not be valid for the practice of psychology; however, active status may be re-established upon payment of the current renewal fee, without penalty, if the board establishes that there are no known impediments to licensure [pursuant to O.S. 59, Section 1370(A)] and there are no unresolved complaints on file with this Board or the Board of another state. Inquires concerning the credentials of psychologists whose licenses are on inactive status shall be honored by the Board.

(3) **Invalid license.**

(A) **Invalid license for nonpayment of renewal fee.** A license shall be on invalid status when the renewal fee or inactive fee has not been received by the Board by December 31 of the year the license was issued or last renewed. When this occurs, the license is invalid for the practice of psychology until it is again renewed. Payment of the current renewal fee, plus penalty, shall reinstate the license to active status if the Board establishes that there are no known impediments to licensure [pursuant to O.S. 59, Section 1370(A)]. Inquiries to the Board concerning the credentials of psychologists whose licenses are invalid shall be answered with the statement that the ~~license has not been renewed by the psychologist in question.~~ licensee does not hold a valid license to practice in the state of Oklahoma.

(B) **Invalid license for noncompletion of continuing professional education requirement.** A license shall be on invalid status as of December 31 of the year the license was issued, or last renewed, if the psychologist has not completed the required twenty (20) hours of acceptable continuing professional education. When this occurs, the license is invalid for the practice of psychology until it is again renewed. Completion of 20 hours of acceptable continuing professional education, together with verification ruled acceptable to the Board, shall reinstate the license to active status if the Board establishes that there are no known impediments to licensure [pursuant to O.S. 59, Section 1370(A)]. Inquiries to the Board concerning the credentials of psychologists whose licenses are invalid shall be answered with the statement that the ~~license has not been renewed by the psychologist in question.~~ licensee does not hold a valid license to practice in Oklahoma.

(c) **Public inquiries regarding licensees.** Inquiries to the Board concerning the credentials of a psychologist shall be answered by providing information about the status of the psychologist's license and whether or not there are any known impediments to licensure and/or unresolved Board complaints with this Board or the Board of another state.

575:10-1-6. Directory listing of licensed psychologists

(a) **Information included in directory.** During the month of April each year, the Board shall publish a directory listing of all psychologists currently licensed as psychologists [Title 59 O.S. ~~1981~~ 1991, Section 1369]. The listing shall include the licensee's name, business address and telephone number, doctoral degree and date, department and university granting the degree, major program of doctoral study, license number, and date licensed. The listing will also indicate if the licensee is ~~a Diplomate~~ Board Certified with the American Board of Professional Psychology (ABPP), has Health Service Psychologist certification (HSP), or has acquired a different major program of study based upon formal, doctoral-level retraining and completion of experience requirements consistent with the new program of study.

(b) **Specialty listings in the directory.**

(1) **Continuation of specialty listings established by previous Board rules.** Psychologists licensed under previous Board rules which included the listing of a specialty, will continue to have that specialty listed in place of "major program of study".

(2) **Listing of major program of study.** The major program of study will be taken directly from the official transcript and only the doctoral program will be listed. However, if the transcript is nonspecific, e.g., "psychology", the Board will specify the program from written information supplied by the head of the department from which the doctoral degree was obtained. No major program of study will be listed unless the Board has determined that the psychologist has satisfactorily completed all requirements for licensure including postdoctoral experience consistent with that program listing. If an applicant for licensure or a psychologist was formally admitted to a doctoral retraining program and completed all academic and training requirements for a new major program of study, proof of such admission and of satisfactory completion of that retraining program must include written verification from the university department head.

(3) **Retraining.** Accumulation of courses is not accepted in lieu of a formal retraining program. The formal retraining program must be a defined, integrated, doctoral level program in a regionally accredited university. Only a completed formal retraining program, supplemented by work experience consistent with that program and necessary to meet licensure requirements, will be listed in the directory.

(4) **Multiple listings.** A psychologist may have more than one "major program of study" listed, based on formal and full doctoral retraining, provided that all licensure requirements are met for each program.

(5) **Health Service Psychologist.** The purpose of establishing a Health Service Psychologist certification is to protect the public, and to assist agencies and the courts by defining those psychologists who are, by training and supervised experience, qualified to provide professional psychological services to the public. In order to qualify for certification as a Health Service Psychologist, a psychologist licensed in the State of Oklahoma must ~~be~~:

~~(A) listed in the National Register of Health Service Providers in Psychology, or~~

(~~B~~A) be ~~a Diplomate of~~ Board Certified by the American Board of Professional Psychology, or

(~~C~~B) have two years of supervised experience in health services psychology, one of which is a doctoral internship consistent with their university doctoral program in an organized health services training program, and one of which was post-doctoral at a site where health services are provided.

575:10-1-7. Hiring of psychological technicians by psychologists.

(a) **Application to hire a psychological technician.**

(1) A licensed psychologist may apply for approval to employ a technician by submitted the following information in writing to the Board of Examiners:

(A) the name and address of the proposed technician, and

(B) the qualifying academic training and work experience of the technician, and

(C) the specific activities and services to be perform by the technician, and

(D) the arrangements and extent of continuing supervision to be provided.

(2) The information in (1) of this subsection must be supplied by submitting:

(A) an agreement form

(B) a vita, and

(C) complete academic transcripts for the technician.

(3) The licensed psychologist must also pay the one hundred and fifty dollar ($150.00) fee for hiring the technician and the one hundred dollar ($100.00) renewal fee.

(b) **Non-exempt hospital or clinic settings.** Psychologists working in settings other than state agencies must also provide the Board with a written statement from the appropriate administrator(s) acknowledging the psychologist's authority to hire and, if necessary, to terminate the technician's employment, and to regulate the activities and services of the technician. The written statement must also indicate that hospital or clinic policies will not prevent the licensed psychologist from abiding by all of the conditions specified in this section.

(c) **Use of certain individuals as psychological technicians forbidden.** Psychologists may not hire or continue to use as psychological technicians, members of their immediate families or any other person whose employment might affect detrimentally the psychologist's objectivity. This will include, but is not limited to, spouses, children, siblings, parents, or anyone with whom the psychologist is having an intimate emotional or sexual relationship.

(d) **Limitation on activities of psychological technicians**

(1) All activities and services performed by a psychological technician must be under the direct and continuing professional supervision of the licensed psychologist. The licensed psychologist must notify the Board and all concerned parties in writing should conditions change so that the licensed psychologist is no longer assuming the role of supervisor. In such case, the status of the individual who was a psychological technician and the psychological activities performed by that individual must cease since the condition of the agreement are no longer being met.

(2) Activities performed by the technician are not to be used to fulfill postdoctoral requirements for licensure.

(3) Activities performed by the technician are not to be used to develop a private practice for the technician.

(4) Activities and services exempt from licensure are limited to those activities of the technician that provide assistance to the licensed psychologist in the conduct of that psychologist's practice.

(5) Work assignments shall be commensurate with the skills of the technician and procedures shall under all circumstances be planned in consultation with the supervisor.

(6) Technicians shall work in the same physical setting as the supervisor and provide services only at those times when the licensed psychologist is on the premises and available for emergency consultations.

(7) Psychological technicians who are completing their 1000 hour traineeship or who have achieved and maintain Qualified Mental Retardation Professional (QMRP) status as verified and periodically updated by the Developmental Disabilities Services Division, Oklahoma Department of Human Services, may be exempted from the requirement that they shall work in the same physical setting as the supervising psychologist. All other limitations on activities and services performed by a QMRP qualified psychological technician remain in force, and this exemption is limited to services provided for clients of the Developmental Disabilities Services Division, Oklahoma Department of Human Services. ~~Effective January 1, 1997, successful completion of the Certified Behavior Analyst examination, or a successor designated by the Board, will be required to achieve QMRP status.~~

(e) **Supervisory responsibility of licensed psychologist; maximum number of technicians allowed.**

(1) The licensed psychologist is accountable for the planning, course, and outcome of the work of a psychological technician. The conduct of the supervision shall insure the professional, ethical, and legal protection of the client and the technician.

(2) The supervisor shall have competence in the specific area of practice in which supervision is being given.

(3) The supervisor shall have sufficient face-to-face contact with all clients to plan effective and appropriate services and to define procedures.

(4) The progress of the work shall be sufficiently monitored to insure that full professional responsibility can be accepted by the supervisor for services rendered.

(5) The supervisor shall establish and maintain a level of supervisory contact consistent with professional standards, and be fully accountable in the event that ethical or legal issues are raised.

(6) The maximum number of psychological technicians that a psychologist may hire is two.

(7) The licensed psychologist assumes full responsibility for the activities and services of the psychological technician.

(8) The technician must have the background, training, and experience appropriate to the functions performed. The supervisor is responsible for determining the adequacy of the technician's preparation and must be adequately trained to supervise any function performed by the technician.

(9) An ongoing record of supervision shall be maintained which details the types of activities in which the assistant is engaged, the level of competence in each, and the type and outcome of all procedures.

(f) **Representation to the public.**

(1) Public announcement of services and fees, and contact with the lay or professional community shall be offered only by or in the name of the licensed psychologist.

(2) The technician's name is not to appear on any announcements, telephone listings, or other such notices.

(3) Users of the technician's services shall be informed as to the technician's qualifications and functions.

(4) The supervisor shall not permit the technician to represent him/herself as an independent practitioner to the public.

(g) **Psychologist's responsibility for financial arrangements.**

(1) The licensed psychologist assumes responsibility for all financial arrangements relating to the supervision of a psychological technician.

(2) Setting and collecting of fees shall remain the sole domain of the supervisor except in non-governmental, non-charitable hospitals or clinics in which fees are determined by administrative policy. Under no circumstances, however, shall the technician be responsible for setting or collecting fees.

(3) Employment of a technician on a fee-for-service or a fee-splitting basis is not acceptable.

(4) Technicians shall be employed on a salaried basis, i.e., a predetermined, set, weekly or monthly rate~~, albeit part-time~~.

575:10-1-8. Continuing professional education for psychologists

(a) **Purpose.** The purpose of continuing professional education requirements for psychologists is to assure that licensees update and advance their skills such that the public shall benefit from the most current and effective standards of professional practice. To further the goal of public benefit, all psychologists are encouraged to fulfill a portion of their continuing professional education requirements in the areas of ethics, professional conduct, and related legal issues. Beginning with renewal of the license to practice on January 1, 1998, a minimum of three (3) of the twenty (20) continuing professional education credits required for yearly licensure renewal shall be earned by licensees with HSP certification in activities that are specific to ethics, relevant laws and legal issues, and/or applicable professional practice guidelines and standards.

(b) **Credits required for annual license renewal.** The minimum of twenty (20) credits of acceptable continuing professional education will be required for renewal of a license to practice psychology for the following year (one clock hour equals one credit). The continuing professional education year extends from October 1 through September 30 for licensure in the following calendar year. A continuing professional education form, on which to register the activities and hours claimed for the year, will be sent out with the license renewal notice and must be returned to the Board office in person by the close of business on November 1, or postmarked by November 1. For licenses issued after October 1 of a given year, the required credits of continuing professional education will be adjusted for the initial continuing professional education year only, to require 1.5 credits of continuing professional education per full month of licensure for the initial renewal of the license.

(c) **Preapproval of continuing professional education activities required.**

(1) Continuing professional education credits may be granted for acceptable educational activities at the graduate level which are preapproved by the Board, or by a committee appointed by the Board. No credits will be granted for any activities or categories of activities that have not been preapproved. Approval may be made at a regularly scheduled open meeting of the Board, or at a special meeting of either the Board or its appointed committee convened for the specific purpose.

(2) A provider of educational activities may apply to the Board for preapproval of an activity. The provider shall be responsible for compliance with the standards for approval of the activity, verification of participation, and for the provision of the necessary verification of attendance forms to all participants. This verification of attendance form shall include:

(A) The participant's name.

(B) The presenter's name, academic degree, profession, and whether licensed.

(C) The presentation topic.

(D) The program sponsor agency.

(E) The location of the presentation.

(F) The dates of presentation.

(G) The total number of clock hours presented.

(d) **Exceptions to the requirements.** Exceptions to the requirements of (c) of this section may be granted at the discretion of the Board for programs presented by recognized sponsors whose programs have been preapproved by the Board. The university academic hour is equal to fifteen (15) credits, and shall be verified by the presentation of an official graduate transcript showing course or audit credits. The licensee is ultimately responsible for providing all information necessary for the Board to make final determination concerning the acceptability of any requested continuing professional education credits.

(e) **Fee for preapproval.** Providers of educational activities may be charged a fee for the review and preapproval of their program. This fee shall be set by the Board.

(f) **Kinds of educational activities for which credit may be received.** Continuing professional ~~educating~~ education

credits may be earned through formal organized learning experiences, scientific publications, attendance at regularly scheduled meetings of international, national, regional, or state professional associations, or through presentations to appropriate groups not related to the psychologist's regular employment. The same kinds of educational activities, when the subject matter is so designated, may be used to fulfill the mandatory three (3) hours of credit in the areas of ethics, relevant laws and legal issues and/or applicable professional practice guidelines and standards. Other acceptable activities include attendance at Board meetings and serving the Board as an appointed investigator, tutor, practice monitor or supervisor, or oral examination committee member.

(g) **Credits allowed.** Continuing professional education activities, whether received or presented by the psychologist, must be targeted toward a professional audience. In those instances when the psychologist is teaching in programs such as institutes, seminars, workshops, and conferences which have been granted preapproval by the Board, three (3) credits will be given for each one (1) hour that is taught, provided that such teaching is not a part of the psychologist's regular employment. Publication of a scientific book or chapter in a book, or publication of a scientific article in a refereed journal, shall be equal to ten (10) credits. Examination by the American Board of Professional Psychology shall be equal to twenty (20) credits.

(h) **List of approved ~~activities~~ Continuing Professional Education Recognized Sponsors.** ~~A list of approved educational activities or categories will be mailed to psychologists when they are licensed, and thereafter with their continuing education forms and license renewal notices each year~~. This list shall be reviewed ~~annually~~ by the Board.

(i) **Verification of continuing professional education.** Continuing professional education records shall be maintained in the Board files for two years. Individual psychologists are to keep verification of all continuing professional education credits claimed for a period of two years. In November of each year, the Board will randomly select from two (2) to twenty-five (25) percent of the number of psychologists on active status the previous year for an audit of their claimed continuing professional education credits. These selected psychologists must then provide the Board with verification of all credits claimed on their continuing professional education form within thirty (30) days following receipt of the audit notice.

(j) **Board audit.** The Board may, at its discretion, audit and require verification of any continuing professional education credits claimed which it may consider questionable or fraudulent. In either condition, selected psychologists who do not furnish verification of claimed continuing professional education credits to the Board within thirty (30) days following receipt of the audit notice shall as of December 31 have their licenses invalidated for the practice of psychology, with possible suspension or revocation of the license to practice psychology.

(k) **Petition for extension of continuing professional education year.** A psychologist who is not in compliance with the required twenty (20) credits of continuing professional education by September 30, and/or who has not returned his or her continuing professional education form by November 1 may, by submitting an individual review fee, petition the Board for an extension of the continuing professional education year to December 31, provided that any credits earned in this extension period may be applied only to the continuing professional education year for which the extension was granted. This fee shall be set by the Board.

(l) **Petition for relief for previous years.** Under the extraordinary circumstances of incapacitation or serious illness of the licensed psychologist, or of an immediate family member, and upon the presentation of acceptable evidence thereof, a psychologist who is otherwise in full compliance with all renewal requirements, may petition the Board for partial or complete relief of the previous year's continuing professional education requirement. A petition requested under these circumstances must be filed by November 1 in lieu of the continuing professional education form. There shall be no fee for a psychologist who petitions the Board for compassionate relief of continuing professional education requirements under this subsection.

(m) **License rendered invalid for failure to comply.** A licensed psychologist who is not in compliance with the required twenty (20) credits (hours) of continuing professional education by September 30, and/or who has not returned his/her continuing professional education form by November 1, and who has not petitioned the Board for an extension under (k) of this section or compassionate relief under (l) of this section, shall as of December 31 have his or her license invalidated for the practice of psychology, with possible suspension of the license to practice psychology.

575:10-1-10. A Code of Ethics for psychologists

(a) **Adoption of "Ethical Principles of Psychologists and Code of Conduct. "** The "Ethical Principles of Psychologists and Code of Conduct," ~~1992~~ 2002 revision, of the American Psychological Association (APA) is adopted by the Board in its entirety as part of its Code of Ethics.

(b) **Adoption of "ASPPB Code of Conduct. "** The "ASPPB Code of Conduct," ~~1991~~ 2001, of the Association of State and Provincial Psychology Boards, is adopted by the Board in its entirety as part of its Code of Ethics.

(c) **Penalty for violation of the Code of Ethics.** A violation of the Board's Code of Ethics is considered unprofessional conduct and may be grounds for imposing sanctions as specified in 59 O.S., Section 1370(A).

[OAR Docket #03-575; filed 4-4-03]

Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code.*

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

TITLE 1. EXECUTIVE ORDERS

1:2003-5.

EXECUTIVE ORDER 2003-5

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the powers vested in me by the Oklahoma Statutes in 25 O.S. Section 82.1, hereby order the following dates be observed as holidays by the State of Oklahoma 2004:

Thursday	January 1	New Year's Day
Monday	January 19	Martin Luther King, Jr. Day
Monday	February 16	President's Day
Monday	May 31	Memorial Day
Monday	July 5	Independence Day
Monday	September 6	Labor Day
Thursday	November 11	Veterans Day
Thursday & Friday	November 25 & 26	Thanksgiving
Friday	December 24	Christmas
Friday	December 31	New Year's Day

This Executive Order shall be forwarded to the Director of the Office of Personnel Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, this 2nd day of April, 2003.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #03-580; filed 4-2-03]

1:2003-6.

EXECUTIVE ORDER 2003-6

I, Brad Henry, Governor of the State of Oklahoma, in recognition of the impact that small business has on the state of Oklahoma hereby designate Commerce and Tourism Secretary Kathy Taylor as Oklahoma's Small Business Advocate. The purpose of this position is to assist in every possible manner available the small businesses of Oklahoma, which are the backbone of our economy in anyway possible.

Because the vast majority of all businesses in Oklahoma have less than one hundred employees, it is appropriate to recognize the need of small businesses to have an advocate when dealing with the numerous state regulatory agencies. It is important for both rural and urban areas to assist the small business entrepreneur so that he or she is able to operate, grow and succeed in today's competitive marketplace.

Although many inquiries may be simple ones which can be passed on to the appropriate state agency, some may involve active advocacy on the part of the Commerce and Tourism Secretary, in her role as the Oklahoma Small Business Advocate. Assistance will be available to small business to help in locating, accessing, and understanding the substantial volume of information necessary to start and successfully operate or expand a small business in the state.

The efforts of the Secretary of Commerce and Tourism will result in small businesses and their owners to be better and more effectively served when interfacing with a state agency.

This executive order shall be forwarded to the Secretary of Human Resources and Administration, the Secretary of Agriculture, The Secretary of the Environment, the Secretary of Finance and Revenue, the Secretary of the Military, the Secretary of State, the Secretary of Transportation, and the Secretary of Veterans Affairs who shall cause the provisions of this order to be implemented by all appropriate agencies of state of government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 14th day of April, 2003.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #03-646; filed 4-15-03]

1:2003-7.

EXECUTIVE ORDER 2003-7

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the authority vested in me by the provision of Section 256 of Title 75 of the Oklahoma Statutes do hereby order:

The following executive orders placing various agencies or parts of agencies under the merit system shall remain in full force and effect:

1. The unnumbered executive orders issued by the Honorable J. Howard Edmondson:

Dated November 6, 1959 concerning the current Employment Security Commission and the Department of Health;

Dated December 3, 1959 concerning the Civil Defense Department, Office of Division of the Budget, now referred to as the Office of State Finance, Board of Cosmetology and the Office of the State Reformatory;

Dated December 9, 1959 concerning the current Office of Professional Engineeers, now referred to as the Board of Registration for Professional Engineers and Land Surveyors and the Office of the State Securities Commission, now referred to as the Department of Securities;

Dated January 6, 1960 concerning the current Office of State Personnel Board, now referred to as the Office of Personnel Management;

Dated January 22, 1960 concerning the Historical Society, Commission of the Land Office, now referred to as the Office of the Land Commissioners, the Oklahoma Cerebral Palsy Commission now referred to as the J. D. McCarty Center for Handicapped Children, Department of Public Safety, Water Resources Board;

Dated March 3, 1960 concerning the current Liquefied Petroleum Gas Board and the Adjutant General's Department, now referred to as the Military Department;

Dated March 7, 1960 concerning the current Department of Agriculture and Department of Libraries;

Dated April 4, 1960 concerning the current Department of Highways, now referred to as the Department of Transportation;

Dated May 5, 1960 concerning the current Soil Conservation Board, now referred to as the Conservation Commission;

Dated May 27, 1960 concerning the Department of Mental Health.

2. The unnumbered Executive Orders issued by the Honorable Henry Bellmon:

Dated January 18, 1965 concerning the current Office of the Oklahoma Capitol Improvement Authority;

Dated April 28, 1966 concerning the current State Fire Marshal, now referred to as the State Fire Marshall's Commission, Board of Pharmacy, Real Estate Commission, Oklahoma Turnpike Authority, Will Rogers Memorial Commission and Oklahoma Aeronautics Commission;

Dated June 23, 1966 concerning the Grand River Dam Authority;

Dated August 24, 1966 concerning the Cerebral Policy Center, now referred to as the J. D. McCarty Center for Handicapped Children;

Dated September 15, 1966 concerning the current Oklahoma State Retirement System, now referred to as the Public Employees Retirement System.

3. The unnumbered Executive Orders issued the Honorable Dewey Bartlett:

Dated October 11, 1967 concerning the current Department of Corrections;

Dated September 5, 1968 concerning the current Oklahoma State Bureau of Investigation.

4. The unnumbered Executive Orders issued by the Honorable David Hall:

Dated December 2, 1974 concerning the current Department of Consumer Affairs, now referred to as the Department of Consumer Credit;

5. Issued by the Honorable David Boren, Executive Orders:

22 Carl Albert Community Mental Health Center

23 Jim Taliaferro Community Mental Health Center

6. Issued by the Honorable George Nigh, Executive Orders:

79-8 Central Oklahoma Community Mental Health Center

80-4 Phil Smalley Children's Center

85-8 Department of Health

86-29 Oklahoma Pecan Commission

86-30 Office of Handicapped Concerns

86-31 Board of Governor's of the Registered Dentists

86-32 Oklahoma State Board of Embalmers and Funeral Directors

86-33 Board of Medical Examiners now referred to as the State Board of Medical Licensure and Supervision

86-34 Oklahoma Motor Vehicle Commission

86-35 State Board of Osteopathy now referred to as the State Board of Osteopathic Examiners

86-36 Oklahoma Peanut Commission

86-37 Sheep and Wool Utilization, Research and Market Development Commission now referred to as the Sheep and Wool Commission

86-38 Oklahoma State Insurance Fund

86-41 The Department of Pollution Control now referred to as the Department of Environmental Quality

86-42 Commission on Children and Youth

7. Issued by the Honorable Henry Bellmon, Executive Orders:

88-19 Board of Cosmetology, certain Health Dept. personnel and Commission on Children and Youth

91-1 Highway Safety Division of the Oklahoma Department of Transportation

8. Issued by the Honorable Frank Keating, Executive Orders:

98-11 Oklahoma State and Education Employees Group Insurance Board

98-12 Oklahoma Ethics Commission

The following additional Executive Orders shall remain in full force and effect:

1. The following Executive Orders issued by the Honorable Raymond Gary:

Executive Order DB No.3, The Certification and Submission of Payrolls for Payment.

2. The following additional Executive Orders issued by the Honorable Henry Bellmon:

90-09 GASB #5 & #12 for state pension accounting.

3. The following additional Executive Orders issued by the Honorable David Walters:

91-10 establishing the Governor's Council on Physical Fitness.

91-19 establishing the position of State Geographer.

94-16 designating the Secretary of the Environment to be responsible to disburse certain funds for the State.

4. The following additional Executive Orders issued by the Honorable Frank Keating:

93-20 (as amended on 9/5/02) establishing the Developmental Disabilities Council.

95-6 designating the DHS Director to be the State Administrator of the federal food stamp program.

95-7 designating the Oklahoma Housing Finance Agency to administer the federal housing credit program.

95-10 establishing the Governor's Advisory Council on Asian-American Affairs.

95-16 establishing the Oklahoma Commission on the Deaf and Hearing Impaired.

95-24 Game Warden law enforcement.

95-34 establishing the Governor's Advisory Committee on the Homeless.

96-03 designating the Department of Education as agency responsible for administration of Part H of the federal Individuals with Disabilities Education Act.

96-07 designating Office of Juvenile Affairs as agency responsible for state juvenile justice plans.

96-08 designating the Oklahoma Community Service Commission to oversee the State's participation in federal volunteer & other programs.

96-26 establishing the Governor's Advisory Council on Latin American and Hispanic Affairs.

96-27 directing Executive Department agencies, boards and commissions with access to the Internet to develop an internal policy prohibiting child pornography and other obscene materials.

97-08 designating the Director of DCS to issue emergency declarations closing state buildings when unsafe working conditions exist.

97-12 designating the Oklahoma Amateur Sports Commission to advise Governor on the promotion of amateur sports.

98-32 establishing the State of Oklahoma Emergency Standard Operating Procedures.

98-37 establishing procedures for local project funding contracts when contracts are not covered by competitive bidding statutes.

99-06 designating the Secretary of Safety and Security to determine when hazardous weather conditions exist.

2002-02 creating the Tar Creek Superfund Task force.

2001-22 establishing Oklahoma's Bioenergy Initiative.

2001-25 establishing the Governor's Task Force on Foreign Animal Diseases.

2001-27 designating the DHS Director to be the State Administrator of the federal Improved Independent Living Program.

2001-33 establishing the Governor's Task Force on Health Insurance Portability and Accountability.

2002-17 Hiring freeze.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 14th day of April, 2003.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #03-647; filed 4-15-03]

Local Projects

Executive Order 95-26 requires executive agencies to "announce the availability of contracts for local project funds by publication in the *Oklahoma Register* at least one month prior to the deadline for applications for such contracts" [EO 95-26 (5)].

A "local project funding contract" is defined as "an agreement between a state agency and either a local government or private entity, or both, in which the state agency agrees to provide funding to the local government or private entity who agrees to accomplish a public purpose. In addition, the direct benefits of such a contract accrue primarily to the local population rather than the state as a whole. . . . Local project funding contracts do not include contracts subject to state competitive bidding statutory requirements." [EO 95-26 (1)].

For additional information on local projects, see Executive Order 95-26 [OAC 1:1995-26] and Attorney General Opinion 87-100.

OKLAHOMA DEPARTMENT OF LIBRARIES
Local Project Funding Contract Announcement

[OAR Docket #03-604]

DESCRIPTION OF PROJECT:

Grants will be used to reduce adult illiteracy in Oklahoma through volunteer-based literacy programs that deliver direct instructional service in basic reading, writing, and math to students over the age of 16.

FUNDS AVAILABLE:

State funds appropriated to the Oklahoma Department of Libraries will be made available for adult literacy grants. Eligible organizations may apply for grants of up to $10,000 each. Grant awards will be dependent upon the continuation of literacy funds to the Oklahoma Department of Libraries.

ELIGIBILITY:

Applications may originate in Oklahoma public libraries, library systems, non-profit community-based literacy organizations, or coalitions of any or all of the above. To be eligible for this grant, programs must currently offer adult literacy services.

AUTHORITY:

Public Law 98-480 as amended and related Long-Range and Annual Programs.

APPLICATION DEADLINE:

June 20, 2003

CONTACT PERSON:

Oklahoma Department of Libraries, Literacy Resource Office
Robb Gentry
405/522-3187, or 1-800-522-8116
rgentry@oltn.odl.state.ok.us
200 NE 18th Street
Oklahoma City, OK 73105

[OAR Docket #03-604; filed 4-7-03]