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State Board of OSTEOPATHIC Examiners	510	Oklahoma TURNPIKE Authority (<i>name changed - see Title</i>	
PARDON and Parole Board	515	<i>731</i>)	745
Oklahoma PEANUT Commission	520	Board of Trustees for the UNIVERSITY Center	
Oklahoma State PENSION Commission	525	at Tulsa	750
State Board of Examiners of PERFUSIONISTS	527	UNIVERSITY Hospitals Authority	752
Office of PERSONNEL Management	530	Board of Regents of the UNIVERSITY of Oklahoma	755
Oklahoma State Board of PHARMACY	535	Board of Regents of the UNIVERSITY of Science and Arts of	
PHYSICIAN Manpower Training Commission	540	Oklahoma	760
Board of PODIATRIC Medical Examiners	545	Oklahoma USED Motor Vehicle and Parts Commission	765
Oklahoma POLICE Pension and Retirement System	550	Oklahoma Department of VETERANS Affairs	770
State Department of POLLUTION Control (<i>abolished</i>		Board of VETERINARY Medical Examiners	775
<i>1-1-93</i>)	555	Oklahoma Department of CAREER and Technology	
POLYGRAPH Examiners Board	560	Education (<i>Formerly: Oklahoma Department of</i>	
Oklahoma Board of PRIVATE Vocational Schools	565	VOCATIONAL and Technical Education)	780
State Board for PROPERTY and Casualty Rates	570	Oklahoma WATER Resources Board	785
State Board of Examiners of PSYCHOLOGISTS	575	Board of Regents of WESTERN Oklahoma State	
Department of CENTRAL Services (<i>Formerly: Office of</i>		College	790
PUBLIC Affairs)	580	Oklahoma WHEAT Commission	795
PUBLIC Employees Relations Board	585	Department of WILDLIFE Conservation	800
Oklahoma PUBLIC Employees Retirement System	590	WILL Rogers and J.M. Davis Memorials Commission	805

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 10. OKLAHOMA ACCOUNTANCY BOARD CHAPTER 15. LICENSURE AND REGULATION OF ACCOUNTANCY

[OAR Docket #04-1571]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 15. Licensure and Regulations of Accountancy
[AMENDED]

SUMMARY:

Chapter 15 sets forth the rules for administering the licensure for and regulation of the accounting profession. In 2004, amendments to the Accountancy Act (Act), the implementation of a new computer-based CPA/PA examination, and the initiation of a peer review program require significant amendments to the rules to accommodate these changes. Any other changes to the rules in Chapter 15 are made for purposes of clarification.

Subchapter 3, Requirements to Practice Public Accountancy, amendments clarify that individuals entering the state under the substantial equivalency provisions are not required to hold permits to practice, add the means by which an individual whose work experience has been denied may request a Board review of the denial, and add the requirement for the completion of an ethics examination in compliance with the Act.

Subchapter 5, Examination Procedures; Subchapter 7, Application to Take an Examination; Subchapter 9, Examination Content; Subchapter 11, Grading of Examinations; Subchapter 13, Conditional Credit on Examination; Subchapter 15, Transfer of Examination Credits; Subchapter 17, Procedures Upon Failure to Apply for or Take Examination; and Subchapter 19, Proctoring of Candidates Taking Examinations, all pertain to the paper-and-pencil CPA/PA examination, which is no longer in use. These subchapters are therefore being revoked. Subchapter 18, Transitioning from the Paper-and-Pencil Examination to the Computer-Based Examination is then amended to Computer-Based Examination and will contain all of the rules applicable to the CPA/PA examination.

Subchapter 21, Reciprocity, substantive amendments, in accordance with the Act, add a requirement for the completion of an ethics examination and a provision for setting forth the means by which an individual with foreign credentials may apply for international reciprocity in Oklahoma. Also

added is a provision that an applicant for reciprocity must file for a reciprocal certificate or license within ninety days of engaging in the practice of public accounting in Oklahoma, thus clarifying for individuals and firms the time frame in which individuals coming into the state to practice must comply with the requirements.

Subchapter 22, Substantial Equivalency, substantive amendments provide, in accordance with amendments to the Act, that no notice will be required of individuals entering the state to practice under this provision from another jurisdiction if no notice is required of an Oklahoma certificate or license holder to enter that jurisdiction to practice.

Subchapter 23, Registration, amendments change registration deadlines for individuals and firms to bring the rules into compliance with amendments to the Act and add provisions that postmarks will be considered when determining whether an application is timely filed.

Subchapter 25, Permits, substantive amendments provide that firm permits filed on a timely basis will bear a date of June 1 and an expiration date of May 31, establish that the date of issuance for permits when the Board has granted an extension will be determined on a case by case basis, and eliminate the requirement that each office of a firm that serves Oklahoma clients must hold a permit and pay a permit fee.

Subchapter 27, Fees, parts 27-1, Initial application to take CPA examination; 27-2, Initial application to take PA examination; 27-3, Reexamination; 27-4, Examination processing fee; and 27-6, Out of State Candidates all relate to the paper-and-pencil CPA/PA examination, which is now obsolete, and are therefore revoked. Other substantive amendments to this subchapter clarify that each applicant and candidate shall pay a fifty dollar fee for each application filed with the Board, re-establish the reciprocal application administrative fee which was inadvertently deleted in 2003, change the deadline for the payment of registration and firm permit fees in accordance with amendments to the Act, and create a peer review fee, thus allowing the Board to establish for the protection of the public a peer review program for all individuals and firms that provide auditing and/or review services to clients. In addition, the requirement for each individual office of a firm providing public accounting services in Oklahoma to obtain a permit and pay a permit fee is deleted.

Subchapter 29, Continuing Professional Education, amendments provide that the current rules in this subchapter, as amended, will be in effect through December 31, 2005. Effective January 1, 2006, subchapter 30 will take the place of subchapter 29. Recent amendments to the Act provide that all certificate and license holders, unless exempted by

Notices of Rulemaking Intent

rule, must complete continuing professional education (CPE) and change the CPE requirement from forty (40) hours each year to one hundred twenty (120) hours in a three-year period with a minimum of twenty (20) hours in any year. Another amendment to the Act provides that all certificate and license holders complete 40 hours of CPE to obtain a permit. These amendments to the act require significant changes to the CPE rules since CPE exemptions for new CPAs and PAs and pro-rated CPE are no longer allowed by the Act. Other substantive changes to subchapter 29 provide that, under certain circumstances, new CPAs and PAs, new reciprocals, and individuals applying for initial interim permits will be allowed to re-use the CPE reported for their initial permits on their first renewals. Frequently, these individuals apply for initial permits toward the end of the permit period and could be required to complete eighty (80) hours of CPE in a very short time. The Board believes this to be excessively burdensome to these individuals and therefore wishes to allow double-reporting under these specific circumstances until the new minimum of 20-hours in any one year becomes effective on January 1, 2006.

Subchapter 30, Continuing Professional Education, the addition of this subchapter is intended to simplify the CPE rules and to bring them into compliance with the amendments to the Act that become effective January 1, 2006. This subchapter also establishes who will be exempt from the CPE requirement.

Subchapter 32, Standards for Continuing Professional Education (CPE) Programs, amendments provide that all certificate and license holders should participate in CPE. In addition, the limitation for presentation and preparation credit for instructors and discussion leaders is eliminated.

Subchapter 33, Quality/Peer Review, substantive amendments are made to clarify when registrants who perform review or audit services must participate in the peer review program.

AUTHORITY:

Oklahoma Accountancy Board, 59 O.S. Section 15.5

COMMENT PERIOD:

Written and oral comments will be accepted through close of business February 25, 2005 by contacting Edith Steele, Executive Director, or Kelly Brown, Deputy Director, Oklahoma Accountancy Board, 4545 North Lincoln Boulevard, Suite 165, Oklahoma City, Oklahoma 73105-3413. Telephone: 405-521-2397, E-mail: okaccybd@oab.state.ok.us or FAX: 405-521-3118.

PUBLIC HEARING:

A public hearing to take comments on the proposed rules will be held by the Board at 9:00 a.m. on February 25, 2005, Suite 269, Lincoln Office Plaza, 4545 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred

by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Edith Steele at the above address during the period from January 17, 2005 through February 25, 2005.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma Accountancy Board website at www.OK.gov/oab or from the Oklahoma Accountancy Board, 4545 North Lincoln Boulevard, Suite 165, Oklahoma City, Oklahoma 73105-3413.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement will be prepared and will be available after January 28, 2005 on the Oklahoma Accountancy Board website or from the Oklahoma Accountancy Board at the address and contact numbers listed above.

CONTACT PERSONS:

Edith Steele or Kelly Brown at 405-521-2397

[OAR Docket #04-1571; filed 12-22-04]

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

[OAR Docket #04-1592]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 36. Scrapie [NEW]

SUMMARY:

The proposed rules are for the purpose of developing a scrapie eradication program for sheep and goats in the state of Oklahoma. Currently, no program exists. The United States Department of Agriculture is requiring all states to develop rules consistent with federal rules regarding the eradication of scrapie. Scrapie is a transmissible degenerative disease that affects the central nervous system in sheep and goats. The rules allow for quarantine and trace back of scrapie infected or suspected herds.

AUTHORITY:

Oklahoma State Board of Agriculture and the Oklahoma Agricultural Code; 2 O.S. 2001 §§ 2-4(2), 2-4(7), 2-4(29), 6-2, 6-124, and 6-152; Article 6, Section 31, Constitution of the State of Oklahoma.

COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from January 18, 2005 through February 18, 2005.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m., February 18, 2005, in the Plant Industry and Consumer Services Conference Room of the Oklahoma Department of Agriculture, Food,

and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from January 18, 2005 through February 18, 2005.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by contacting Teena Gunter, Oklahoma Department of Agriculture, Food, and Forestry, P. O. Box 528804, Oklahoma City, Oklahoma 73152-8804.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

CONTACT PERSON:

Dr. Becky Brewer-Walker, (405) 522-6142, e-mail address: bbrewer@oda.state.ok.us

[OAR Docket #04-1592; filed 12-22-04]

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

[OAR Docket #04-1593]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 25. Seed
35:30-25-14. [NEW]

SUMMARY:

The proposed rule requires anyone who publishes an advertisement for seed to include the Oklahoma seed license number in the advertisement. Many advertisements are published every year that do not comply with the requirements of the Oklahoma seed law and some of those advertisements are placed by dealers that do not have a seed license. The Department has difficulty enforcing the seed law in those cases because of the lack of certainty as to who placed the advertisement. This rule will enable the Department to determine if the dealer is licensed by the state and more easily track down dealers, whether licensed or not, regarding violations.

AUTHORITY:

Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2) and (29), 8-21 et seq.; Article 6, Section 31, Constitution of the State of Oklahoma

COMMENT PERIOD:

Persons may submit written and oral comments to Teena Gunter at 2800 North Lincoln Boulevard, P. O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from January 18, 2005 through February 18, 2005.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., February 18, 2005, in the Plant Industry and Consumer Services Conference Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from January 18, 2005 through February 18, 2005.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by contacting Teena Gunter, Oklahoma Department of Agriculture, Food, and Forestry, P. O. Box 528804, Oklahoma City, Oklahoma 73152-8804.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: tgunter@oda.state.ok.us

[OAR Docket #04-1593; filed 12-22-04]

**TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE
CHAPTER 110. OKLAHOMA QUALITY INVESTMENT ACT**

[OAR Docket #04-1551]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

- 150:110-1-1. Purpose and scope [NEW]
- 150:110-1-2. Definitions [NEW]
- 150:110-1-3. Application Process [NEW]
- 150:110-1-4. Threshold and Selection Criteria [NEW]

SUMMARY:

This action is to promulgate the rules required by House Bill 2373 of the Oklahoma Legislature that was approved by the Governor of the State of Oklahoma on May 28, 2004, codified at 68 O.S. § 4108, and to provide a systematic method to make

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application to the Oklahoma Department of Commerce as required in the referenced legislation and Oklahoma Statutes.

AUTHORITY:

The legislation establishing the Oklahoma Department of Commerce 74 O.S. §§ 5001 et seq., and the Oklahoma Quality Investment Act 68 O.S. §§ 4101 - 4109.

COMMENT PERIOD:

Written and oral comments will be accepted from January 18, 2005 through February 18, 2005 during regular business hours by contacting Donald R. Hackler, Jr., Deputy General Counsel, Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104 (405) 815-5359.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m. on Tuesday, February 22, 2005, at Gallery 1-2, 900 North Stiles Avenue, Oklahoma City, Oklahoma. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Donald R. Hackler, Jr., Deputy General Counsel, Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained without charge from the Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104 by contacting Donald R. Hackler, Jr. at (405) 815-5359.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available at the offices of the Oklahoma Department of Commerce (address below).

CONTACT PERSON:

Donald R. Hackler, Jr., Attorney, Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104 (405) 815-5359.

[OAR Docket #04-1551; filed 12-15-04]

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

[OAR Docket #04-1572]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Human Resources Management Division (HRMD)

Part 1. General Provisions

340:2-1-7. through 340:2-1-8. [NEW]

Part 3. Internal Human Resources

340:2-1-25. through 340:2-1-27. [AMENDED]

340:2-1-29. [AMENDED]

340:2-1-34. [AMENDED]

Part 7. Recruitment, Selection, and Placement

340:2-1-76. [AMENDED]

340:2-1-78. through 340:2-1-79. [AMENDED]

340:2-1-81. through 340:2-1-82. [AMENDED]

340:2-1-84. [AMENDED]

(Reference APA WF# 04-37)

SUMMARY:

Human Resources Management Division (HRMD) proposed rule revisions: (1) bring rules in line with federal rules regarding timeframes for Form I-9, Employment Eligibility Verification; (2) remove unnecessary language; (3) improve wording; and (4) place all rules pertaining to employee ethics and financial disclosures into two new Sections.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Chapter 62 of Title 74 of the Oklahoma Statutes; and Section 274a.2 of Title 8 of the Code of Federal Regulations.

COMMENT PERIOD:

Written and oral comments will be accepted January 18 through February 17, 2005 during regular business hours by contacting Kevin Sharp, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-6829

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 17, 2005 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Manager, 405-521-4326

[OAR Docket #04-1572; filed 12-22-04]

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

[OAR Docket #04-1573]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 3. Office Of Client Advocacy
 - Part 1. Administration
 - 340:2-3-1. through 340:2-3-2. [AMENDED]
 - 340:2-3-26. [NEW]
 - 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 340:2-3-51. [AMENDED]
 - Part 7. Grievance and Abuse Review Committee
 - 340:2-3-62. through 340:2-3-63. [AMENDED]
 - Part 9. ~~Ombudsman~~ Ombuds Programs
 - 340:2-3-71. through 340:2-3-73. [AMENDED]
- (Reference APA WF # 04-33)**

SUMMARY:

Office of Client Advocacy (OCA) rules are revised to: (1) add new definitions and amend existing definitions to conform to the Vulnerable Adults Act, Section 10-101 of Title 10 of the Oklahoma Statutes and to adopt terminology used in the American Bar Association Standards for the Establishment and Operation of Ombuds Offices; (2) eliminate unnecessary language; (3) correct and update contact information; (4) correct spelling and grammar errors; (5) designate time frames in terms of business days rather than working days; (6) add references to Oklahoma Department of Human Services (OKDHS) forms; (7) clarify time frames for certain activities; (8) clarify responsibilities of the local grievance coordinator (LGC); (9) clarify permissible information disclosures to certain individuals; (10) include provisions referring to the Health Insurance Portability and Accountability Act (HIPAA), where applicable; (11) clarify the requirements and criteria of the investigative processes; (12) provide information about the OCA customer complaint process; and (13) add an investigative finding regarding employees of the Developmental Disabilities Services Division (DDSD) provider agencies.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Sections 10-101 through 10-111 of Title 43A of the Oklahoma Statutes; Section 175.20 of Title 10 of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted January 18, 2005 through February 17, 2005 during regular business hours by contacting Joanne Verity Williams, Department of

Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-525-4850.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 17, 2005 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Manager, 405-521-4326.

[OAR Docket #04-1573; filed 12-22-04]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 5. ADULT PROTECTIVE SERVICES**

[OAR Docket #04-1574]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
 - 340:5-1-6. [AMENDED]
 - Subchapter 3. Reports of Maltreatment of Vulnerable Adults
 - 340:5-3-4. [AMENDED]
 - 340:5-3-6. [AMENDED]
 - Subchapter 5. Investigation of Adult Protective Services Referrals
 - 340:5-5-2. through 340:5-5-4. [AMENDED]
 - 340:5-5-6. [AMENDED]
 - Subchapter 7. Long Term Investigations Section
 - 340:5-7-2. through 340:5-7-7. [NEW]
- (Reference APA WF # 04-06 and 04-34)**

SUMMARY:

Family Support Services Division rules for Adult Protective Services (APS) are revised to: (1) bring the definitions used in Oklahoma Department of Human Services (OKDHS) APS rules into compliance with the definitions used in Title 43A of the Oklahoma Statutes; (2) require referral of reports of alleged maltreatment of a Greer Center resident by an employee of the facility to OKDHS Office of Client Advocacy (OCA); (3) change the time frame for initiating investigations of non-emergency referrals of maltreatment from 72 hours of receipt to three working days excluding weekends and

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official OKDHS holidays; (4) simplify follow-up planning; (5) no longer arbitrarily require follow-ups on all substantiated cases where the client is receiving services; (6) add language regarding referrals involving other licensed or certified individuals and alleged victims who are criminal defendants; (7) add language where referrals are sent involving a residential care facility, assisted living facility, and continuum of care; (8) correct rule references; (9) add language to include court related services; (10) change incapacitated to vulnerable; (11) add language that OKDHS is responsible for assuring basic needs for safety and security are met for referrals that result in a client receiving involuntary services; (12) add rules concerning follow-up visits on temporary guardianship cases; (13) clarify rules on emergency services responsibilities for out-of-home placements; and (14) add rules for involuntary protective services when APS has temporary guardianship and emergency out-of-home placement when APS has an ex-parte hearing.

Rules are added to address: (1) program coordination; (2) procedure for handling complaints concerning Long Term Care (LTC) investigators; (3) procedure and responsibility for screening Long Term Care Investigations (LTCI) reports; (4) time frames for initiating and completing an LTC investigation; (5) elements of an LTC investigation; and (6) local APS staff is notified of findings of LTCI as needed to determine safe placements for community APS clients.

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.

COMMENT PERIOD:

Written and oral comments will be accepted January 18 through February 17, 2005 during regular business hours by contacting Sandy Stewart, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 17, 2005 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Manager, 405-521-4326.

[OAR Docket #04-1574; filed 12-22-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 25. CHILD SUPPORT ENFORCEMENT DIVISION

[OAR Docket #04-1588]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Scope, ~~and~~ Applicability, ~~and~~ ~~General Provisions~~ [AMENDED]

340:25-1-1.1. through 340:25-1-1.2. [AMENDED]

Subchapter 5. Operational Policies

Part 9. Disclosure of Information

340:25-5-67. [AMENDED]

Part 15. Case Initiation, Case Management, and Case Closure

340:25-5-110. through 340:25-5-110.1. [AMENDED]

340:25-5-114. [AMENDED]

340:25-5-117. through 340:25-5-118. [AMENDED]

340:25-5-123. through 340:25-5-124. [AMENDED]

340:25-5-124.2. [AMENDED]

340:25-5-133. [AMENDED]

Part 17. Past Support

340:25-5-140. through 340:25-5-140.1. [AMENDED]

Part 20. Medical Support

340:25-5-169. [AMENDED]

Part 21. Establishment

340:25-5-178. [AMENDED]

340:24-5-179.1. [AMENDED]

340:25-5-185.1. [AMENDED]

Part 22. Review and Modification

340:25-5-198.1. [AMENDED]

Part 23. Enforcement

340:25-5-201.1. [AMENDED]

340:25-5-211.1. through 340:25-5-213. [AMENDED]

Part 33. Interstate and International Cases

340:25-5-270. [AMENDED]

Part 38. IV-D and Non-IV-D Central Case Registry Information

340:25-5-340. [AMENDED]

Part 39. Accounting and Distribution

340:25-5-350.1. [AMENDED]

340:25-5-350.3. [AMENDED]

(Reference APA WF 04-35)

SUMMARY:

The revisions to Subchapters 1 and 5 of Chapter 25: (1) supersede emergency rules submitted in May 2004 that establish policy and procedures to provide services to child care subsidy recipients; and reduce the \$25 application fee for child support services to one cent to be paid by the Child Support Enforcement Division (CSED); (2) delete duplicative statutory language regarding driver license revocation to comply with the provisions in the 2004 legislative Senate Bill 1425 which revised Titles 43, 47, and 56 of the Oklahoma Statutes; (3) add

policy to describe the process for establishing and updating an address of record and to allow a custodial person to designate an attorney's address to be used as the address of record under the provisions of the 2004 legislative Senate Bill 1210 that revised Section 118.4 of Title 43 of the Oklahoma Statutes; (4) specify policy on defending paternity establishments and when genetic testing requests are out of time; (5) specify policy on settlement of past support or interest due the custodial person or the State of Oklahoma and add policy on distribution of past support payments when the custodian dies; (6) specify policy on the establishment of current support and support for a prior period relative to incarcerated noncustodial parents; (7) implement policy changes recommended during the annual CSED policy review process; and (8) improve readability and clarity of rules by eliminating unnecessary language and conforming with current formatting.

340:25-1-1.1 adds definitions for Title IV-E foster care and Non-IV-E foster care; amends definitions for custodial person or custodian, district office, support order, and tribunal; removes acronyms in definitions for biological parent, custodial person or custodian, and noncustodial parent.

340:25-1-1.2 adds policy to include enforcement of medical and child care costs judgments as a child support service; clarifies CSED does not establish judgments for birthing costs if paid by Medicaid, and medical or child care costs separate from judgments for past support.

340:25-5-67 clarifies for direct and automated release of information to other OKDHS programs.

340:25-5-110 specifies when CSED does not initiate an action to disestablish paternity or conduct genetic tests, or request the court to order genetic tests, after paternity establishment.

340:25-5-110.1 supersedes emergency rule; removes \$25 application fee for child support services; provides information on outreach process to noncustodial parents who have filed Form CSED-209, Affidavit Acknowledging Paternity; and clarifies conditions when CSED accepts applications.

340:25-5-114 clarifies the requirement that a custodial person receiving TANF or non-TANF Medicaid must assign rights to child support; and adds indications of a custodial person's noncooperation.

340:25-5-117 supersedes emergency rule; adds policy that if any child in the household for which CSED receives a referral is eligible for a child care subsidy, CSED must open a full-service case; and adds policy to open full-service cases for noncustodial parents who have filed Form CSED-209.

340:25-5-118 supersedes emergency rule; adds requirement to pursue child support as a condition of eligibility for participation in the child care subsidy program; and provides for case closure upon a determination of noncooperation by the custodial person.

340:25-5-123 adds criteria for case closure upon custodial person request when the custodial person is a child care subsidy program participant and is not receiving TANF or non-TANF Medicaid, receiving non-TANF Medicaid benefits for a child(ren) only, or a child care subsidy program participant

and is receiving non-TANF Medicaid benefits for a child(ren) only; and clarifies policy on termination of Notice of Income Assignment with the employer when a case closes.

340:25-5-124, 340:25-5-198.1, and 340:25-5-201.1 include minor revisions, such as punctuation, syntax, and correction or clarification of statutory cites, to simplify language or improve clarity.

340:25-5-124.2 clarifies tribal office case eligibility requirements and jurisdictional boundaries; describes conditions under which cases are assigned and transferred to the tribal office; describes conditions under which CSED accepts cases returned to CSED by the tribal office; and specifies that CSED may register child support orders in state courts and may establish and enforce a child support order in tribal courts that are outside the tribal office service areas.

340:25-5-133 clarifies that CSED directs past support payments to the person CSED records indicate is owed; and provides for distribution of past support payments already collected when the custodial person dies.

340:25-5-140 clarifies the due date when the support order does not specify an effective date; provides for settlement of past support, waiver of past support due the custodial person, and negotiation of past support owed to the State of Oklahoma; and describes how CSED distributes past support payments when custodial person dies.

340:25-5-140.1 specifies CSED uses a monthly accrual and calculates simple interest unless a court orders a compound interest rate, and if a court so orders the prevailing party is responsible for preparing the interest calculation; and provides for settlement of interest, waiver of interest due the custodial person, and negotiation of interest owed to the State of Oklahoma.

340:25-5-169 supersedes emergency rule; and specifies CSED opens a full-service case upon receipt of a non-TANF Medicaid referral and the custodial person is a child care subsidy recipient.

340:25-5-178 supersedes emergency rule; adds how the child care costs are calculated in the child support computation for child care subsidy cases; clarifies when CSED can request the court to extend child support for an adult disabled child; and provides for the effective date of current child support obligation for an incarcerated noncustodial parent.

340:24-5-179.1 specifies CSED reserves adjudication for support for a prior period until the noncustodial parent is released from incarceration.

340:25-5-185.1 specifies the time frame for promptly docketing child support orders; and describes how prompt docketing facilitates all issues filed in the same district court case number.

340:25-5-211.1 deletes duplicative statutory language; clarifies the desk review process for license reinstatement when the obligor is complying with a court-ordered payment plan; and clarifies the denial notification and administrative license reinstatement hearing processes.

340:25-5-212 describes conditions under which CSED releases funds from levy.

Notices of Rulemaking Intent

340:25-5-213 clarifies when and how an annual notice is served and mailed.

340:25-5-270 specifies CSED communication practices with custodial persons in interstate and international cases.

340:25-5-340 adds policy to describe process for establishing and updating an address of record.

340:25-5-350.1 describes the process for return of payment in excess of obligation or erroneous overcollection, specifically when there is an unknown address involved.

340:25-5-350.3 adds policy on support payments from employers and other payors through electronic funds transfer, issuance of payments to custodial persons or other states by paper warrant or electronic funds transfer, and the forged endorsement process when warrants are fraudulently endorsed and subsequently cashed; and defines warrants as checks.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Social Security Act, Sections 453, 454, 454A, and 454B; 28 U.S.C. Section 1738B; United States House Resolution 3130 (Public Law 105-200); 45 C.F.R. Sections 302.31, 302.32, 302.38, 307.11, 307.13, and Part 310; 10 O.S. Sections 7003-8.7 and 7003-8.8; 12 O.S. Section 1171.3; 36 O.S. Section 6058A; 43 O.S. Sections 112, 112A, 118, 118.2, 118.4, 137, 139, 139.1, 413, and 601-604; 47 O.S. Sections 1-153, 6-201, 6-201.1, 6-211 and 6-212; 56 O.S. Sections 237, 237A, 237.1, 238, and 240.15 through 240.21A.

COMMENT PERIOD:

Written and oral comments will be accepted January 18, 2005 through February 17, 2005 during regular business hours by contacting Elizabeth Wilson, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-522-2780.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S. § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than 5:00 p.m. on February 17, 2005.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and will be available for review by contacting the above listed person.

CONTACT PERSON:

For information regarding processing of proposed rulemaking contact Dena Thayer, OKDHS Policy Management Unit, 405-521-4326.

[OAR Docket #04-1588; filed 12-22-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 40. CHILD CARE SERVICES

[OAR Docket #04-1575]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Procedures Relating to Case Changes

340:40-9-2. [AMENDED]

Subchapter 10. Electronic Benefit Transfer (EBT) System
For Child Care [NEW]

340:40-10-1. through 340:40-10-4. [NEW]

Subchapter 13. Child Care Rates and Provider Issues

340:40-13-4. [REVOKED]

(Reference APA WF 04-38)

SUMMARY:

Family Support Services Division rules for Child Care Services are revised to: (1) change the date a worker closes a child care benefit to ten days from the date he or she takes the action; (2) add a new Subchapter to make rules and procedures regarding EBT more easily found by Oklahoma Department of Human Services (OKDHS) staff and the public; (3) add a new rule to advise staff and the public regarding procedures to follow when the client is misusing the EBT card; and (4) revoke rules that are now included in the new Subchapter 10.

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, Public Law (P.L.) 104-193; the Balanced Budget Act of 1997, P.L. 105-33; and 45 Code of Federal Regulations (CFR) Parts 98 and 99.

COMMENT PERIOD:

Written and oral comments will be accepted January 18 through February 17, 2005 during regular business hours by contacting Sandy Stewart, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 17, 2005 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Manager, 405-521-4326.

[OAR Docket #04-1575; filed 12-22-04]

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

[OAR Docket #04-1589]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
 - Part 1. Scope and Applicability
 - 340:75-1-12.6. through 340:75-1-12.7. [AMENDED]
 - Subchapter 7. Foster Home Care
 - Part 2. Development of Resources
 - 340:75-7-12. [AMENDED]
 - 340:75-7-14. [AMENDED]
 - 340:75-7-18. [AMENDED]
 - 340:75-7-24. [AMENDED]
 - Part 4. Foster Parents' Roles and Responsibilities
 - 340:75-7-37. through 340:75-7-38. [AMENDED]
 - Part 5. Eligibility and Payments
 - 340:75-7-51. through 340:75-7-53. [AMENDED]
 - Part 6. Foster Home Care Support Services
 - 340:75-7-65. [AMENDED]
 - Part 8. Continuous Quality Assessment of a Resource Home
 - 340:75-7-94. [AMENDED]
 - Part 25. Emergency Foster Care Program
 - 340:75-7-262. [AMENDED]
 - Subchapter 8. Therapeutic Foster Care and Developmental Disabilities Services Division Services
 - Part 1. Therapeutic Foster Care
 - 340:75-8-1. [AMENDED]
 - 340:75-8-2. through 340:75-8-3. [REVOKED]
 - 340:75-8-4. [AMENDED]
 - 340:75-8-5. [REVOKED]
 - 340:75-8-6. through 340:75-8-9. [AMENDED]
 - 340:75-8-11. through 340:75-8-13. [AMENDED]
 - Part 8. Adoptive Placement Process
 - 340:75-15-59. [AMENDED]
 - Part 10. Adoptive Family Assessment and Preparation Process
 - 340:75-15-83. through 340:75-15-84. [AMENDED]
 - 340:75-15-88. [AMENDED]
 - Part 12. Post Placement Services
 - 340:75-15-103. [AMENDED]
 - 340:75-15-106. [AMENDED]

(Reference APA WF 04-31)

SUMMARY:

The proposed revisions to Subchapters 1, 7, 8, and 15 of Chapter 75 clarify: (1) fair hearing procedures; (2) foster family requirements; (3) foster and adoptive pre-service training requirements; (4) time frames for the signature of foster care contracts; (5) difficulty of care rates and descriptions; (6) child care not paid by Oklahoma Department of Human Services (OKDHS); (7) non-compliance issues in foster homes; (8) purpose of emergency foster care (EFC) and visitation requirements; (9) responsibilities of OKDHS foster parents; (10) therapeutic foster care (TFC) program purpose and contractor responsibilities; (11) procedures for pre-placement visits and direct placement of a child with an adoptive family; (12) use of Form CWS-KIDS-24, Individualized Service Plan (ISP), with adoptive families; and (13) by revoking sections of policy that are duplicative.

340:75-1-12.6 is amended to clarify the fair hearing process and update applicable policy cites.

340:75-1-12.7 is amended to clarify general information regarding the foster parent hotline.

340:75-7-12 and 75-15-83 are amended to better detail foster and adoption applicant requirements.

340:75-7-14, 75-7-18, 75-15-84, and 75-15-88 are amended to clarify foster and adoption assessment processes, including the house assessment and reasons for denial.

340:75-7-24 is amended to specify that an OKDHS records search is conducted prior to the initial placement of a child in kinship care.

340:75-7-37 is amended to clarify that the foster parent participates in developing a parent-child visitation plan that is approved by OKDHS and that foster parents must complete training requirements each calendar year.

340:75-7-38 is amended to reflect the use of physical restraint only when the foster parent has been properly trained in the restraint technique demonstrated in Behavior Crisis Management Training.

340:75-7-51 is amended to delete a reference to the automated phone number for warrant status checks.

340:75-7-52 is amended to better detail the time frames and conditions that must be met before signing the foster care contract.

340:75-7-53 is amended to reflect the movement of difficulty of care rates and descriptions to OKDHS Appendix C-20, Children and Family Services Division Rates Schedule.

340:75-7-65 is amended to specify that foster care child care is not paid by OKDHS when the foster parent chooses more than one child care provider per child per day.

340:75-7-94 is amended to reflect procedures relating to the decision not to return a child as a result of an investigation and when smoking is a non-compliance issue with the foster family.

340:75-7-262 is amended to include the purpose of EFC and reference a policy cite for Child Welfare worker visitation requirements.

340:75-8-1 is amended to include the legal base and definitions for TFC.

Notices of Rulemaking Intent

340:75-8-2, 75-8-3, and 75-8-5 are revoked as the information regarding these Sections was incorporated into 340:75-8-1.

340:75-8-4 is amended to update TFC contract procedures and an associated policy reference.

340:75-8-6 is amended to include TFC contractor responsibilities when a child has overnight visitation with peers.

340:75-8-7 and 75-8-8 are amended to clarify TFC contractor requirements, including joint approval procedures.

340:75-8-9 is amended to reflect medical necessity criteria and considerations for sibling placements.

340:75-8-11 is amended to clarify extension of stays for the child in TFC.

340:75-8-12 is amended to delete unnecessary language regarding area resource coordinator responsibilities.

340:75-8-13 is amended to delete unnecessary language pertaining to CW worker responsibilities.

340:75-15-59 is amended to reflect procedures relating to pre-placement visits and direct placement of a child with an adoptive family.

340:75-15-103 is amended to clarify procedures regarding notification to adoptive parents of court hearings and the use of Form CWS-KIDS-24.

340:75-15-106 is amended to reflect the use of Form CWS-KIDS-24.

AUTHORITY:

Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Sections 7004-1.1, 7004-2.1, 7201 et seq., and 7501-1.1 et seq. of Title 10 of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted January 18 through February 17, 2005 during regular business hours by contacting Millie Carpenter, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-522-6325.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S. § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than 5:00 p.m. on February 17, 2005.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and will be available for review by contacting the above listed person.

CONTACT PERSON:

For information regarding processing of proposed rulemaking contact Dena Thayer, OKDHS Policy Management Unit, 405-521-4326.

[OAR Docket #04-1589; filed 12-22-04]

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

[OAR Docket #04-1590]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 6. Permanency Planning

Part 13. Independent Living

340:75-6-110. [AMENDED]

340:75-6-115. [AMENDED]

340:75-6-115.1. [AMENDED]

340:75-6-115.3. through 340:75-6-115.5. [AMENDED]

340:75-6-115.10. [NEW]

Subchapter 7. Foster Home Care

Part 2. Development of Resources

340:75-7-15. [AMENDED]

Subchapter 8. Therapeutic Foster Care and Developmental Disabilities Services Division Services

Part 3. DDS Services for ~~Custody~~ Children

340:75-8-36. through 340:75-8-40. [AMENDED]

Subchapter 11. Child Welfare Community-Based Residential Care

Part 17. Contracted Community-Based Residential Care Providers

340:75-11-230. [AMENDED]

340:75-11-231. through 340:75-11-232. [REVOKED]

340:75-11-233. through 340:75-11-234. [AMENDED]

340:75-11-235. [REVOKED]

340:75-11-236. through 340:75-11-240. [AMENDED]

Part 19. Residential Diagnostic and Evaluation Services

340:75-11-250. [AMENDED]

340:75-11-251. through 340:75-11-253. [REVOKED]

Part 21. Residential Intensive Treatment Services

340:75-11-265. [AMENDED]

340:75-11-266. through 340:75-11-268. [REVOKED]

Part 23. Specialized Community Homes

340:75-11-285. [REVOKED]

340:75-11-286. through 340:75-11-287. [AMENDED]

340:75-11-288. [REVOKED]

340:75-11-289. [AMENDED]

340:75-11-290. through 340:75-11-292. [REVOKED]

Part 25. Non-Funded and Funded Contracted Level B Placements

340:75-11-300. through 340:75-11-301. [AMENDED]

340:75-11-302. through 340:75-11-307. [REVOKED]

Part 27. Residential Maternity Services
 340:75-11-320. through 340:75-11-322. [AMENDED]
 340:75-11-323. [REVOKED]
 Part 29. Non-Funded and Funded Level C Placements
 340:75-11-330. [AMENDED]
 340:75-11-331. through 340:75-11-337. [REVOKED]
 Part 31. Contracted Level D Placements
 340:75-11-350. [AMENDED]
 340:75-11-351. through 340:75-11-353. [REVOKED]
 Part 33. Contracted Level D Plus and Level E Placements
 340:75-11-360. [AMENDED]
 340:75-11-361. through 340:75-11-363. [REVOKED]
 Part 35. Contracted Level E Placements [REVOKED]
 340:75-11-370. through 340:75-11-373. [REVOKED]
 Subchapter 13. Other Child Welfare Services and Medical
 Services for Children in ~~Substitute~~ Out-of-Home Care
 Part 2. Title IV-E Eligibility and Reimbursability
 340:75-13-11. through 340:75-13-13. [AMENDED]
 340:75-13-15. through 340:75-13-17. [AMENDED]
 340:75-13-19. [AMENDED]
 340:75-13-20. [REVOKED]
 340:75-13-21. through 340:75-13-22. [AMENDED]
 Part 3. Income and Resources ~~to~~ of the Child
 340:75-13-30. [NEW]

(Reference APA WF 04-36)

SUMMARY:

The proposed revisions to Subchapters 6, 7, 8, 11, and 13 of Chapter 75 clarify: (1) Independent Living (IL) program services, procedures, and residential programs, including IL contingency funds; (2) educational and scholarship assistance opportunities for youth in Oklahoma Department of Human Services (OKDHS) custody; (3) Developmental Disabilities Services Division (DDSD) services for children in OKDHS custody; (4) contracted community-based residential care (CBRC) procedures; (5) residential and diagnostic evaluation (D & E) services; (6) residential intensive treatment services (ITS); (7) specialized community homes (SCH); (8) non-funded and funded contracted Level B and Level C placements; (9) contracted Level D, Level D plus (+), and Level E placements; (10) Title IV-E (IV-E) criteria and related procedures; (11) procedures for establishing a Special Needs Trust (SNT) for children receiving Supplemental Security Income (SSI); and (12) by revoking sections of policy that are duplicative.

340:75-6-110 is amended to clarify the provision of IL services to youth.

340:75-6-115 is amended to reflect current IL support services.

340:75-6-115.1 is amended to clarify IL eligibility criteria, community contracted services, and assistance services.

340:75-6-115.3 is amended to include One Time Only contingency funds as a category of available funds to eligible youth.

340:75-6-115.4 is amended to specify that IL incentive payments are contingent upon funding availability.

340:75-6-115.5 is amended to include Oklahoma Higher Learning Access program (OHLAP) and Education and Training Voucher (ETV) program information.

340:75-6-115.10 is issued to detail IL SCH opportunities and eligibility criteria.

340:75-7-15 is amended to clarify all required background searches for foster applicants.

340:75-8-36 is amended to clarify the process for identification of and application and needs assessment for children with developmental disabilities.

340:75-8-37 is amended to reflect the reference to the Child Welfare (CW) worker's responsibilities to a child receiving Home and Community-Based Waiver Services (HCBWS).

340:75-8-38 is amended to clarify the role and responsibilities for DDSD staff for a child receiving HCBWS.

340:75-8-39 is amended to specify the shared roles of CW and DDSD staff for a child receiving HCBWS.

340:75-8-40 is amended to detail the grand staffing process between Children and Family Services Division and DDSD for a child that requires intensive support services.

340:75-11-231 and 75-11-232; 75-11-235; 75-11-251 through 75-11-253; 75-11-266 through 75-11-285; 75-11-288; 75-11-290 through 75-11-292; 75-11-302 through 75-11-307; 75-11-323; 75-11-331 through 75-11-337; 75-11-351 through 75-11-353; 75-11-361 through 75-11-373 are revoked as most of the information contained in these Sections was incorporated throughout Subchapter 11.

340:75-11-230 is amended to reflect the incorporation of the legal base for CBRC and applicable definitions for terms used in Subchapter 11.

340:75-11-233 through 75-11-234 are amended to better detail CBRC placement requirements and services.

340:75-11-236 through 75-11-240 are amended to clarify the rights of children placed in CBRC, CW county of jurisdiction worker's and contract liaison's responsibilities for these children, and general requirements for all CBRC providers.

340:75-11-250 is amended to specify residential D & E services and children served.

340:75-11-265 is amended to reflect residential ITS requirements and children served by ITS.

340:75-11-286 and 75-11-287 are amended to reflect the requirements of SCH contractors.

340:75-11-289 is amended to reference the current form used for SCH contract reimbursement.

340:75-11-300 and 75-11-301 are amended to better detail funded contracted Level B placement requirements and children served.

340:75-11-320 through 75-11-322 are amended to reflect non-funded contracted residential maternity services for the youth and the youth's infant and the role of the contract liaison.

340:75-11-330 is amended to specify funded Level C placement provisions and children served.

340:75-11-350 is amended to reflect procedures relating to children served in contracted Level D placements.

Notices of Rulemaking Intent

340:75-11-360 is amended to include information regarding contracted Level E placements and children served in Level D+ and Level E placements.

340:75-13-11 is amended to clarify the legal base and purpose of IV-E as provided through the Social Security Act.

340:75-13-12, 75-13-16, and 75-13-17 are amended and 75-13-20 is revoked to delete references to IV-E eligibility for children in Office of Juvenile Affairs (OJA) custody.

340:75-13-13 and 75-13-15 are amended to include references to DHS:10 policy cites and clarify IV-E eligibility criteria.

340:75-13-19 is amended to specify applicable policy cites regarding IV-E adoption assistance.

340:75-13-21 is amended to clarify the role of OKDHS when an Indian child is placed in the custody of a tribe and that tribe has an agreement with OKDHS for foster care services.

340:75-13-22 is amended to clarify the conditions regarding a trial home visit for a child.

340:75-13-30 is issued to include information regarding SNT for children who do require the utilization of the full amount of SSI.

AUTHORITY:

Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 7004-1.1, 7004-1.6, and 7004-2.1 of Title 10 and Section 3230 of Title 70 of the Oklahoma Statutes; and Sections 620 through 679 of Title 42 of United States Code.

COMMENT PERIOD:

Written and oral comments will be accepted January 18 through February 17, 2005 during regular business hours by contacting Millie Carpenter, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-522-6325.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S. § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than 5:00 p.m. on February 17, 2005.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and will be available for review by contacting the above listed person.

CONTACT PERSON:

For information regarding processing of proposed rulemaking contact Dena Thayer, OKDHS Policy Management Unit, 405-521-4326.

[OAR Docket #04-1590; filed 12-22-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 110. LICENSING SERVICES

[OAR Docket #04-1591]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

Part 1. Licensing Services - Child Care

340:110-1-4. through 340:110-1-6. [AMENDED]

340:110-1-8. through 340:110-1-8.1. [AMENDED]

340:110-1-8.3. through 340:110-1-9.3. [AMENDED]

340:110-1-9.5. through 340:110-1-10. [AMENDED]

340:110-1-14. [AMENDED]

340:110-1-17. [AMENDED]

340:110-1-21. [AMENDED]

Part 3. Licensing Services - Residential Care and Agencies

340:110-1-43.1. [AMENDED]

340:110-1-45. [AMENDED]

340:110-1-46. [AMENDED]

340:110-1-47. through 340:110-1-47.2. [AMENDED]

340:110-1-51. [AMENDED]

340:110-1-54. [AMENDED]

Subchapter 3. Licensing Standards for Child Care Facilities

Part 1. Requirements for Child Care Centers

340:110-3-7.1. [AMENDED]

Part 9. Requirements for Residential Child Care Facilities

340:110-3-154. [AMENDED]

340:110-3-154.3. [AMENDED]

340:110-3-168. [AMENDED]

Subchapter 5. Requirements for Child-Placing Agencies

Part 5. Requirements for Foster Family Homes

340:110-5-60. [AMENDED]

(Reference APA WF 04-32)

SUMMARY:

The proposed revisions to Subchapters 1, 3, and 5 of Chapter 110: (1) clarify current policy and procedure to provide direction to Oklahoma Department of Human Services (OKDHS) licensing staff who regulate and consult with residential and child care facilities in meeting requirements for licensure; and (2) improve programs and services provided to children and their families at these facilities.

340:110-1-4 is amended to provide clarification regarding open records.

340:110-1-4.1 is amended to delete a form listed twice and add two forms that are now being used.

340:110-1-5 is amended to move language from another section to more logically describe the inquiry process.

340:110-1-6 is amended to: (1) delete language that was moved to another Section; (2) clarify licensing staff responsibility regarding an initial visit to a program when children are in care; and (3) clarify identification and ownership documentation.

340:110-1-8 is amended to clarify the information needed, including background information, to issue a license.

340:110-1-8.1 is amended to list an additional form for waiver requests and clarify the licensing staff and State Office responsibility regarding notification of a waiver decision.

340:110-1-8.3 is amended to: (1) clarify the criteria required for the Reaching for the Stars program for a child care center director, master teacher, and home provider; (2) change the program evaluation from two to four years; (3) describe which forms are used for application and the time frame for submitting the application; and (4) clarify licensing staff responsibility regarding Stars monitoring visits to parallel the required licensing monitoring visits.

340:110-1-9 is amended to: (1) reorganize the placement of information for easier access and interpretation; (2) clarify licensing staff responsibility regarding a change in director; and (3) clarify procedures in processing a self-reported incident.

340:110-1-9.1 is amended to change annual consultation to annual conferences with a parent for the increased reimbursement rate for the care of children with disabilities and clarify licensing staff responsibilities.

340:110-1-9.2 is amended to change the language referencing the licensing database and clarify licensing staff responsibility.

340:110-1-9.3 is amended to define "numerous, repeated, and serious non-compliance".

340:110-1-9.5 is amended to remove misleading language.

340:110-1-10 is amended to clarify the written notice sent to a licensee upon revocation of license.

340:110-1-14 is amended to clarify confidentiality of records.

340:110-1-17 and 110-1-21 are amended to remove obsolete language.

340:110-1-43.1 is amended to reflect deletion of forms no longer used and addition of new forms.

340:110-1-45 is amended to clarify the responsibilities of licensing staff when a facility is placed on application status.

340:110-1-46 is amended to include definitions of types of ownership.

340:110-1-47 is amended to clarify responsibilities of licensing staff regarding: (1) a facility's change in name or ownership; and (2) required procedures for an incident of Sudden Infant Death Syndrome.

340:110-1-47.1 is amended to reference existing policy sections.

340:110-1-47.2 is amended to include clarification concerning a facility's plan of correction for existing non-compliances.

340:110-1-51 is amended to describe responsibility of the programs manager in approving a waiver.

340:110-1-54 is amended to clarify wording.

340:110-3-7.1 is amended to update qualifications for a child care center director, effective January 1, 2005.

340:110-3-154 is amended to: (1) add the resident's mental health history to the list of information required during admission assessment; add the resident's medical care needs to the comprehensive service plan; and (3) require that individual health needs of the resident be addressed in the facility's medical plan.

340:110-3-154.3 is amended and supercedes emergency revisions to add language requiring the facility to have a medical plan to meet the individual medical needs of each resident based on the information obtained at admission.

340:110-3-168 is amended to require that a health professional review and approve the admission assessment for a resident within 24 hours.

340:110-5-60 was amended as an emergency to include language to: (1) comply with 47 O.S. 11-1112 regarding transportation of children; and (2) restrict smoking and illegal drug use and paraphernalia.

AUTHORITY:

Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and the Oklahoma Child Care Facilities Licensing Act, Section 401 et seq. of Title 10 of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted January 18 through February 17, 2005 during regular business hours by contacting Mitzi Lee or Susan Case, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-3561.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S. § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than 5:00 p.m. on February 17, 2005.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and will be available for review by contacting the above listed person.

CONTACT PERSON:

For information regarding processing of proposed rulemaking contact Dena Thayer, OKDHS Policy Management Unit, 405-521-4326.

[OAR Docket #04-1591; filed 12-22-04]

Notices of Rulemaking Intent

TITLE 375. OKLAHOMA STATE BUREAU OF INVESTIGATION CHAPTER 40. OKLAHOMA IDENTITY THEFT PASSPORT PROGRAM

[OAR Docket #04-1556]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

375:40-1-1. through 375:45-1-12. [NEW]

SUMMARY:

The rules in question provide the procedure for a victim of identity theft to follow to request an identity theft passport. It sets forth the specific documentation that must be provided to the OSBI to obtain an identity theft passport. It provides the procedure for the OSBI to follow in issuing an identity theft passport and the proper restrictions and usages of such an identity theft passport.

AUTHORITY:

Oklahoma State Bureau of Investigation; 22 O.S., §19b

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on February 21, 2005 at the following address: Jimmy Bunn Jr., Chief Legal Counsel, Oklahoma State Bureau of Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m. on Monday, February 21, 2005 at Oklahoma State Bureau of Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116. Anyone who wishes to speak must sign in at the door by 8:30 a.m. and will be provided five (5) minutes to express their views.

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 Bureau of Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116. Copies of proposed rules may be obtained at a cost of 25 cents per page copying charge from the Oklahoma State Bureau of Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be available on and after January 31, 2005, and may be obtained from the OSBI at the above address.

CONTACT PERSON:

Jimmy Bunn Jr., Chief Legal Counsel, 6600 N. Harvey, Oklahoma City, OK., 73116, (405) 879-2605

[OAR Docket #04-1556; filed 12-16-04]

TITLE 375. OKLAHOMA STATE BUREAU OF INVESTIGATION CHAPTER 45. DONATION OF SURPLUS PROPERTY

[OAR Docket #04-1557]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

375:45-1-1. through 375:45-1-7. [NEW]

SUMMARY:

The proposed new sections, 375:45-1-1 through 375:45-1-7 would establish the procedures and requirements for the donation of surplus property of the OSBI to political subdivisions of the State of Oklahoma for use in valid and authorized law enforcement efforts as set forth in 74 Oklahoma Statutes, Section 62.3.

AUTHORITY:

Oklahoma State Bureau of Investigation; 74 O.S., §62.3

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on February 21, 2005 at the following address: Jimmy Bunn Jr., Chief Legal Counsel, Oklahoma State Bureau of Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m. on Monday, February 21, 2005 at Oklahoma State Bureau of Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116. Anyone who wishes to speak must sign in at the door by 8:30 a.m. and will be provided five (5) minutes to express their views.

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 Bureau of Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116. Copies of proposed rules may be obtained at a cost of 25 cents per page copying charge from the Oklahoma State Bureau of Investigation, 6600 N. Harvey, Oklahoma City, OK. 73116.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be available on and after January 31, 2005, and may be obtained from the OSBI at the above address.

CONTACT PERSON:

Jimmy Bunn Jr., Chief Legal Counsel, 6600 N. Harvey, Oklahoma City, OK., 73116, (405) 879-2605

[OAR Docket #04-1557; filed 12-16-04]

**TITLE 445. BOARD OF MEDICOLEGAL INVESTIGATIONS
CHAPTER 10. MEDICAL EXAMINER CASES**

[OAR Docket #04-1549]

RULEMAKING ACTION:

Notice of proposed permanent rulemaking

PROPOSED RULES:

445:10-1-11. Fees [AMENDED]

SUMMARY:

The proposed rule amendments would modify the existing fees charged for forensic science services, drug screen services, and cremation permits. The proposed revision would outline and define forensic science services and drug screen services and additionally provide a schedule of fees for those services outlined.

This proposed rule amendment is in response to SB1589 which amended 63 OS 2004, Section 948. These amendments will allow the Office of the Chief Medical Examiner to continue and improve continuing education of forensic personnel, bolster forensic investigations and retain and maintain the best qualified staff possible.

AUTHORITY:

63 O.S. 2001, Section 948 as amended by Enrolled Senate Bill 1589 by the 2004 Oklahoma Legislative Session; and new law as designated in Enrolled Senate Bill 1589 as 63 O.S. 2001, Section 948.1; Board of Medicolegal Investigations.

COMMENT PERIOD:

Persons may submit written and oral comments to Annette Ledgerwood at 901 N. Stonewall, Oklahoma City, OK 73117 during the period from January 18, 2005 to February 17, 2005, by 1:00 p.m.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door. The public hearing will be held at 3:00 p.m. on February 17, 2005 at the Office of the Chief Medical Examiner, 901 N. Stonewall, Oklahoma City, OK 73117. Anyone who wishes to speak must sign in at the door by 2:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The OCME requests that business entities affected by these proposed rules provide the OCME, within the comment period, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Annette Ledgerwood at the above address during the period from January 18, 2005 to February 16, 2005, by 1:00 p.m.

COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained from the Office of the Chief Medical Examiner located at 901 N. Stonewall,

Oklahoma City, OK 73117. Copies may also be obtained by written request mailed to the attention of Annette Ledgerwood at the above address.

RULE IMPACT STATEMENT:

Pursuant to 73 O.S. §303 (D), a rule impact statement is being prepared and will be available for review on January 18, 2005 at the above address for the Office of the Chief Medical Examiner.

CONTACT PERSON:

Annette Ledgerwood, (405) 239-7141

[OAR Docket #04-1549; filed 12-14-04]

**TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 1. ADMINISTRATION**

[OAR Docket #04-1583]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Information

450:1-1-1.1. [AMENDED]

450:1-1-5. [AMENDED]

450:1-1-7. [AMENDED]

Subchapter 5. Procedure in Individual Administrative Proceedings

450:1-5-4. [AMENDED]

Subchapter 7. Charges and Eligibility for ODMHSAS Services

450:1-7-4. [REVOKED]

Subchapter 9. Certification and Designation of Facilities and Services

450:1-9-4. [AMENDED]

450:1-9-6. [AMENDED]

450:1-9-7. [AMENDED]

450:1-9-8. [AMENDED]

450:1-9-9. [AMENDED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 1 are part of the Department's review of Title 450. These proposed amendments are intended to comply with statutory changes, enhance service provision and supervision, delete redundant or superfluous language, and correct scrivener's errors.

AUTHORITY:

Oklahoma Board of Mental Health and Substance Abuse Services; 43A O.S. §§ 3-306, 3-306.1, 3-314.1, 3-315, 3-317, 3-318, 3-319 and 3-415.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., February 22, 2005 to the attention of Linda Winton, Policy Analyst and Agency Liaison Officer. Written

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comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK or by facsimile, at (405) 522-3867.

PUBLIC HEARING:

The Department will conduct a public hearing on February 22, 2005 at 1:00 p.m. in the Main Conference Room of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information until 5:00 p.m., February 22, 2005 to the Department of Mental Health and Substance Abuse Services, P. O. Box 53277, Oklahoma City, OK 73152-3277, Attention: Linda Winton.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning February 17, 2005. Copies may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the address above.

CONTACT PERSON:

Linda Winton, Policy Analyst and Agency Liaison Officer.
(405) 522-6765.

[OAR Docket #04-1583; filed 12-22-04]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 15. CONSUMERS RIGHTS

[OAR Docket #04-1584]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Consumer Rights

Part 1. Mental Health and Drug or Alcohol Abuse Services

Consumer Bill of Rights

450:15-3-1. [AMENDED]

450:15-3-3. [AMENDED]

450:15-3-27. [AMENDED]

Subchapter 7. Office of Consumer Advocacy

Part 2. Investigations

450:15-7-9. [AMENDED]

450:15-7-14. [AMENDED]

450:15-7-15. [AMENDED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 15 are part of the Department's review of Title 450. These proposed amendments are intended to comply with statutory changes, enhance advocacy services for individuals receiving services by organizations operated or certified by or under contract with ODMHSAS, delete redundant or superfluous language, and correct scrivener's errors.

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-108 and 2-109.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., February 22, 2005 to the attention of Linda Winton, Policy Analyst and Agency Liaison Officer. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK or by facsimile, at (405) 522-3867.

PUBLIC HEARING:

The Department will conduct a public hearing on February 22, 2005 at 9:00 a.m. in the Main Conference Room of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information until 5:00 p.m., February 22, 2005 to the Department of Mental Health and Substance Abuse Services, P. O. Box 53277, Oklahoma City, OK 73152-3277, Attention: Linda Winton.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning February 17, 2005. Copies may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the address above.

CONTACT PERSON:

Linda Winton, Policy Analyst and Agency Liaison Officer.
(405) 522-6765.

[OAR Docket #04-1584; filed 12-22-04]

**TITLE 450. DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE
SERVICES
CHAPTER 18. STANDARDS AND CRITERIA
FOR ALCOHOL AND DRUG TREATMENT
PROGRAMS**

[OAR Docket #04-1585]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
 - 450:18-1-1. [AMENDED]
 - 450:18-1-2. [AMENDED]
 - 450:18-1-4. [AMENDED]
- Subchapter 3. Substance Abuse Treatment Services
 - Part 1. Levels of Care
 - 450:18-3-1. [AMENDED]
 - 450:18-3-2. [AMENDED]
 - 450:18-3-3. [NEW]
 - Part 3. Outpatient Services
 - 450:18-3-21. [AMENDED]
 - Part 5. Intensive Outpatient Services
 - 450:18-3-41. [AMENDED]
 - 450:18-3-42. [AMENDED]
 - Part 7. Medically Supervised Detoxification
 - 450:18-3-61. [AMENDED]
 - PART 9. Non-Medical Detoxification
 - 450:18-3-81. [AMENDED]
 - Part 11. Residential Treatment
 - 450:18-3-101. [AMENDED]
 - Part 13. Residential Treatment for Persons with Dependent Children
 - 450:18-3-121. [AMENDED]
 - Part 15. Adult Residential Treatment For The Dually Diagnosed
 - 450:18-3-141. [AMENDED]
 - Part 17. Residential Treatment For Adolescents
 - 450:18-3-161. [AMENDED]
 - Part 19. Halfway House Services
 - 450:18-3-181. [AMENDED]
 - Part 20. Adolescent Halfway House Services
 - 450:18-3-190. [AMENDED]
 - Part 21. Halfway House Services for Persons With Dependent Children
 - 450:18-3-201. [AMENDED]
 - Part 25. ~~Opioid Substitution Treatment Programs and Opiate Antagonists and Opiate Agonists Medication Assisted Treatment~~
 - 450:18-3-241. [AMENDED]
 - 450:18-3-242. [AMENDED]
- Subchapter 5. Ancillary Services and Activities
 - 450:18-5-3.1. [NEW]
 - 450:18-5-3.2. [NEW]
 - 450:18-5-4. [AMENDED]

- 450:18-5-5. [AMENDED]
- 450:18-5-6. [AMENDED]
- 450:18-5-8. [AMENDED]
- 450:18-5-9. [REVOKED]
- Subchapter 7. Facility Record System
 - Part 1. Record System
 - 450:18-7-1. [AMENDED]
 - 450:18-7-2. [AMENDED]
 - 450:18-7-3.1. [AMENDED]
 - 450:18-7-4. [AMENDED]
 - Part 3. Intake And Admission Assessment
 - 450:18-7-21. [AMENDED]
 - 450:18-7-41. [AMENDED]
 - Part 9. Treatment Planning
 - 450:18-7-81. [AMENDED]
 - Part 11. Progress Notes
 - 450:18-7-101. [AMENDED]
- Subchapter 9. Services Support and Enhancement
 - Part 1. Staff Support
 - 450:18-9-2. [AMENDED]
 - 450:18-9-3. [AMENDED]
 - Part 2. Organizational and Facility Management
 - 450:18-9-20. [AMENDED]
- Subchapter 11. Consumer Rights
 - 450:18-11-1. [AMENDED]
 - 450:18-11-2. [REVOKED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 18 are part of the Department's review of Title 450. These proposed amendments are intended to comply with statutory changes, enhance services for consumers of substance abuse treatment by organizations operated or certified by or under contract with ODMHSAS, delete redundant or superfluous language, and correct scrivener's errors.

AUTHORITY:

Oklahoma Board of Mental Health and Substance Abuse Services; 43A O.S. §§ 3-306, 3-317, 3-403(1), 3-404, 3-406, 3-415 and 3-416.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., February 23, 2005 to the attention of Linda Winton, Policy Analyst and Agency Liaison Officer. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK or by facsimile, at (405) 522-3867.

PUBLIC HEARING:

The Department will conduct a public hearing on February 23, 2005 at 9:00 a.m. in the Main Conference Room of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in

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dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information until 5:00 p.m., February 23, 2005 to the Department of Mental Health and Substance Abuse Services, P. O. Box 53277, Oklahoma City, OK 73152-3277, Attention: Linda Winton.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning February 17, 2005. Copies may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the address above.

CONTACT PERSON:

Linda Winton, Policy Analyst and Agency Liaison Officer.
(405) 522-6765.

[OAR Docket #04-1585; filed 12-22-04]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 19. STANDARDS AND CRITERIA FOR DOMESTIC VIOLENCE AND SEXUAL ASSAULT PROGRAMS

[OAR Docket #04-1586]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

450:19-1-2. [AMENDED]

450:19-1-6. [AMENDED]

Subchapter 3. ~~Services~~ Domestic Violence and Sexual
Assault Programs

Part 1. ~~Required DV/SA Shelter Program Components~~
Types of Service Programs

450:19-3-1. [AMENDED]

450:19-3-2. [AMENDED]

450:19-3-3. [REVOKED]

450:19-3-4. [REVOKED]

450:19-3-6. [REVOKED]

Part 2. Other Service Components

450:19-3-7. [AMENDED]

450:19-3-8. [AMENDED]

450:19-3-9. [AMENDED]

450:19-3-10. [AMENDED]

Subchapter 5. Client Records and Confidentiality

450:19-5-3.1. [AMENDED]

Subchapter 7. DV/SA Shelter Program Physical
Environments

450:19-7-1. [AMENDED]

450:19-7-3. [AMENDED]

450:19-7-6. [AMENDED]

450:19-7-7. [NEW]

Subchapter 9. Program Management and Performance
Improvement

450:19-9-10. [AMENDED]

Subchapter 13. Personnel and Volunteers

Part 3. Training

450:19-13-20.1. [AMENDED]

450:19-13-20.2. [AMENDED]

450:19-13-27. [AMENDED]

450:19-13-29. [AMENDED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 19 are part of the Department's review of Title 450. These proposed amendments are intended to comply with statutory changes, enhance programs for individuals receiving domestic violence or sexual assault services by organizations certified by or under contract with ODMHSAS, delete redundant or superfluous language, and correct scrivener's errors.

AUTHORITY:

Oklahoma Board of Mental Health and Substance Abuse Services; 43A O. S. §§ 3-306 and 3-314.1.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., February 22, 2005 to the attention of Linda Winton, Policy Analyst and Agency Liaison Officer. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK or by facsimile, at (405) 522-3867.

PUBLIC HEARING:

The Department will conduct a public hearing on February 22, 2005 at 11:00 a.m. in the Main Conference Room of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information until 5:00 p.m., February 22, 2005 to the Department of Mental Health and Substance Abuse Services, P. O. Box 53277, Oklahoma City, OK 73152-3277, Attention: Linda Winton.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning February

17, 2005. Copies may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the address above.

CONTACT PERSON:

Linda Winton, Policy Analyst and Agency Liaison Officer. (405) 522-6765.

[OAR Docket #04-1586; filed 12-22-04]

**TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 30. CLINICAL CARE
STATE-OPERATED INPATIENT SERVICES**

[OAR Docket #04-1587]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 15. Forensic Review Board [NEW]
450:30-15-1. [NEW]
450:30-15-2 [NEW]
450:30-15-3 [NEW]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 30 are part of the Department's review of Title 450. These proposed amendments implement statutory mandates recently legislated.

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-202(17).

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., February 23, 2005 to the attention of Linda Winton, Policy Analyst and Agency Liaison Officer. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK or by facsimile, at (405) 522-3867.

PUBLIC HEARING:

The Department will conduct a public hearing on February 23, 2005 at 11:00 a.m. in the Main Conference Room of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information until 5:00 p.m., February 23, 2005 to the Department of Mental Health and Substance Abuse Services, P. O. Box 53277, Oklahoma City, OK 73152-3277, Attention: Linda Winton.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning February 17, 2005. Copies may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the address above.

CONTACT PERSON:

Linda Winton, Policy Analyst and Agency Liaison Officer. (405) 522-6765.

[OAR Docket #04-1587; filed 12-22-04]

**TITLE 460. DEPARTMENT OF MINES
CHAPTER 2. RULES OF PRACTICE
AND PROCEDURE FOR THE COAL
RECLAMATION ACT OF 1979**

[OAR Docket #04-1569]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 2. Rules of Practice and Procedure for the Coal Reclamation Act of 1979 [AMENDED]

SUMMARY:

For clarification purposes the Department of Mines is amending OAC 460:2-3-7 to include language that findings of fact and conclusions of law and supporting briefs can not be filed if the Hearing Examiner has already granted a Summary Decision disposing the entire case pursuant to OAC 460:2-3-6.

AUTHORITY:

45 O.S. Section 1.5, 45 O.S. Section 789, Oklahoma Mining Commission.

COMMENT PERIOD:

From January 18, 2005, until February 18, 2005, the public may present their views orally or in writing to the below listed contact person.

PUBLIC HEARING:

A public hearing will be held on February 22, 2005, at 6:15 p.m. at the Department of Mines, 209 E. Wyandotte, Suite 500, McAlester, OK, 74501, and another public hearing will be held on February 23, 2005, at the Oklahoma Department of Mines, 4040 N. Lincoln, Suite 107, Oklahoma City, Ok 73105, beginning at 1:30 p.m.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by this proposed change are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, implied costs, or other costs expected to be occurred by the business entity due to compliance with this proposed change. This information

Notices of Rulemaking Intent

may be submitted, in writing, from January 18, 2005, through February 18, 2005, to the contact person listed below.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained from the contact person listed below.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the below listed contact person at the Department's Wagoner Field Office.

CONTACT PERSON:

Cathy Frank, Legal Officer, 29858 E. 690 RD, Wagoner, OK 74467-9154, (918) 485-3999.

[OAR Docket #04-1569; filed 12-21-04]

TITLE 460. DEPARTMENT OF MINES CHAPTER 10. NON-COAL RULES AND REGULATIONS

[OAR Docket #04-1563]

RULEMAKING ACTION:

Notice of PERMANENT rulemaking

PROPOSED RULES:

Chapter 10. Non-Coal Rules and Regulations
[AMENDED]

SUMMARY:

Two of the changes to this chapter are being proposed for conformance with statutory law found at 45 O.S. Section 724(F)(1) which allows non-coal mining permits to be issued for the life expectancy of the operation. OAC 460:10-17-12(a) states that a permit term is for one year and therefore will be amended to reflect the language found in Title 45. In Subchapter 19, Permit Revisions, Amendments, And Renewals, the Department is proposing to eliminate OAC 460:10-19-5(c) which states that permit renewals shall be for a term of one year which is also inconsistent with the language of 45 O.S. Section 124(F)(1). The Department is also proposing to add language to OAC 460:10-31-8, Blasting requirements, to clearly establish some maximum air blast limits in decibels at the location of any dwelling, public building, school, church, or community or institutional building outside the permit area.

AUTHORITY:

45 O.S. Sections 1.5, and 732; Oklahoma Mining Commission.

COMMENT PERIOD:

From January 18, 2005, until February 18, 2005, the public may present their views orally or in writing to the below listed contact person.

PUBLIC HEARING:

A public hearing will be held on February 22, 2005, at 6:00 p.m. at the Department of Mines, 209 E. Wyandotte, Suite 500, McAlester, Ok 74501, and another public hearing will be held at the Department of Mines, 4040 North Lincoln, Suite 107,

Oklahoma City, OK 73105, on February 23, 2005, beginning at 1:30 p.m.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts, if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with these proposed rules. Business may submit this information in writing, from January 18, 2005, through February 18, 2005, to the contact person listed below.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained from the contact person listed below.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the below listed contact person at the Department's Wagoner Field Office.

CONTACT PERSON:

Cathy Frank, Legal Officer, 29858 E. 690 RD, Wagoner, OK 74467-9154,
(918) 485-3999.

[OAR Docket #04-1563; filed 12-17-04]

TITLE 610. STATE REGENTS FOR HIGHER EDUCATION CHAPTER 25. STUDENT FINANCIAL AID AND SCHOLARSHIPS

[OAR Docket #04-1543]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 23. Oklahoma Higher Learning Access Program (OHLAP)

610:25-23-2. Eligibility of participants [AMENDED]

610:25-23-4. Program requirements [AMENDED]

610:25-23-5. Securing OHLAP benefits [AMENDED]

SUMMARY:

The Oklahoma Higher Learning Access Program (OHLAP) was created in 1992. Students must enroll in the program in the 8th, 9th, or 10th grade. The program requires students to complete a 17-unit core curriculum, achieve at least a 2.5 GPA in the core and a 2.5 GPA overall, attend school regularly, and refrain from drug abuse or delinquent acts. Students completing the requirements qualify for a scholarship equal to public college tuition. Participation is limited to students from families with an income of \$50,000 or less.

The proposed rule amendments address using guidelines consistent with regulations for federal Title IV student financial aid programs to determine a student's custodial parent(s) and making the description of the OHLAP curriculum consistent

with recent changes to the curriculum required for regular college admission.

AUTHORITY:

70 O.S. §2601 et seq.; 70 O.S. §3206 (i); Oklahoma State Regents for Higher Education

COMMENT PERIOD:

Interested persons may submit written and oral comments to Regina Switzer, Associate General Counsel, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104, by 5:00 p.m., February 17, 2005.

PUBLIC HEARING:

A public hearing has not been scheduled; however, one can be requested by contacting Regina Switzer, Assistant General Counsel, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104 by 5:00 p.m., February 17, 2005.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Regina Switzer, Associate General Counsel, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104, before the close of the comment period on February 17, 2005.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained at the Office of the Chancellor, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained at the Office of the Chancellor, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104.

CONTACT PERSON:

Regina Switzer, Associate General Counsel, Oklahoma State Regents for Higher Education, (405) 225-9335.

[OAR Docket #04-1543; filed 12-13-04]

**TITLE 610. STATE REGENTS FOR HIGHER EDUCATION
CHAPTER 25. STUDENT FINANCIAL AID AND SCHOLARSHIPS**

[OAR Docket #04-1544]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 35. Oklahoma Money Matters AmeriCorps Education Award Program [NEW]

610:25-35-1. Purpose [NEW]

610:25-35-2. Definitions [NEW]

610:25-35-3. Program Information [NEW]

610:25-35-4. Field Site Selection [NEW]

610:25-35-5. Member Candidacy [NEW]

610:25-35-6. Grievance Procedures [NEW]

610:25-35-7. Program Capacity [NEW]

SUMMARY:

To address Oklahoma's deficit in financial instruction and combat the considerable cost of fiscal illiteracy, the State Regents for Higher Education are developing a financial literacy initiative, Oklahoma Money Matters (OKMM), under the auspices of the Oklahoma Guaranteed Student Loan Program. OKMM's mission is to promote financial literacy by building Oklahomans' awareness of the need for financial education and understanding of sound fiscal principles and practices. OKMM has received federal grant funding for an AmeriCorps Education Award Program from the Corporation for National and Community Service. This rule defines the program information, field site selection, member candidacy, grievance procedures, and program capacity for the OKMM AmeriCorps Education Award Program.

AUTHORITY:

State Regents for Higher Education; 70 O.S. §§ 623, 3206(i)

COMMENT PERIOD:

Interested persons may submit written and oral comments to Regina Switzer, Associate General Counsel, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104, by 5:00 p.m., February 17, 2005.

PUBLIC HEARING:

A public hearing has not been scheduled; however, one can be requested by contacting Regina Switzer, Assistant General Counsel, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104 by 5:00 p.m., February 17, 2005.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Regina Switzer, Associate General Counsel, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104, before the close of the comment period on February 17, 2005.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained at the Office of the Chancellor, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained at the Office of the Chancellor, Oklahoma State Regents for Higher

Notices of Rulemaking Intent

Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104.

CONTACT PERSON:

Regina Switzer, Associate General Counsel, Oklahoma State Regents for Higher Education, (405) 225-9335.

[OAR Docket #04-1544; filed 12-13-04]

**TITLE 610. STATE REGENTS FOR HIGHER EDUCATION
CHAPTER 25. STUDENT FINANCIAL AID AND SCHOLARSHIPS**

[OAR Docket #04-1550]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 27. Teacher Shortage Employment Incentive Program

610:25-27-3. Application procedure [AMENDED]

SUMMARY:

This rule amendment allows undergraduate students to sign a Teacher Shortage Employment Incentive Program Participation Agreement on or before their date of graduation. Changing the deadline for enrolling in the program will give more opportunities for students to enroll.

AUTHORITY:

70 O.S. Supp. 2000, §698.3; 70 O.S. §3206(i); State Regents for Higher Education

COMMENT PERIOD:

Interested persons may submit written and oral comments to Regina Switzer, Associate General Counsel, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104, by 5:00 p.m., February 17, 2005.

PUBLIC HEARING:

A public hearing has not been scheduled; however, one can be requested by contacting Ned Bastow, General Counsel, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104 by 5:00 p.m., February 17, 2005.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained at the Office of the Chancellor, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained at the Office of the Chancellor, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104 on and after January 30, 2005.

CONTACT PERSON:

Regina Switzer, Associate General Counsel, Oklahoma State Regents for Higher Education, (405) 225-9335.

[OAR Docket #04-1550; filed 12-15-04]

**TITLE 690. BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
CHAPTER 10. LICENSURE AND FEES**

[OAR Docket #04-1576]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Licensure Speech-Language Pathologists and Audiologists [AMENDED]

690:10-3-4. Academic requirement [AMENDED]

690:10-3-5. Supervised clinical practicum requirement [AMENDED]

690:10-3-6. Clinical experience requirement [AMENDED]

690:10-3-7. Examination requirement and exceptions [AMENDED]

690:10-3-8. Continuing education for speech-language pathologists and audiologists [AMENDED]

Subchapter 9. Fees

690:10-9-2. License renewal fee [AMENDED]

SUMMARY:

690:10-3-4.

a. Degree requirement 1&2 Clarification of the word "applicant" for speech-language pathologist and audiologist.

b. Clarification of academic transcripts for speech-language pathologist which includes: Inclusion of terminology of "professional" for description of course work; Changes from specific credit hours to specific knowledge that must be demonstrated; Transcript requirements for audiologist until December 31, 2006 and Wavier of transcript information.

690:10-3-5. Changes to supervised clinical practicum requirements

690:10-3-6. Changes to clinical experience requirements.

690:10-3-7. Changes the requirements for reciprocity and examinations.

690:10-9-2. Changes the cost of renewal and late fees

AUTHORITY:

59 O.S., 2001 § 1613; Board of Examiners for Speech-language Pathology and Audiology

The Board shall promulgate rules, not inconsistent with the Constitution and laws of this state.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 5:00 p.m. on March 1, 2005 at the following address: Jeanie Wall, OBESPA, P.O. Box 53592, Oklahoma City, OK 73152

PUBLIC HEARING:

A public hearing will be held at 1:00 p.m. March 4 at 100 N.W. 63rd, 2nd floor, Will Rogers Room, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 12:45 p.m.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by the conclusion of the comment period and public hearing on March 4th, 2005 at the following address: Board of Examiners for Speech-Language Pathology and Audiology, P.O. Box 53592, Oklahoma City, OK 73152

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by written request from the Oklahoma Board of Examiners for Speech-Language Pathology and Audiology, 1140 N.W. 63rd, Suite 305, Oklahoma City, Oklahoma and the Board website: www.obespa.state.ok.us.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303 (D), a rule impact statement will be issued and made available on and after February 1, 2005.

CONTACT PERSON:

Nuala South, Board Chair of the Oklahoma Board of Examiners for Speech Language Pathology and Audiology at 405-360-9633.

[OAR Docket #04-1576; filed 12-22-04]

TITLE 712. OKLAHOMA COMMISSION FOR TEACHER PREPARATION CHAPTER 10. TEACHER PREPARATION PROGRAM ACCREDITATION

[OAR Docket #04-1566]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Teacher Preparation Program Accreditation 712:10-5-1. [AMENDED]

Subchapter 11. Education Leadership Oklahoma 712:10-11-1. [AMENDED]

SUMMARY:

The proposed revisions to Subchapter 5 would align the Oklahoma Commission for Teacher Preparation's requirements with the new National Council for the Accreditation of Teacher Education (NCATE) procedures related to program and unit accreditation. In addition, the revisions delineate the responsibilities of the Program Review Advisory Board (PRAB) and provide flexibility in the scheduling of the Program Accreditation Committee's meeting dates.

The proposed revisions to Subchapter 11 would reflect National Board terminology throughout the regulation. In addition, the revisions delineate the fiscal responsibility of Education Leadership Oklahoma candidates.

AUTHORITY:

Oklahoma Commission for Teacher Preparation; 70 O.S. Supp. 1998, §6-180 et seq. Oklahoma Teacher Preparation Act.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 9:00 a.m. on February 17, 2005, at the following address: Ted Gillispie, Oklahoma Commission for Teacher Preparation, 4545 N. Lincoln Boulevard, Suite 275, Oklahoma City, OK, 73105.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m. on February 17, 2005, in the Lincoln Plaza Office Park, Room 284, 4545 North Lincoln Boulevard, Oklahoma City, OK 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency within the comment period, with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Ted Gillispie, at the above address, before the close of the comment period.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Commission for Teacher Preparation, 4545 North Lincoln Boulevard, Suite 275, Oklahoma City, OK 73105.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303 (D), a rule impact statement will be prepared and may be obtained from the Commission for Teacher Preparation at the above address beginning on January 3, 2005.

CONTACT PERSON:

Ted Gillispie, Executive Director, (405) 525-2612

[OAR Docket #04-1566; filed 12-21-04]

TITLE 730. DEPARTMENT OF TRANSPORTATION CHAPTER 30. HIGHWAY DESIGN

[OAR Docket #04-1564]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Permitting of Oversize, Overweight and Special Combination Vehicles 730:30-9-15. [AMENDED]

Notices of Rulemaking Intent

SUMMARY:

The proposed revision to Subchapter 9 establishes emergency protocols that may be implemented at the discretion of the Commissioner of Public Safety in order to move oversized, overweight and special combination vehicles during a life-threatening emergency. It includes the movement of manufactured housing for victims of disaster. It also provides authorization for the expedited movement of oversized and overweight emergency equipment in the case of an emergency railroad derailment.

AUTHORITY:

Oklahoma Department of Transportation; 69 O.S. § 303, 47 O.S. 14-101 et seq. and 1129; 23 U.S.C. 127.

COMMENT PERIOD:

Persons may submit written or oral comments to Mike Mayberry at the Oklahoma Department of Transportation, 200 N.E. 21st Street, Room 3A2, Oklahoma City, OK 73105 during the period from January 18, 2005 to February 18, 2005.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., §303(B)(9), "persons may demand a hearing" by contacting Michael E. Mayberry, Assistant Director of Administration, at (405) 522-6000, no later than 4:00 p.m. on February 18, 2005.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained at the Oklahoma Department of Transportation, 200 N.E. 21st Street, Room 3A2, Oklahoma City, OK 73105. Electronic copies may also be obtained by sending a request to: mbrewington@odot.org

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared prior to February 2, 2005 at the same location listed above for obtaining copies.

CONTACT PERSON:

Michael E. Mayberry, Assistant Director - Administration, (405) 522-6000.

[OAR Docket #04-1564; filed 12-20-04]

TITLE 735. STATE TREASURER CHAPTER 10. SECURITY FOR PUBLIC DEPOSITS

[OAR Docket #04-1568]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

735:10-1-10. [AMENDED]

SUMMARY:

Adding notification process if collateral becomes unacceptable.

AUTHORITY:

State Treasurer, 62 O.S., Sections 72.4 & 72.5.

COMMENT PERIOD:

Tuesday, January 18, 2005 to Friday, February 18, 2005. Written and oral comments will be accepted by contacting the person below, Monday through Friday between the hours of 8:30 a.m. and 5:00 p.m., Central Time. Persons wishing to submit written comments must do so no later than February 18, 2005 at 5:00 p.m.

PUBLIC HEARING:

A public hearing will be held on Tuesday, February 22, 2005 at 2:00 p.m. The hearing will be held at the State Treasurer's Conference Room located at 2300 N Lincoln, Room 217, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The State Treasurer's Office requests that business entities affected by these proposed rules provide the State Treasurer's Office, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Susan Bateman, at the address below, before the close of the comment period on February 18, 2005.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the contact person below, Monday through Friday between the hours of 8:30 a.m. and 5:00 p.m., Central Time.

RULE IMPACT STATEMENT:

A copy of the rule impact statement may be obtained from the contact person listed below, Monday through Friday between the hours of 8:30 a.m. and 5:00 p.m., Central Time, beginning Wednesday, February 2, 2005.

CONTACT PERSON:

Susan Bateman, Office of the State Treasurer, 2300 North Lincoln Boulevard, Room 217, Oklahoma City, Oklahoma 73105-4895, telephone number (405) 521-3191.

[OAR Docket #04-1568; filed 12-21-04]

TITLE 735. STATE TREASURER CHAPTER 20. SECURITY FOR LOCAL PUBLIC ENTITY DEPOSIT

[OAR Docket #04-1567]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

735:20-1-9. [AMENDED]

SUMMARY:

Adding notification process if collateral becomes unacceptable.

AUTHORITY:

State Treasurer, 62 O.S., Sections 72.4 & 72.5.

COMMENT PERIOD:

Tuesday, January 18, 2005 to Friday, February 18, 2005. Written and oral comments will be accepted by contacting the person below, Monday through Friday between the hours of 8:30 a.m. and 5:00 p.m., Central Time. Persons wishing to submit written comments must do so no later than February 18, 2005 at 5:00 p.m.

PUBLIC HEARING:

A public hearing will be held on Tuesday, February 22, 2005 at 2:30 p.m. The hearing will be held at the State Treasurer's Conference Room located at 2300 N Lincoln, Room 217, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The State Treasurer's Office requests that business entities affected by these proposed rules provide the State Treasurer's Office, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Susan Bateman, at the address below, before the close of the comment period on February 18, 2005.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the contact person below, Monday through Friday between the hours of 8:30 a.m. and 5:00 p.m., Central Time.

RULE IMPACT STATEMENT:

A copy of the rule impact statement may be obtained from the contact person listed below, Monday through Friday between the hours of 8:30 a.m. and 5:00 p.m., Central Time, beginning Wednesday, February 2, 2005.

CONTACT PERSON:

Susan Bateman, Office of the State Treasurer, 2300 North Lincoln Boulevard, Room 217, Oklahoma City, Oklahoma 73105-4895, telephone number (405) 521-3191.

[OAR Docket #04-1567; filed 12-21-04]

**TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION
CHAPTER 16. ADVERTISING**

[OAR Docket #04-1603]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 765:16-1-2. [AMENDED]
- Subchapter 3. Specific Advertising Regulations
- 765:16-3-7. [AMENDED]
- 765:16-3-11. [AMENDED]
- 765:16-3-13. [NEW]

SUMMARY:

These permanent rules are being amended to bring the specifications in line with current advertising practices and to clarify existing standards.

AUTHORITY:

Used Motor Vehicle and Parts Commission; Title 47 O.S. Supp 1997 Section 582(E)(1); Title 75 O.S. Supp 1997 Section 302(A)(1); Title 75 O.S. Supp 1997 Section 307.

COMMENT PERIOD:

Persons wishing to present their views regarding this action may do so by delivering or mailing their written comments to the Used Motor Vehicle and Parts Commission, 2401 NW 23rd, Suite 57, Oklahoma City, Oklahoma 73107, prior to the public hearing.

PUBLIC HEARING:

The public hearing will be held on Tuesday, March 8, 2005, at 11:00AM, at the office of the Used Motor Vehicle and Parts Commission, 2401 NW 23rd, Suite 57, Oklahoma City, Oklahoma.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The Used Motor Vehicle and Parts Commission requests that business entities affected by these proposed rules provide the Commission, within the comment period, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to John W. Maile, at the above address, before the close of the comment period on March 8, 2005.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review at the office of the Used Motor Vehicle and Parts Commission, 2401 NW 23rd, Suite 57, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and be available after February 1, 2005, at the office of the Used Motor Vehicle and Parts Commission.

Notices of Rulemaking Intent

CONTACT PERSON:

John W. Maile, Director, Used Motor Vehicle and Parts
Commission, 2401 NW 23RD, Suite 57, Oklahoma City,
Oklahoma 73107 (405)949-2626.

[OAR Docket #04-1603; filed 12-23-04]

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

[OAR Docket #04-1594]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 11. Importation of Livestock, Poultry, and Pets

Part 1. General

35:15-11-1. [AMENDED]

Part 7. Livestock

35:15-11-16. [REVOKED]

Subchapter 40. Bovine Tuberculosis

Part 3. Rules Adopted from USDA Uniform Methods and Rules for Bovine Tuberculosis Eradication

35:15-40-49.1. [NEW]

Part 7. ~~International~~ Import Requirements [AMENDED]

35:15-40-90. [NEW]

35:15-40-91. [AMENDED]

SUBMITTED TO GOVERNOR:

December 16, 2004

SUBMITTED TO HOUSE:

December 16, 2004

SUBMITTED TO SENATE:

December 16, 2004

[OAR Docket #04-1594; filed 12-22-04]

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

[OAR Docket #04-1595]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 17. Combined Pesticide

35:30-17-21. [AMENDED]

SUBMITTED TO GOVERNOR:

December 16, 2004

SUBMITTED TO HOUSE:

December 16, 2004

SUBMITTED TO SENATE:

December 16, 2004

[OAR Docket #04-1595; filed 12-22-04]

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

[OAR Docket #04-1596]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 17. Combined Pesticide

35:30-17-13. [NEW]

35:30-17-13.1. [NEW]

SUBMITTED TO GOVERNOR:

December 16, 2004

SUBMITTED TO HOUSE:

December 16, 2004

SUBMITTED TO SENATE:

December 16, 2004

[OAR Docket #04-1596; filed 12-22-04]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 15. CURRICULUM AND INSTRUCTION

[OAR Docket #04-1582]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 13. Special Education

210:15-13-4 [NEW]

SUBMITTED TO GOVERNOR:

December 21, 2004

SUBMITTED TO HOUSE:

December 21, 2004

SUBMITTED TO SENATE:

December 21, 2004

[OAR Docket #04-1582; filed 12-22-04]

Submissions for Review

TITLE 600. REAL ESTATE APPRAISER BOARD CHAPTER 10. LICENSURE AND CERTIFICATION REQUIREMENTS

[OAR Docket #04-1540]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- 600:10-1-2. Definitions [AMENDED]
- 600:10-1-4. Examination [AMENDED]
- 600:10-1-16. Supervision of trainee appraisers [AMENDED]

SUBMITTED TO GOVERNOR:

December 10, 2004

SUBMITTED TO HOUSE:

December 10, 2004

SUBMITTED TO SENATE:

December 10, 2004

[OAR Docket #04-1540; filed 12-10-04]

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

[OAR Docket #04-1539]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- 600:15-1-2. Definitions [AMENDED]
- 600:15-1-4. ~~Complaint~~ Grievance process procedure [AMENDED]
- 600:15-1-5. Issuance of formal complaint: setting date for formal hearing [AMENDED]
- 600:15-1-6. Notice of disciplinary proceedings [AMENDED]

SUBMITTED TO GOVERNOR:

December 10, 2004

SUBMITTED TO HOUSE:

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SUBMITTED TO SENATE:

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[OAR Docket #04-1539; filed 12-10-04]

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

[OAR Docket #04-1559]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

- Subchapter 2. Low-Point Beer
- Part 1. General Provisions
- 710:20-2-6. Annual state permits and license taxes [AMENDED]

SUBMITTED TO GOVERNOR:

December 16, 2004

SUBMITTED TO HOUSE:

December 16, 2004

SUBMITTED TO SENATE:

December 16, 2004

[OAR Docket #04-1559; filed 12-16-04]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 22. BOATS AND MOTORS

[OAR Docket #04-1560]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

- Subchapter 3. Dealers
- 710:22-3-1. Boats or motors in dealer's possession; demonstration permits; contest participation [AMENDED]
- Subchapter 5. Procedures for Registration
- 710:22-5-8. Registration fees [AMENDED]
- 710:22-5-9. Registration decals [AMENDED]

SUBMITTED TO GOVERNOR:

December 16, 2004

SUBMITTED TO HOUSE:

December 16, 2004

SUBMITTED TO SENATE:

December 16, 2004

[OAR Docket #04-1560; filed 12-16-04]

**TITLE 710. OKLAHOMA TAX
COMMISSION
CHAPTER 23. CHARITY GAMES TAX**

[OAR Docket #04-1577]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

- 710:23-1-2. Definitions [AMENDED]
- 710:23-1-4. Distributor operations and reporting [AMENDED]
- 710:23-1-8. Limited exemptions [AMENDED]

SUBMITTED TO GOVERNOR:

December 22, 2004

SUBMITTED TO HOUSE:

December 22, 2004

SUBMITTED TO SENATE:

December 22, 2004

[OAR Docket #04-1577; filed 12-22-04]

**TITLE 710. OKLAHOMA TAX
COMMISSION
CHAPTER 45. GROSS PRODUCTION,
PETROLEUM EXCISE, AND
CONSERVATION EXCISE**

[OAR Docket #04-1561]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

- Subchapter 1. General Provisions
- 710:45-1-3. Security required [AMENDED]
- Subchapter 3. Payment; Remittance; Refunds
- 710:45-3-1. Due dates for timely payment or remittance of taxes [AMENDED]
- Subchapter 5. Required Returns and Reports
- 710:45-5-3. Timely filing monthly production reports [AMENDED]
- Subchapter 15. Reclaimers and Reclaiming Operations
- 710:45-15-6. Reports and payment; due dates for reclaimers [AMENDED]

SUBMITTED TO GOVERNOR:

December 16, 2004

SUBMITTED TO HOUSE:

December 16, 2004

SUBMITTED TO SENATE:

December 16, 2004

[OAR Docket #04-1561; filed 12-16-04]

**TITLE 710. OKLAHOMA TAX
COMMISSION
CHAPTER 60. MOTOR VEHICLES**

[OAR Docket #04-1562]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

- Subchapter 1. General Provisions
- 710:60-1-3. Confidentiality of motor vehicle information [AMENDED]
- Subchapter 3. Registration and Licensing
- Part 1. General Provisions
- 710:60-3-11. Determining number of years registered [AMENDED]
- 710:60-3-17. Liability insurance [AMENDED]
- 710:60-3-20. Display of vehicle license plates [AMENDED]
- 710:60-3-21. Lost, stolen or mutilated tags and decals [AMENDED]
- 710:60-3-22. Charitable organization vehicle registration [AMENDED]
- Part 5. Dealers
- 710:60-3-54. Used vehicle dealer's registration policy [AMENDED]
- Part 9. Commercial Vehicles
- 710:60-3-92. Additional display requirements [AMENDED]
- 710:60-3-98. Prorated vehicles [REVOKED]
- Part 11. Other Vehicles
- 710:60-3-114. Fractionation tanks (frac tanks) not eligible for registration [AMENDED]
- Part 13. Manufactured Homes
- 710:60-3-133. Cancellation of manufactured home title [AMENDED]
- Part 15. Special License Plates
- 710:60-3-150. Special license plates, general provisions [AMENDED]
- 710:60-3-151. Personalized license plates [AMENDED]
- 710:60-3-152. Motorcycle personalized license plates [AMENDED]
- 710:60-3-160. Antique or classic vehicles [AMENDED]
- 710:60-3-162. Disabled American Veteran (DAV) plates and rate [AMENDED]
- 710:60-3-168. Indian tribal license plates [AMENDED]
- 710:60-3-169. Physically disabled registration rate [AMENDED]
- 710:60-3-170. Physically disabled persons [AMENDED]
- Part 17. Special Permits
- 710:60-3-202. Special mobilized machinery [AMENDED]
- Subchapter 5. Motor Vehicle Titles
- Part 1. General Provisions
- 710:60-5-1. Certificate of title required [AMENDED]
- 710:60-5-4. ~~Title in more than one person~~ Multiple owners [AMENDED]

Submissions for Review

710:60-5-7. Vehicle title records research [NEW]
Part 5. Certificates of Title
710:60-5-60. Vehicles purchased by foreign buyers pursuant to the Automotive Dismantlers and Part Recycler Act [NEW]
Part 11. Liens
710:60-5-111. Perfecting liens [AMENDED]
710:60-5-113. Lienholder notification [AMENDED]
710:60-5-115. Recording liens on certificates of title [AMENDED]
710:60-5-116. Mechanics' liens under Title 42 of the Oklahoma Statutes [AMENDED]
Subchapter 7. Motor Vehicle Excise Tax
710:60-7-4. Excise tax on heavy-weight trucks and commercial trailers [AMENDED]
Subchapter 9. Motor Vehicle License Agents/Agencies
Part 11. Agency Operation
710:60-9-116. Motor license agent training and continuing education [AMENDED]
710:60-9-120. Summary of operational requirements [AMENDED]
Part 13. Special Provisions for Application, Qualification, Appointment, and Agency Operation Applicable to Certain Motor License Agents and Agencies
710:60-9-134. Motor license agency location, staffing, equipment, office space, parking, and hours [AMENDED]

SUBMITTED TO GOVERNOR:

December 15, 2004

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December 15, 2004

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December 15, 2004

[OAR Docket #04-1562; filed 12-16-04]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 65. SALES AND USE TAX

[OAR Docket #04-1578]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

Subchapter 1. General Provisions
710:65-1-2. Definitions [AMENDED]
710:65-1-7. Consumer/user defined; specific applications [AMENDED]
710:65-1-11. Rentals and leases of tangible personal property [AMENDED]
Subchapter 3. Reports and Returns; Payments and Penalties; Records
Part 1. General Provisions

710:65-3-4. Contents of monthly sales report [AMENDED]
710:65-3-9. Final sales tax return when business is discontinued [AMENDED]
Subchapter 7. Duties and Liabilities
710:65-7-13. Vendors' responsibility - sales to contractors [AMENDED]
710:65-7-15. Vendors' responsibility - sales to entities with other specific statutory exemptions [AMENDED]
Subchapter 9. Permits
710:65-9-8. Special event permits and reporting [AMENDED]
Subchapter 13. Sales and Use Tax Exemptions
Part 5. ~~Aircraft, Boats and Motors; Motor Vehicles Items Subject to Other Taxes~~ [AMENDED]
710:65-13-30. Exemption for ~~airplanes, boats, boat motors, and motor vehicles, including low speed electrical vehicles; excise tax in lieu of sales tax the sale of tangible personal property subject to other taxes~~ [AMENDED]
Part 7. ~~Churches, and Charitable, Civic, and Social Organizations and Activities~~ [AMENDED]
710:65-13-34. Exemption for qualified museums [RENUMBERED to 710:65-13-334]
710:65-13-35. Limited exemption for organizations which sponsor and promote educational, charitable, and cultural events for disadvantaged children [AMENDED and RENUMBERED to 710:65-13-335]
710:65-13-36. Exemption for Disabled American Veterans, Department of Oklahoma, Inc. and subordinate chapters [RENUMBERED to 710:65-13-336]
710:65-13-37. Qualifications for "Meals on Wheels" exemption [RENUMBERED to 710:65-13-337]
710:65-13-38. Qualifications for "Older Americans Act" exemption [RENUMBERED to 710:65-13-338]
710:65-13-39. Qualifications for "Collection and Distribution Organization" exemption [RENUMBERED to 710:65-13-339]
710:65-13-41. Exemption for Council organizations or similar state supervisory organizations of Boy Scouts of America, Girl Scouts of U.S.A., and the Campfire Girls and Boys [RENUMBERED to 710:65-13-341]
710:65-13-42. Qualifications for "Juvenile Rehabilitation" exemption [RENUMBERED to 710:65-13-342]
Part 23. Gas and Electricity
710:65-13-120. Sales tax exemption for residential use [AMENDED]
Part 25. Governmental Entities
710:65-13-130. Sales to and by the government; taxable and exempt transactions [AMENDED]
Part 31. Medicine, Medical Appliances, and Health Care Entities and Activities
710:65-13-169. Definitions [AMENDED]
710:65-13-171. Sales of prosthetic devices to individuals [AMENDED]

710:65-13-173. Exemption for medical appliances, medical devices and other medical equipment furnished to medicare/medicaid program recipients [AMENDED]
 Part 37. Sales for Resale
 710:65-13-201. ~~Retail sales~~ Sales between related entities [AMENDED]
 Part 39. Schools and Higher Education
 710:65-13-210. Exemption for public and private schools and institutions of higher education [AMENDED]
 Part 43. Social, Charitable, and Civic Organizations and Activities [NEW]
 710:65-13-330. Oklahoma City National Memorial and Museum [NEW]
 710:65-13-331. Sales to veterans' organizations for museums and memorials [NEW]
 710:65-13-332. Exemption for sale of tickets to collegiate athletic championship events [NEW]
 710:65-13-333. Sales made in conjunction with public library construction [NEW]
 710:65-13-334. Exemption for qualified museums [NEW]
 710:65-13-335. Limited exemption for organizations which sponsor and promote educational, charitable, and cultural events for disadvantaged children [NEW]
 710:65-13-336. Exemption for Disabled American Veterans, Department of Oklahoma, Inc. and subordinate chapters [NEW]
 710:65-13-337. Qualifications for "Meals on Wheels" exemption [NEW]
 710:65-13-338. Qualifications for "Older Americans Act" exemption [NEW]
 710:65-13-339. Qualifications for "Collection and Distribution Organization" exemption [NEW]
 710:65-13-340. Exemptions for volunteer fire departments [NEW]
 710:65-13-341. Exemption for Council organizations or similar state supervisory organizations of Boy Scouts of America, Girl Scouts of U.S.A., and the Campfire Girls and Boys [NEW]
 710:65-13-342. Qualifications for "Juvenile Rehabilitation" exemption [NEW]
 710:65-13-343. Exemption for qualified youth athletic teams [NEW]
 Subchapter 19. Specific Applications and Examples
 Part 1. "A"
 710:65-19-5. Sales of alcoholic beverages ~~and tobacco products~~ [AMENDED]
 710:65-19-11. Automotive transactions [AMENDED]
 Part 5. "C"
 710:65-19-56. Contractors and subcontractors [AMENDED]
 710:65-19-59. Store coupons [AMENDED]
 PART 29. "O"
 710:65-19-241. Fractionation tanks (frac tanks) [REVOKED]
 Part 31. "P"
 710:65-19-261. Physicians and optometrists [AMENDED]

Part 39. "T"
 710:65-19-329. Service relating to telecommunications and telecommunications equipment [AMENDED]
 710:65-19-331. Prepaid telephone calling cards [AMENDED]
 Part 41. "U"
 710:65-19-341. Natural or artificial gas and electric utility services [AMENDED]
 Part 43. "V"
 710:65-19-351. Volunteer fire companies [REVOKED]
SUBMITTED TO GOVERNOR:
 December 22, 2004
SUBMITTED TO HOUSE:
 December 22, 2004
SUBMITTED TO SENATE:
 December 22, 2004

[OAR Docket #04-1578; filed 12-22-04]

**TITLE 710. OKLAHOMA TAX COMMISSION
 CHAPTER 75. TOURISM PROMOTION**

[OAR Docket #04-1579]

RULEMAKING ACTION:
 Submission for gubernatorial and legislative review.
RULES:
 710:75-1-8. Filing requirements; interest; penalty [AMENDED]
SUBMITTED TO GOVERNOR:
 December 22, 2004
SUBMITTED TO HOUSE:
 December 22, 2004
SUBMITTED TO SENATE:
 December 22, 2004

[OAR Docket #04-1579; filed 12-22-04]

**TITLE 710. OKLAHOMA TAX COMMISSION
 CHAPTER 90. WITHHOLDING**

[OAR Docket #04-1580]

RULEMAKING ACTION:
 Submission for gubernatorial and legislative review.
RULES:
 Subchapter 3. Returns and Payments
 710:90-3-11. Income tax withholding for pass-through entities [AMENDED]
SUBMITTED TO GOVERNOR:
 December 22, 2004
SUBMITTED TO HOUSE:
 December 22, 2004

Submissions for Review

SUBMITTED TO SENATE:

December 22, 2004

[OAR Docket #04-1580; filed 12-22-04]

**TITLE 710. OKLAHOMA TAX
COMMISSION
CHAPTER 95. MISCELLANEOUS AREAS
OF REGULATORY AND ADMINISTRATIVE
AUTHORITY**

[OAR Docket #04-1581]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

Subchapter 13. Out-of-State Attorney Registration [NEW]
710:95-13-1. Out-of-state attorney registration [NEW]

SUBMITTED TO GOVERNOR:

December 22, 2004

SUBMITTED TO HOUSE:

December 22, 2004

SUBMITTED TO SENATE:

December 22, 2004

[OAR Docket #04-1581; filed 12-22-04]

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

[OAR Docket #04-1545]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 3. Fee Schedules

35:2-3-2.1. [AMENDED]

35:2-3-2.7. [AMENDED]

35:2-3-2.8. [AMENDED]

GUBERNATORIAL APPROVAL:

December 8, 2004

[OAR Docket #04-1545; filed 12-14-04]

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

[OAR Docket #04-1546]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 19. Poultry Regulations

35:15-19-1. [AMENDED]

35:15-19-5. [AMENDED]

GUBERNATORIAL APPROVAL:

December 8, 2004

[OAR Docket #04-1546; filed 12-14-04]

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

[OAR Docket #04-1547]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 17. Combined Pesticide

Part 13. Restricted Areas for the Application of Hormone

Type Pesticides

35:30-17-31. through 35:30-17-53. [REVOKED]

GUBERNATORIAL APPROVAL:

December 8, 2004

[OAR Docket #04-1547; filed 12-14-04]

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

[OAR Docket #04-1548]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 17. Combined Pesticide

Part 15. Minimum Standards for Termite Work for Existing Structures

35:30-17-54. [AMENDED]

Part 16. Minimum Standards for the Performance of Spot/Partial Treatments of Termite Work for Existing Structures (Spot Treatments)

35:30-17-70. [AMENDED]

GUBERNATORIAL APPROVAL:

December 8, 2004

[OAR Docket #04-1548; filed 12-14-04]

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

[OAR Docket #04-1541]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 1. General Provisions

Part 1. Scope and Applicability

340:75-1-18.1. [AMENDED]

340:75-1-20. [AMENDED]

340:75-1-22. [AMENDED]

Subchapter 6. Permanency Planning

Part 1. General Provisions

340:75-6-4. [AMENDED]

Part 5. Permanency Planning Services

340:75-6-31. [AMENDED]

340:75-6-31.3. [AMENDED]

(Reference APA WF 04-18)

Gubernatorial Approvals

GUBERNATORIAL APPROVAL:

December 7, 2004

[OAR Docket #04-1541; filed 12-13-04]

**TITLE 435. STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION
CHAPTER 30. OCCUPATIONAL
THERAPISTS AND ASSISTANTS**

[OAR Docket #04-1598]

RULEMAKING ACTION:

Gubernatorial approval.

RULES:

435:30-1-3. Licensure by examination [AMENDED]

435:30-1-10. Grounds for disciplinary action
[AMENDED]

GUBERNATORIAL APPROVAL:

December 20, 2004.

[OAR Docket #04-1598; filed 12-23-04]

Withdrawn Rules

An agency may withdraw proposed PERMANENT rules prior to final adoption (approval by Governor/Legislature) by notifying the Governor and the Legislature and by publishing a notice in the *Register* of such a withdrawal.

An agency may withdraw proposed EMERGENCY rules prior to approval/disapproval by the Governor by notifying the Governor, the Legislature, and the Office of Administrative Rules. The withdrawal notice is not published in the *Register*, however, unless the agency published a Notice of Rulemaking Intent in the *Register* before adopting the EMERGENCY rules.

For additional information on withdrawal of proposed rules, see 75 O.S., Section 308(F) and 253(K) and OAC 655:10-7-33.

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

[OAR Docket #04-1555]

RULEMAKING ACTION:

Withdrawal of EMERGENCY rulemaking

RULES:

Subchapter 1. General Provisions

Part 1. General Provisions

530:10-1-2. [AMENDED]

Subchapter 3. Affirmative Action and Equal Employment
Opportunity

Part 5. Noncompliance, Investigations, Hearings and
Remedies

530:10-3-54. [AMENDED]

Subchapter 7. Salary and Payroll

Part 1. Salary and Rates of Pay

530:10-7-1. [AMENDED]

530:10-7-6. [AMENDED]

530:10-7-7. [AMENDED]

530:10-7-11. [AMENDED]

530:10-7-14. [AMENDED]

530:10-7-17. [AMENDED]

Subchapter 9. Recruitment and Selection

Part 9. Classified Appointments

530:10-9-99. [AMENDED]

Part 13. Veterans Preference

530:10-9-130. [AMENDED]

Subchapter 11. Employee Actions

Part 1. General Provisions

530:10-11-1 [AMENDED]

Part 3. Probationary Employees

530:10-11-31. [AMENDED]

530:10-11-32. [AMENDED]

530:10-11-39. [AMENDED]

Subchapter 13. Reduction-in-Force

Part 1. General Provisions for Reduction-in-Force

530:10-13-1. [AMENDED]

530:10-13-2. [AMENDED]

530:10-13-3. [AMENDED]

Part 3. Reduction-in-Force Plan Requirements

530:10-13-32. [AMENDED]

Subchapter 15. Time and Leave

Part 1. General Provisions

530:10-15-1. [AMENDED]

Part 3. Annual and Sick Leave Policies

530:10-15-10. [AMENDED]

530:10-15-12. [AMENDED]

Part 5. Miscellaneous Types of Leave

530:10-15-45. [AMENDED]

530:10-15-49. [AMENDED]

Subchapter 17. Employee Performance Management
System and Career Enhancement Programs

Part 3. Performance Evaluation System

530:10-17-31. [AMENDED]

Part 7. Carl Albert Public Internship Program

530:10-17-74. [AMENDED]

530:10-17-75. [AMENDED]

530:10-17-77. [AMENDED]

530:10-17-80. [AMENDED]

Part 11. Certified Public Manager Program

530:10-17-110. [AMENDED]

530:10-17-111. [AMENDED]

DATES:

Adoption:

November 30, 2004

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December 3, 2004

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December 14, 2004

Withdrawn:

December 15, 2004

[OAR Docket #04-1555; filed 12-15-04]

TITLE 530. OFFICE OF PERSONNEL MANAGEMENT CHAPTER 15. VOLUNTARY PAYROLL DEDUCTION RULES

[OAR Docket #04-1554]

RULEMAKING ACTION:

Withdrawal of EMERGENCY rulemaking

RULES:

Subchapter 1. General Provisions

530:15-1-2. [AMENDED]

Subchapter 3. Administrative Provisions

530:15-3-15. [AMENDED]

Withdrawn Rules

DATES:**Adoption:**

November 30, 2004

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December 3, 2004

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[OAR Docket #04-1554; filed 12-15-04]

**TITLE 530. OFFICE OF PERSONNEL
MANAGEMENT
CHAPTER 20. OKLAHOMA STATE
EMPLOYEES' DIRECT DEPOSIT RULES**

[OAR Docket #04-1552]

RULEMAKING ACTION:

Withdrawal of EMERGENCY rulemaking

RULES:

Subchapter 1. General Policies and Procedures

530:20-1-2. [AMENDED]

530:20-1-3. [AMENDED]

530:20-1-4. [AMENDED]

530:20-1-14. [AMENDED]

530:20-1-16. [AMENDED]

Subchapter 3. OPM Administrative Policies and
Procedures

530:20-3-7. [AMENDED]

DATES:**Adoption:**

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[OAR Docket #04-1552; filed 12-15-04]

**TITLE 585. PUBLIC EMPLOYEES
RELATIONS BOARD
CHAPTER 20. OKLAHOMA MUNICIPAL
EMPLOYEE COLLECTIVE BARGAINING
ACT**

[OAR Docket #04-1604]

RULEMAKING ACTION:

Withdrawal of EMERGENCY rulemaking

RULES:

Subchapter 3. Procedures [NEW]

585:20-3-1. Impasse Arbitration [NEW]

DATES:**Adoption:**

October 14, 2004

Submitted to Governor:

October 25, 2004

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October 25, 2004

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October 25, 2004

Withdrawn:

November 30, 2004

[OAR Docket #04-1604; filed 12-23-04]

**TITLE 695. STATE AGENCY REVIEW
COMMITTEE
CHAPTER 10. OKLAHOMA STATE
EMPLOYEE CHARITABLE CONTRIBUTION
CAMPAIGN RULES**

[OAR Docket #04-1553]

RULEMAKING ACTION:

Withdrawal of EMERGENCY rulemaking

RULES:

Subchapter 1. General Provisions

695:10-1-2. [AMENDED]

695:10-1-5. [AMENDED]

695:10-1-6. [AMENDED]

695:10-1-8. [AMENDED]

695:10-1-9. [AMENDED]

695:10-1-10. [AMENDED]

695:10-1-11. [AMENDED]

Subchapter 3. Principal Combined Fund Raising
Organizations

Part 1. State Principal Combined Fundraising Organization
(State PCFRO)

695:10-3-2. [AMENDED]

695:10-3-3. [AMENDED]

695:10-3-4. [AMENDED]

Subchapter 5. Conduct of the Charitable Contribution
Campaign

695:10-5-3. [AMENDED]

695:10-5-4. [AMENDED]
695:10-5-6. [AMENDED]
Subchapter 7. Pledge Cards, Payroll Authorizations and
Mailing Lists
695:10-7-2. [AMENDED]
695:10-7-3. [AMENDED]
Subchapter 9. Remittance, Allocation and Distribution of
Funds
695:10-9-2. [AMENDED]
Subchapter 11. State and Local PCFRO Proceeds and Costs
695:10-11-2. [AMENDED]
Subchapter 13. Notices, Complaints, Appeals and Hearings
695:10-13-3. [AMENDED]

DATES:

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[OAR Docket #04-1553; filed 12-15-04]

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 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 75. CHILD WELFARE

[OAR Docket #04-1542]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. General Provisions

Part 1. Scope and Applicability

340:75-1-18.1. [AMENDED]

340:75-1-20. [AMENDED]

340:75-1-22. [AMENDED]

Subchapter 6. Permanency Planning

Part 1. General Provisions

340:75-6-4. [AMENDED]

Part 5. Permanency Planning Services

340:75-6-31. [AMENDED]

340:75-6-31.3. [AMENDED]

(Reference APA WF 04-18)

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; House Bill (HB) 2528; and Senate Bill (SB) 1340.

DATES:

Adoption:

October 26, 2004

Approved by Governor:

December 7, 2004

Effective:

Upon Governor's approval.

Expiration:

Effective through July 14, 2005, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Emergency rulemaking approval is requested as the Oklahoma Department of Human Services (OKDHS) finds there is compelling public interest to promote and preserve the health, safety, and welfare of children and families served by the Child Welfare (CW) system and comply with state laws as amended by the 49th Legislature and approved by the Governor. HB 2528 and SB 1340 mandate these changes effective July 1, 2004, and November 1, 2004, respectively.

ANALYSIS:

The proposed revisions to Subchapters 1 and 6 of Chapter 75 reflect modifications to: (1) the definition of residual parental rights and responsibilities pursuant to House HB 2528 that became effective July 1, 2004; and (2) supervision and permanency hearing considerations for children, as a result of SB 1340 that becomes effective November 1, 2004.

340:75-1-18.1 is amended to reflect the elimination of: (1) required permanency hearings at different intervals contingent upon the child's age, thus setting time frames based on the child's date of placement in out-of-home care and when reasonable efforts are not required; and (2) the permanency meeting

prior to a permanency hearing, without compromising contact with interested persons when preparing the court report.

340:75-1-20 is amended to specify that a review hearing may be held concurrently with a permanency hearing.

340:75-1-22 and 340:75-6-31 are amended to eliminate a repealed section of law referenced for permanency hearings.

340:75-6-4 is amended based on statutory changes made pursuant to HB 2528 that refines the definition of residual parental rights to specify that these rights do not include the right to consent to the marriage of a minor, per Section 3 of Title 43 of the Oklahoma Statutes, as well as eliminate definitions that are currently referenced elsewhere in OKDHS rules.

340:75-6-31.3 is amended based on statutory changes pursuant to SB 1340 that requires every child returned to a person named in a deprived petition be supervised for six months prior to case dismissal; however, the court may increase or decrease the duration of supervision.

CONTACT PERSON:

Dena Thayer, Oklahoma Department of Human Services, 405-521-4326.

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

SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. SCOPE AND APPLICABILITY

340:75-1-18.1. Permanency hearings

(a) **Permanency hearing.** ~~Oklahoma statutes comply with federal regulations~~ State and federal law set out certain requirements for permanency hearings. ~~The responsibility for conducting~~ As with most other hearings, the judge conducts the permanency hearing resides with the court and makes certain determinations, per Section 7003-5.6d of Title 10 of the Oklahoma Statutes. ~~The Oklahoma Department of Human Services (OKDHS) Child Welfare (CW) workers are responsible for providing the court with the necessary information to conduct the hearing. Permanency hearings are held for every case regarding a child alleged or adjudicated deprived no later than:~~

- (1) six months from the date of the child's placement in out-of-home care ~~for a child who, on the date of initial removal from the physical custody of the parent(s), was younger than three years, and at least every 12~~ six months thereafter; and

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(2) ~~12 months from the date of the child's placement in out-of-home care for a child who, on the date of initial removal from the physical custody of the parent(s), was three years or older, and at least every 12 months thereafter; or~~

~~(32) 30 days after a determination that reasonable efforts are not required and at least every 12 six months thereafter.~~

(b) **Permanency meeting report.**

~~(1) At least three weeks prior Prior to a permanency hearing, the CW worker arranges for a meeting to prepare prepares a report regarding the child for the court's review. This does not apply to 30 day permanency hearings scheduled when the court makes a finding that reasonable efforts are not required. by contacting:~~

- ~~(A) the child's current foster parent;~~
- ~~(B) the parent(s) or parent(s)' attorney;~~
- ~~(C) a post adjudication review board (PARB) member;~~
- ~~(D) the child's guardian ad litem, if applicable; and~~
- ~~(E) the child's attorney.~~

~~(2) Information gathered from these persons is used by the CW worker to assist in the preparation of Form CWS-KIDS-11, Court Report, or CWS-KIDS-25, Individualized Service Plan (ISP) Progress Report, as applicable. The applicable court report includes, at a minimum, the:~~

- ~~(A) efforts and progress demonstrated by the child's parent(s) to complete an individual treatment and service plan;~~
- ~~(B) extent to which the parent(s) or legal guardian cooperated and used the services provided;~~
- ~~(C) status of the child, including the child's mental, physical, and emotional health; and~~
- ~~(D) permanency plan for the child.~~

(c) **Notification of hearing and opportunity to be heard.**

Prior written notice of the hearing, Form DCFS-83, Hearing Notification, is provided by OKDHS to the ~~present~~ current foster parent of the child, any pre-adoptive parent or relative ~~earing~~ providing care for the child, and the child's guardian ad litem. An opportunity to be heard is provided by the court. Such notice and opportunity to be heard is not construed as requiring any foster parent, pre-adoptive parent, or relative to be made a party to such action.

340:75-1-20. Six-month judicial review

(a) **Review requirements.** ~~There must be a review of every case regarding an alleged or adjudicated deprived child. Section 7003-5.6 of Title 10 of the Oklahoma Statutes requires that a the court review hearing be held every case regarding a child alleged or adjudicated deprived no later than six months after the date of the child's out-of-home placement and at least once every six months thereafter until such time as the child is returned to the custody of the parent(s), legal guardian(s) guardian, or eustodian(s) legal custodian and the conditions which that caused the child to be adjudicated deprived have been corrected, permanent care and custody has been awarded to a suitable eustodian(s) custodian or kinship guardian(s) guardian, or the parent(s)' rights have been terminated and final adoption decreed.~~

(1) A child is considered to have entered out-of-home placement the earlier of:

- (A) the date of adjudication; or
- (B) 60 days after the child's removal from the home.

(2) ~~This~~ The six-month judicial review requirement applies to a child who was removed from and returned to the home of the lawful parent(s), legal guardian(s) guardian, or eustodian(s) of the child after the child has been returned to that home legal custodian until such time as the court orders the case closed dismissed.

(3) A review hearing may be held concurrently with a permanency hearing.

(+b) **Judicial review report.** ~~The report is prepared by the legal eustodian(s) custodian of the child prepares the report for the court. When the Oklahoma Department of Human Services (DHS) has (OKDHS) prepares the report when OKDHS has court-ordered supervision of the child, DHS is responsible for preparing the report.~~

(1) The report includes:

- (A) a summary of the parent(s)' current situation;
- (B) the child's physical, mental, and emotional condition of the child;
- (C) the conditions existing in the child's home or institution where the child has been placed, out-of-home placement and the child's adjustment;
- (D) a report on the child's progress in school; and
- (E) visitation exercised by the child's parent(s) or other persons authorized by the court;
- (F) For youth 16 years or older the if applicable, independent living services that have been provided to a youth, 16 years of age or older, since the last court hearing or court review must be addressed; and
- (G) When DHS when OKDHS is the legal custodian of the child, the report includes any efforts on the part of by the parent(s) to correct the conditions which that caused the child to be adjudicated deprived.

(2) The court's determination, in part, is based upon the report; therefore, it that must specifically address, recommend, and provide reasons, whether:

(A) the child should be returned to the child's parent(s) or placed with willing and suitable kinship relations; Before a return to the child's parent(s) is ordered, the court must find the parties have:

- (i) complied with, performed, and completed the terms and conditions of the court-ordered individual treatment and service plan that are essential and fundamental to the child's health, safety, or welfare as determined by the court;
- (ii) corrected conditions that caused the child to be adjudicated and that the court determines essential and fundamental to the child's health, safety, or welfare;
- (iii) made marked progress towards reunification with the child; and
- (iv) maintained a close and positive relationship with the child;

- (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(s) guardian or custodian(s) custodian, or placed for adoption, or other permanent arrangement;
- (C) the rights of the child's parent(s) of the child should be terminated and the child placed for adoption, placed with a guardian(s) guardian or custodian(s) custodian, 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 child's 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 when 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 applicable, the child is youth, 16 years of age or older, receives appropriate services are being provided that will assist the child in making the transition from out-of-home care to independent living;
- (H) the nature and extent of the services being provided to the child and parent(s) 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 child's best interests of the child and necessary for the correction of the conditions that led to the child's adjudication of the child.

(2c) **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 and service plan. The court receives reviews all evidence helpful in determining the issues before the court, that assists in decision-making 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 presented by CW and others involved in the case.

(3d) **Notice of hearing.** Written OKDHS provides written notice of review hearings via Form DCFS-83, Hearing Notification, to the pre-adoptive preadoptive parent(s), relative(s) relative, and current foster parent(s) is the responsibility of

DHS parent. The court provides the opportunity to be heard is provided by the court to each party, including the current foster parent(s) parent of the child, any pre-adoptive preadoptive parent(s) parent or relative(s) relative providing for the care of for the child, and the child's 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.

340:75-1-22. Administrative review and procedures

(a) **Administrative review.** Title IV of the Social Security Act requires that a case review, either judicial or administrative, occur at least each six months following the date of placement for each child in out-of-home care. An administrative review may not substitute for the statutorily required hearings. An administrative review is held when a case involving a child placed in out-of-home care, or a youth age 18 to 21 in voluntary placement with the Oklahoma Department of Human Services (OKDHS) is not reviewed after a six-month interval by the court of jurisdiction or the post adjudication review board (PARB). Child Welfare staff is responsible for providing an administrative review in these situations. The parent(s) and child, if of appropriate age or ability, are given the opportunity to participate in the review.

(b) **Case review system.** Section 475(6) of the Social Security Act defines the administrative review as ... *a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.* The case review system ensures:

- (1) each child adjudicated deprived in OKDHS custody living in out-of-home placement has a case plan designed to achieve placement in a safe setting that is least restrictive, in close proximity to the parent(s)' home, and is consistent with the child's best interests and special needs of the child;
- (2) the child's status is reviewed at least each six months by either a court or administrative review to determine:
 - (A) the safety of the child;
 - (B) the continuing need for and appropriateness of the placement;
 - (C) the extent of progress made on the case plan toward alleviating the conditions that caused the child's placement of the child in out-of-home care; and
 - (D) a likely date that the child can be returned home or will obtain permanency through adoption, guardianship, or other placement, as applicable; and
- (3) procedural safeguards, such as a permanency hearing, are made available to the child and family, as required by Sections Section 7003-5.6d and 7003-5.6g of Title 10 of the Oklahoma Statutes, per OAC 340:75-1-18.1.

SUBCHAPTER 6. PERMANENCY PLANNING

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PART 1. GENERAL PROVISIONS

340:75-6-4. Definitions

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

"Alternate permanent plan" means a permanent ~~home~~ living arrangement for a custody child in Oklahoma Department of Human Services (OKDHS) custody, other than reunification with the ~~parents~~ parent(s), and requires an assessment of the child's needs and a treatment and service plan that addresses the child's permanent plan, ~~per OAC 340:75-6-31~~.

"Case plan" means the overall plan for the placement of the child and ~~the treatment for needs of~~ the child and the child's family, ~~per OAC 340:75-6-40~~.

"Child Advocacy Center" means an entity that is an associate or full member in good standing of the National Children's Alliance.

"Client resolution process" means a procedure which ~~allows parents to be heard regarding provision of specified services.~~ [OAC 340:75-1-12.1]

"Close proximity" means placement of a ~~custody~~ child in OKDHS custody in the nearest geographical location to the child's own home ~~which that~~ will meet the child's needs.

"Concurrent planning" means the provision of reunification services while simultaneously developing an alternative plan, in case reunification efforts fail or are no longer feasible.

"Foster family home" means ~~the private residence of a family which provides foster care services to a child. This term includes non-kinship family homes, specialized foster homes, therapeutic foster homes, the home of a relative or other kinship care homes.~~

"Independent Living Program program" means a program specifically designed to assist a ~~DHS custody~~ child in the custody of OKDHS or an Indian tribe in developing and enhancing the skills and abilities necessary for successful adult living, ~~Refer to Independent Living rules in per Part 13 of OAC 340:75-6, Part 13.~~

"Indian child" means ~~an unmarried person who is under 18 years of age and either a member of or eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe. Information regarding the status of a child believed to be an Indian child is obtained from the child's tribe.~~

"Kinship care" means full-time care of a child by a kinship relation.

"Kinship guardian" means a judicially created relationship between a child and a kinship relation of the child.

"Kinship relation" or "kinship relationship" means relatives, stepparents, or other adults who have a bond or tie with the child and to whom have been ascribed a family relationship role with the child's ~~parents~~ parent(s) and the child.

"Least restrictive" means the placement of a ~~custody~~ child in OKDHS custody in the most home-like situation that meets the child's needs, ~~per OAC 340:75-6-85(j)~~.

"Movement" means ~~the changing of a custody~~ child in OKDHS custody from one living arrangement to another.

"Multidisciplinary team" means any team of three or more persons involved in the provision of services, ~~or~~ treatment, or both, to a child and the child's family and who meet to assess the progress on the treatment planning and service plan.

"Out-of-home placement" means a living arrangement for a child ~~that is~~ other than the home of the child's parent parent(s), legal guardian, or legal custodian from whose custody the court has removed the child.

"Parental substitute authority" means ~~the ability of a foster parent to integrate the foster child into the family setting and to care for the foster child as the foster parent would the foster parent's own child.~~

"Putative father" means the father of a minor child born out of wedlock or a minor child whose mother was married to another person at the time of the child's birth ~~of the minor~~, or within the ten months prior to the birth of the minor child and includes, but is not limited to:

(A) a man who has acknowledged or claims paternity of a minor child;

(B) a man named by the child's mother ~~of the minor to be as~~ the father of the minor child; or

(C) any man who is alleged to have engaged in sexual intercourse with a woman during a possible time of conception. ~~[OAC 340:75-15-7]~~

"Reasonable efforts" means the reasonable exercise of diligence and care, with regard to a child who is in out-of-home placement or who is at imminent risk of being harmed harm, to:

(A) refer to, arrange for, or develop reasonable supportive and rehabilitative services for the child's family ~~of such child~~ that are required both to prevent unnecessary placement of the child outside of the child's home and to foster, whenever appropriate, the safe reunification of the child with the child's own family; or

(B) place a child who cannot ~~be returned~~ return home into a permanent placement.

"Residual parental rights" means those rights and responsibilities that remain with a parent after a transfer of legal custody of the child to another, other than in connection with an action for termination of parental rights, a relinquishment of parental rights, a consent to termination of parental rights, or an adoption, ~~or when a guardianship or kinship guardianship is established, for example:~~ Residual parental rights:

(A) include, but are not limited to, the:

(i) right of visitation with the child;

(ii) ~~the~~ right to determine the child's religious faith ~~of the child~~;

(iii) right to consent to the child's adoption;

(iv) ~~the~~ duty to support the child and pay for the child's medical care;

(v) right to consent to termination of parental rights; and

(vi) ~~the~~ right to permanently relinquish parental rights; and

(B) do not include the right to consent to the marriage of any child who is in OKDHS custody.

"Reunification" means a permanent plan for the child that involves the return of the child to ~~his or her own home~~ any person who retains parental or legal rights to the child

after removal for ~~reasons of child abuse, and neglect, or both, regardless of the custody arrangement prior to the child entering out-of-home care, [per OAC 340:75-6-31].~~

"Risk" means the conditions in the child's home that put the child in danger of abuse, ~~or neglect, or both.~~

PART 5. PERMANENCY PLANNING SERVICES

340:75-6-31. Permanency planning for custody children

(a) **Permanency planning.** Permanency planning begins immediately after a child is placed in ~~the~~ Oklahoma Department of Human Services (OKDHS) custody and continues until the child is living in a permanent home and the Child Welfare (CW) case is closed. Once a child is removed from the custody of the child's parent(s), OKDHS immediately begins concurrent permanency planning so that permanency occurs at the earliest opportunity. ~~Careful planning and consideration~~ Careful planning and consideration of the initial placement is given so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child. The first permanency hearing is held as required by ~~Sections Section~~ Section 7003-5.6d and ~~7003-5.6g~~ of Title 10 of the Oklahoma Statutes, and in accordance with OAC 340:75-1-18.1.

- (1) The permanency plan ~~goal~~ preferences are to:
 - (A) reunite the child with ~~his or her~~ the child's family;
 - (B) terminate parental rights and place the child for adoption;
 - (C) establish guardianship; or
 - (D) provide a planned alternative permanent placement.

(2) The purpose of permanency planning is to ensure that every child who enters the CW system has a plan that addresses the child's immediate and long-term needs for safety, well-being, and permanence.

(3) CW staff are required to be diligent in the development and implementation of a permanency plan. The CW worker informs the parent(s) of all of the alternatives from the outset to assist in choosing what is best for the child and parent(s).

(b) **Sources for determining the child's permanent plan.** Sources that assist the CW worker and supervisor in determining the best permanency plan for the child are:

- (1) Form CWS-KIDS-10, Treatment Plan, or Form CWS-KIDS-2425, Individualized Service Plan (ISP) Progress Report, containing current documentation of the parent(s)' progress, correspondence, consultations, or conferences with service and placement providers and professionals who interact with the child and ~~the~~ parent(s);
- (2) ~~the~~ KIDS Contacts and Visits screens, containing pertinent information gained from visits and CW worker contacts with the child, parent(s), placement provider, and service providers;
- (3) statements by the parent(s) that indicate the parent(s)' perceptions of:
 - (A) the child;

- (B) parenting the child; and
- (C) ~~the~~ abuse and neglect issues that required corrections;

(4) statements by the child, obtained from the CW worker's monthly visitation with the child, placement provider, and service providers, regarding the parent(s)' and ~~the~~ child's desire to reunite, ~~that are obtained from the CW worker's monthly visitation with the child, placement provider, and service providers;~~

- (5) staffing with the CW supervisor;
- (6) recommendations by the post adjudication review board (PARB);
- (7) conclusions or recommendations by a multidisciplinary staffing;
- (8) consultation with ~~the~~ Children and Family Services Division (CFSD); Adoption Section;
- (9) the permanency planning review process, per OAC 340:75-6-31.1; and
- (10) coordination with tribal officials, for a child who falls under the Indian Child Welfare Act, to explore the tribe's interest and ability in providing for the child's permanent placement.

(c) **Reunification.** In most situations, the initial permanency plan ~~case goal~~ is to reunite the child with the family. These services are implemented until:

- (1) the child is returned home, the family home has stabilized, and the court case is dismissed; or
- (2) it is determined that the conditions that necessitated intervention have not been corrected even though sufficient time and services have been provided.

(d) **Exceptions to reunification as the initial ease permanency plan goal.** Situations that require an alternative permanent plan to reunification as the initial ease permanency plan goal include:

- (1) voluntary relinquishment of parental rights by all parents, natural, legal, putative, and alleged;
- (2) a Petition for Termination of parental rights is filed ~~on the parent(s), legal guardian, or custodian;~~ or
- (3) the court finds that reasonable efforts to reunite are not required, per OAC 340:75-1-18.4.

(e) **Reunification services.** Prior to reunification with a parent(s) who has contributed to the abuse, ~~or neglect, or both,~~ of the child, a court order granting approval is required. In preparation for reunification and to provide to the court for consideration, the CW worker ensures the activities in (1) through (7) occur.

- (1) Visitation is increased in frequency and duration with reduced supervision as described in OAC 340:75-6-30.
- (2) The age appropriate child is made aware that the parent(s) has progressed in treatment to the point that reunification may occur, with the court's approval.
- (3) Any issues involving the child's apprehensions, indecisiveness, or reluctance to return home are managed through family consultation, counseling, or both.
- (4) Support services are utilized, including, but not limited to:
 - (A) temporary child care;

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- (B) ~~assistance in contacting~~ community service providers;
- (C) ~~in-home services; or~~ and
- (D) continued Temporary Assistance for Needy Families (TANF) eligibility, if applicable, per OAC 340:75-6-31.2.
- (5) The placement provider is informed of the possibility of reunification and is included in and provided with information regarding the child for permanency planning.
- (6) ~~Service providers present supporting~~ Supporting information about the degree of safety in the family is provided to the CW worker by service providers.
- (7) The case is staffed with the CW supervisor and the requirements for the permanency planning review process are met, per OAC 340:75-6-31.1.
- (f) **Criteria for reunification.** Indications for reunification are listed in (1) through (6).
- (1) The risk that necessitated the intervention is minimized and a plan is in place to address the child's safety.
- (2) The parent(s) has complied with the treatment and service plan in such a manner that those ~~adjudication~~ conditions the court determines essential and fundamental to the child's health, safety, and welfare are met.
- (3) Visitation is successful and has increased in length and frequency.
- (4) The child has dealt with the feelings about the separation through counseling or some other effective means.
- (5) The child is prepared for the reunion and received support in handling his or her feelings about returning home and separating from the current placement.
- (6) The court gives prior approval of the return of the child to the parent(s)' home in accordance with OAC 340:75-6-31(e).
- (g) **Reunification with the custodial parent.** When the child's parents do not live together, the priority for reunification relates primarily to the custodial parent; however, the non-custodial parent is assessed for the possibility of placement or custody, if appropriate, per OAC 340:75-1-13. Prior to ~~closure~~ dismissal of the court case, modification of ~~the a~~ divorce decree or ~~any~~ other custody order may be necessary if the noncustodial parent who had custody prior to CW involvement is no longer the custodial granted placement or custody of the child during the deprived case and the plan is for custody with the noncustodial parent after dismissal.
- (h) **Indicators to proceed with concurrent permanency plan.** The conditions in (1) through (8) may be indicators of the need to expedite the concurrent permanency plan for the child.
- (1) Completion of the treatment and service plan is irregular or sporadic, and has not eliminated the risk to the child's safety in the home, which may indicate a lack of interest in or commitment to reunification.
- (2) Family visitation indicates the parent(s):
- (A) lacks a close and positive relationship with the child;
- (B) visits irregularly;
- (C) frequently misses scheduled visits; or
- (D) arrives late and leaves early.
- (3) Indications of maltreatment are reported during unsupervised visitations. Examples of maltreatment include, but are not limited to, referrals regarding the reoccurrence of abuse or failure of the parent(s) to comply with any recommended treatment for the child.
- (4) The child was returned to the home and removed again for safety reasons.
- (5) The parent(s) receives negative reports from service providers or other entities, such as permanency planning review members, PARB members, and ~~the~~ court-appointed special advocate (CASA).
- (6) The length of time reunification has been the case plan goal, per OAC 340:75-6-47(c)(18).
- (7) The finding of the permanency hearing.
- (8) A judicial finding that reasonable efforts to reunite are not required.
- (i) **Adoption.** When a child cannot return safely to his or her own home, adoption is the preferred permanency plan in ~~essentially every case~~ most cases. Adoption is usually possible regardless of the child's age or special needs. Adoption provides a child with a lifelong, committed family, a permanent home, connection, belonging, and identity, and the same legal status ~~he or she would have as~~ with a biological family. Consultation about adoptive placement for the child is initiated with the ~~county's~~ adoption specialist to discuss permanency planning options when reunification appears no longer feasible. This consultation is held regardless whether termination of parental rights was recommended to the court.
- (j) **Legal guardianship or permanent custodian.** A guardianship or permanent care and custody transferred to another person or kinship guardian may be the permanency plan for a child, per OAC 340:75-1-18.2 and 340:75-1-18.3, when a child is placed with a person who is reluctant to adopt due to extenuating circumstances. Guardianship or a permanent custodian is not preferred over adoption because this option does not provide the same level of family permanency. Subject to the availability of funds, financial assistance is available to the legal guardian or legal custodian, provided the eligibility requirements are met, per OAC 340:75-6-31.4.
- (k) **Planned alternative permanent placement.** A plan for planned alternative permanent placement may be appropriate for a child when OKDHS documents a compelling reason for the court to determine that to return home, be placed for adoption, or guardianship is not in the child's best interests of the child. Long-term out-of-home care does not always provide a child with the emotional and physical support or life-long family attachments and is only an option when:
- (1) all other permanency plans have been explored and are not feasible or in the child's best interests; or
- (2) the child chooses not to be adopted after adoption has been thoroughly explored, explained, and the opportunities demonstrated.
- (l) **Emancipation.** The federal definition of emancipation is the age at which the child reaches ~~the age of~~ majority. In Oklahoma this age is 18.

340:75-6-31.3. Court supervision of cases after reunification - Aftercare

To further protect children, Section 7003-5.5(a) of Title 10 of the Oklahoma Statutes provides ~~that once any every child of a family who has been returned to a person named in a deprived petition, supervision shall be supervised for a period of six months prior to dismissal of the case, provided, the court continues for a minimum of 12 months, subject to the availability of funds may increase or decrease the duration of such supervision as the best interests of the child may require.~~ Oklahoma Department of Human Services (OKDHS) supervises for six months, and, if conditions in the home appear stable, the CW worker recommends OKDHS be relieved of legal custody, supervision, or both.

[OAR Docket #04-1542; filed 12-13-04]

**TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY
CHAPTER 12. UNUSED PRESCRIPTION DRUG PROGRAM FOR OKLAHOMA'S MEDICALLY INDIGENT**

[OAR Docket #04-1602]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- 535:12-1-1. [NEW]
- 535:12-1-2. [NEW]
- 535:12-1-3. [NEW]
- 535:12-1-4. [NEW]
- 535:12-1-5. [NEW]
- 535:12-1-6. [NEW]
- 535:12-1-7. [NEW]
- 535:12-1-8. [NEW]
- 535:12-1-9. [NEW]
- 535:12-1-10. [NEW]
- 535:12-1-11. [NEW]
- 535:12-1-12 [NEW]

AUTHORITY:

Oklahoma State Board of Pharmacy is the regulatory authority under Title 59 O.S., Sec. 363.1 through 363.7.

DATES:

Adoption:

November 30, 2004

Approved by Governor:

December 7, 2004

Effective:

January 1, 2005

Expiration:

Effective through July 14, 2005, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTION:

n/a

INCORPORATED BY REFERENCE:

n/a

FINDING OF EMERGENCY:

House Bill 1866, effective 6-04-2004, requires the Oklahoma State Board of Pharmacy to promulgate rules to implement the Utilization of Unused Prescription Medications Act by December 1, 2004. Since the Legislature is not in session there would be no way to promulgate permanent rules by the legislated deadline.

ANALYSIS:

These rules establish emergency rules required by HB1866 to implement the Utilization of Unused Prescription Medications Act. They include the purpose of the rules, definitions, eligibility to donate, and consultant

pharmacist requirements for eligible nursing homes or approved assisted living centers who donate unused prescription medications.

These rules describe the eligible prescriptions drugs (formulary), eligible recipients of donated unused prescription drugs, and protections for participants in the program. These rules describe eligibility / requirements for pharmacies accepting and dispensing such prescription medications. They describe the responsibilities of the pharmacist manager of eligible licensed pharmacies participating in this program.

These rules describe labeling of dispensed drugs under this program and they describe violations of this program.

CONTACT PERSON:

Bryan Potter, Executive Director, Oklahoma State Board of Pharmacy, 4545 N Lincoln, Suite 112, Oklahoma City, OK 73105-3488, Phone: 405-521-3815, e-mail: pharmacy@osbp.state.ok.us.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S. SECTION 253(D), WITH A LATER EFFECTIVE DATE OF JANUARY 1, 2005:

535:12-1-1. Purpose

(a) The rules of this Chapter describe a statewide program to take unused prescription drugs from nursing homes, assisted living centers; and donated drugs from pharmaceutical manufacturers and utilize them for dispensing to medically indigent Oklahoma residents as authorized under Title 59 O.S. Section 367.1 through 367.7, et seq., the Utilization of Unused Prescription Medication Act.

(b) The rules of this Chapter describe the eligibility to donate. They describe the eligible prescription drug formulary, the eligible recipients, and the protections for participants. They describe pharmacies eligible to accept and dispense such drugs, the requirements for eligible pharmacies, and the responsibilities for pharmacist managers.

(c) The rules of this Chapter describe safe handling of medications to protect drug integrity, tracking, sanitation, security and dispensing requirements for these unused prescription drugs. The rules of this Subchapter describe confidentiality requirements as well as violations.

535:12-1-2. Definitions

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

"Assisted living center" means assisted living center as defined in Title 59 O.S. Section 367.2.

"Cancer drugs" means cancer drugs as defined in Title 59 O.S. Section 367.2.

"Charitable Clinic" means charitable clinic as defined in Title 59 O.S. Section 367.2.

"Eligible Pharmacy" means a pharmacy eligible to participate in the unused prescription drug program and includes those pharmacies operated by the following:

(A) A County in Oklahoma;

(B) A City-County Health Department in Oklahoma;

(C) A firm under contract with a City County Health Department in Oklahoma;

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- (D) A Charitable Clinic; or
- (E) The Oklahoma Department of Mental Health and Substance Abuse Services.

"Health care professional" means health care professional as defined in Title 59 O.S. Section 367.2.

"Manifest" means an invoice used to list drugs being transferred or destroyed.

"Medically indigent" means medically indigent as defined in Title 59 O.S. Section 367.2

"Prescription drug" means prescription drug as defined in Title 59 O.S. Section 367.2.

535:12-1-3. Eligibility to donate prescription drugs

(a) Oklahoma licensed Nursing homes, and approved Oklahoma licensed Assisted Living Centers (ALC) may donate eligible unused prescription drugs.

(1) Oklahoma Nursing Homes are eligible to participate if they are licensed and in good standing with the Oklahoma State Department of Health (OSDH) and are meeting OSDH drug handling standards:

(A) The OSDH will be consulted regarding rules for Nursing Homes' participation in this program;

(B) The OSDH sets requirements under which nursing homes shall maintain prescription drugs. Such rules establish security, sanitation and control;

(C) Licensed healthcare personnel shall have kept control of such unused prescription drugs in sanitary and secure conditions as required under OSDH rules for Nursing Homes; and

(D) Such unused prescription drugs kept to these standards shall be eligible for donation.

(2) Approved licensed ALC eligibility requirements for participating in donation of unused prescription drugs under the provisions of this Subchapter:

(A) An application for participation shall be completed by the consultant pharmacist of the ALC and submitted to the Board.

(B) Only those ALC's that maintain prescription drugs under the control of licensed healthcare professionals in sanitary and secure conditions in a manner similar to the OSDH rules for nursing home drug control may be approved.

(C) Such application must show adequate controls exist in ordering, storage, security, etc.

(D) Application must be reviewed and approved by OSBP with the advice of the Oklahoma State Health Department.

(b) A licensed prescription drug manufacturer may donate samples or eligible prescription drugs to eligible pharmacies in this program.

(1) Manufacturer's patient assistance program (PAP) prescriptions that are not claimed in a reasonable length of time or abandoned by the patient may be used for another medically indigent patient.

(2) A patient specific stock bottle sent by a drug manufacturer and not claimed in a reasonable length of time or abandoned by the patient may be used for another medically indigent patient.

(c) A prescription is the property of the patient for whom it is prescribed regardless of who paid for the prescription as described in 59 O.S. Section 354. The patient or agent of the patient must authorize the donation of the unused prescription drugs, unless the:

(1) Patient has died; or,

(2) Drug has been discontinued as described in OSDH nursing home rules.

(d) Prescription medications donated under this Subchapter shall only be transferred to eligible pharmacies.

(e) Prescription medications donated under this Subchapter shall not be sold, resold, offered for sale nor traded, except the transfer as allowed in 535:12-1-9 (d) between eligible pharmacies.

(f) Violations of the unused prescription drug program are described in 535:12-1-12.

535:12-1-4. Consultant pharmacist responsibilities in eligible nursing homes or approved assisted living centers (ALC) participating in the program

(a) All donating nursing homes or approved ALC's must have a consultant pharmacist.

(b) Consultant pharmacists for the nursing home or the ALC eligible to donate unused prescription drugs shall be responsible to:

(1) Determine quality and suitability of the unused prescription drugs for reuse by assuring:

(A) Drugs have been kept under control of a health care professional

(B) Drugs have been stored properly (e.g. heat, cold, moisture),

(C) Drugs can be identified, and

(D) Drugs are not adulterated, mutilated, etc.

(2) Determine that the expiration date exceeds 45 days to allow time for re-distribution;

(3) Determine if it is cost effective to transfer such drugs to an eligible pharmacy;

(4) Assure manifest is properly filled out with the following:

(A) Names of Consultant Pharmacist and Director of Nursing (D.O.N.) or designee, the nursing home and the name of the receiving pharmacy;

(B) Name and strength of the eligible prescription drug (EPD);

(C) Expiration date of the EPD;

(D) Number of tablets or capsules or volume if liquid or injectable; and

(5) A copy of this manifest shall be provided to the pharmacy and a copy shall be maintained by the nursing home or ALC for two years;

(6) Assure controlled dangerous substances (CDS), also know as Scheduled drugs, are not transferred but handled as required under state and federal law;

(7) Assure that the selected pharmacy is eligible to receive unused prescription medications under these rules; and,

(8) Notify the eligible pharmacy when the drugs are ready to be picked up. The transportation of the unused drugs shall be the responsibility of the eligible receiving pharmacy. Such eligible pharmacy shall pick up donated drugs in an expedient manner.

(c) The consultant pharmacist and Director of Nursing [D.O.N.] (or designee) of the Nursing Home will initiate a manifest of the unused prescription drugs to be sent to the eligible pharmacy as described in (b)(4) and (5) above. They will be responsible for determining that the patient has authorized the donation of the drugs.

(d) The consultant pharmacist and the D.O.N. shall assure the name of the patient, name of the pharmacy, and directions on the label will be redacted with black ink or removed before sending to the eligible receiving pharmacy to protect confidentiality.

535:12-1-5. Eligible prescription drugs, formulary

(a) All FDA approved prescription drugs excluding any controlled dangerous substances (e.g. Prescription drugs found in Schedule I, II, III, IV, or V) subject to the following:

- (1) Only eligible prescription drugs in original sealed unit dose or unused injectables;
- (2) Packaging must be unopened;
- (3) No expired drugs;
- (4) No lost identity or unknown drugs;
- (5) No adulterated drugs; and,
- (6) No drugs held outside of licensed healthcare person's control where sanitation and security can not be assured.

(b) Compounded drugs shall not be eligible for transfer.

(c) Cancer Drugs as approved by the Board and American Cancer Society representatives.

- (1) Such cancer drugs shall be in manufacturer's unit dose packaging.
- (2) Receiving pharmacy must have the capacity to safely handle cancer drugs.

(d) Licensed prescription drug manufacturers may donate eligible prescription drugs.

535:12-1-6. Eligible recipients of unused prescription drugs

(a) Oklahoma medically indigent residents are entitled to receive dispensed unused prescription drugs as described in this subchapter.

(b) This program is to provide medications to needy Oklahomans. OAC 535:12-1-12 discusses possible action for abuse and violations.

535:12-1-7. Protection for participants in the unused prescription drug program

Title 59 O.S. Section 367.6 describes protection for donors and participants in the unused prescription drug program under this act.

535:12-1-8. Pharmacies eligible to accept and dispense unused prescription medications

(a) The following Oklahoma licensed pharmacies may accept unused prescription drugs as described in 535:12-1-4 for dispensing under this act, when operated by:

- (1) a County in Oklahoma;
- (2) a City-County Health Department in Oklahoma;
- (3) a firm under contract with a City County Health Department in Oklahoma;
- (4) a Charitable Clinic; or
- (5) The Oklahoma Department of Mental Health and Substance Abuse Services

(b) All eligible pharmacies prior to beginning or terminating participation shall send written notice to the Board. A list of these eligible pharmacies will be posted on the Board web-site.

(c) The Board will request input and consult with the Oklahoma State Health Department regarding rules for City-County Health Department pharmacies.

(d) The Board will request input and consult with the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) regarding rules for ODMHSAS pharmacies.

535:12-1-9. Requirements for Pharmacies dispensing unused prescription drugs

(a) The following are requirements for eligible Oklahoma licensed eligible pharmacies dispensing unused prescription drugs:

- (1) Maintain a current drug identification book, or may have a current computer program or online service for the same;
- (2) Dispense unused prescription drugs only upon the valid prescription of an Oklahoma licensed health care practitioner;
- (3) Properly label all dispensed unused prescription drugs;
- (4) Comply with all federal and state law and rules regarding storage and distribution of prescription drugs;
- (5) Inspect all prescription drugs prior to dispensing to determine that the donated drugs shall meet all federal and state requirements for product integrity;
- (6) Unused prescription drugs, prescription drug manufacturer's drug samples and donated manufacturers drug stock obtained or donated under this Subchapter shall not be resold, except transfers as allowed in 535:12-1-9 (d) between licensed eligible pharmacies.

(b) If it is determined by the pharmacist's professional judgment that it would be best for the patient, the drugs can be removed from bingo cards (unit dose packaging [UDP]) and placed in a proper vial for dispensing. If the bingo card is relabeled and used the pharmacist must ensure that the patient is made aware that the medication is not in a child resistant container.

- (1) See expiration dating requirements in labeling 535:12-1-11.

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- (2) The removal of the medication from the bingo card (UDP) may only be done by the dispensing pharmacy's licensed pharmacist or permitted pharmacy technician.
- (3) Samples must remain in original package as required under federal law, and cannot be removed from original packaging for dispensing.
- (c) Eligible Oklahoma licensed charitable pharmacies may establish the following policy and procedures for dispensing of unused prescription drugs to the medically indigent.
- (1) May limit the number of prescriptions per patient per visit or per month, to allow a greater number of individuals access to such prescription drugs.
- (2) When established, this should be a written policy that is enforced equally to prevent discrimination.
- (d) Eligible Pharmacies (EP) may transfer unused prescription drugs to another pharmacy in the program when one EP has the need for a drug and another EP has it available.
- (1) A manifest will be prepared by the transferring pharmacy and kept on file for two (2) years.
- (2) A copy of the manifest will be sent with the transferred drugs and kept on file in the receiving pharmacy for two (2) years.
- (e) The Board will request input from the Oklahoma Department of Mental Health and Substance Abuse Services regarding rules for their eligible pharmacies.
- (f) The Board will request input from the Oklahoma Department of Health regarding rules for their eligible pharmacies.

535:12-1-10. Responsibilities of pharmacist manager of eligible licensed pharmacies

- (a) The pharmacist manager of eligible licensed pharmacies shall be responsible for the following:
- (1) Coordinate retrieval of donated unused prescription drugs from nursing homes and eligible ALC. Such retrieval shall be in an expedient manner;
- (2) Check unused prescription drugs (UPD) against the manifest and resolve any discrepancy;
- (3) Store and secure these UPD as required under state and federal law and rules;
- (4) Check the unused prescription drugs for adulteration;
- (5) Assure expired, adulterated, lost identity drugs are not dispensed;
- (6) Assure such unacceptable drugs are not put in dispensing stock. Destroy such unacceptable drugs within 14 days as described in 535:12-1-10 (a) (8).
- (7) Assure safety in drug recalls. If a drug is recalled and the eligible pharmacy does not have the lot number on the label to differentiate between the recall and non-recalled, all such donated recalled drug shall be destroyed.
- (8) Assure destruction of expired, adulterated, and/or recalled unused prescription medications.
- (A) A manifest shall be made of unused prescription drugs expired, adulterated and/or recalled to be destroyed.
- (B) Following destruction such manifest shall be signed by the pharmacist manager and witness verifying such destruction.

- (C) Drug destruction manifest shall be kept in the files of the pharmacy for two (2) years.

535:12-1-11. Labeling

- (a) All previous patient or pharmacy labeling on an unused prescription drug will be redacted or removed by dispensing eligible pharmacy.
- (b) Dispensed prescription for a medically indigent patient will clearly indicate the final dispensing pharmacy and the current patient information to assure clarity for receiving patient and shall be properly labeled.
- (c) Expiration date is required on all unused prescription drugs dispensed.
- (1) The expiration date is brought forward to the filled prescription if only one expiration date is used in the filling of the prescription.
- (2) If multiple packages of unused prescription drugs are used to fill a single prescription with varied expiration dates, the shortest expiration date is used for the dispensed prescription.

535:12-1-12. Violations

- (a) Theft or diversion of any of the unused prescription drugs is a violation of these rules. This includes any expired, lost identity drug, recalled drug, or other drug found to be unusable under the requirements of this Subchapter.
- (1) Such violation by a licensed nursing home or licensed Assisted Living Center of these rules will be referred to the Oklahoma State Health Department and/or other proper authorities for possible action.
- (2) Such violation by the Oklahoma Department of Mental Health and Substance Abuse Services facility of these rules will be reported to the Oklahoma Department of Mental Health and Substance Abuse Services and/or other proper authorities for possible action.
- (3) Such violation by a registrant of the Board may result in action under Title 59 O.S. Section 353.26.
- (b) Dispensing of expired unused prescription drugs is a violation of these rules.
- (c) Sale, trade, offer for sale or trade (except transfer as allowed in 535:12-1-9 (d) between licensed eligible pharmacies) any of the drugs obtained pursuant to this Subchapter and shall include any expired, lost identity, recalled or other such drug unacceptable for dispensing that comes into the program shall be a violation of these rules.
- (d) Violation of this section by a registrant may result in loss of the ability to participate in this program; and may include Board action against the registrant as described in Title 59 O.S. Section 353.26.
- (e) Abuse of this program shall be reported to the legislature and may result in the loss of this program.

[OAR Docket #04-1602; filed 12-23-04]

TITLE 585. PUBLIC EMPLOYEES
RELATIONS BOARD
CHAPTER 20. OKLAHOMA MUNICIPAL
EMPLOYEE COLLECTIVE BARGAINING
ACT

[OAR Docket #04-1605]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 1. General Provisions [NEW]
585:20-1-1. Purpose [NEW]
585:20-1-2. Matters Not Covered [NEW]
Subchapter 3. Procedures [RESERVED]
Subchapter 5. Prohibited Practice Charges [NEW]
585:20-5-1. Process [NEW]
585:20-5-2. Complaint [NEW]
585:20-5-3. Answer [NEW]
Subchapter 7. Representation Petitions [NEW]
585:20-7-1. Petition for election [NEW]
585:20-7-2. Petition for representation without an election [NEW]
585:20-7-3. Determination of collective bargaining unit [NEW]

AUTHORITY:

Public Employees Relations Board; 11 O.S. § 51-101 et seq.; 75 OS. § 302 et. seq.

DATES:

Adoption:

October 14, 2004

Approved by Governor:

December 7, 2004

Effective:

Immediately upon Governor's approval

Expiration

Effective through July 14, 2005 unless superseded by another rule or disapproved by the Legislation

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

Senate Bill 1529 enacted a new section of law entitled the "Oklahoma Municipal Employee collective Bargaining Act" and made the Act effective November 1, 2004. These Emergency Rules have been adopted by the Public Employees Relations Board as specifically mandated by the Legislature by Section 5 of Senate Bill 1529 (11 O.S.Supp.2004, Section 51-204(4)) as deemed necessary to carry out the purposes of the Act. Since the Act becomes effective November 1, 2004, a compelling public interest requires the promulgation of these emergency rules to carry out and promote the purpose and intent of the Act. The promulgation of these Emergency Rules will further the compelling public interest as set forth in Senate Bill 1529 by setting forth the methods by which municipal employees have the right to organize and choose representatives for the purpose of collective bargaining.

ANALYSIS:

Pursuant to the direction and authority detailed in the Municipal Employees Collective Bargaining Act, specifically 11 O.S. § 51-204(4), the Public Employees Relations Board, in cooperation with representatives of public employee organizations and representatives of municipal employers, have proposed emergency rules necessary to carry out the purposes of the Municipal Employees Collective Bargaining Act. The newly proposed emergency rules do the following:

- 1. In Rule OAC 585:20-1-1, the Board states that the rules are intended to serve as an aid to the efficient operation of the Public Employees Relations Board in the orderly administration of the Municipal Employees Collective Bargaining Act.
2. In Rule OAC 585:20-1-2, the Board specifically states that matters not covered in these rules will be handled as provided in the permanent rules implementing the Fire and Police Arbitration Act.
3. In Rule OAC 585:20-3-1, the Board sets forth the procedure for selecting an arbitrator if an impasse in negotiations occurs between the parties.
4. In Rule OAC 585:20-5-1, the Board states that a prohibited practice charge under the Municipal Employees Collective Bargaining Act will be

handled in the same manner by the Public Employees Relations Board as an unfair labor practice charge is handled under the Fire and Police Arbitration Act.

5. In Rule OAC 585:20-5-2, the Board states that a complaint is untimely if filed more than six (6) months after the alleged prohibited practice, which is consistent with the provisions of the Municipal Employees Collective Bargaining Act.

6. In Rule OAC 585:20-5-3, the Board states that the respondent will file a written answer to a prohibited practice complaint within ten (10) days, which is consistent with the time limitation set forth in the Municipal Employees Collective Bargaining Act.

7. In Rule OAC 585:20-7-1, the Board establishes who may request a representative or de-certification election and further sets forth the contents which should be contained in the petition for election.

8. In Rule OAC 585:20-7-2, the Board sets forth who may file a petition for representation without election and the matters which should be in the petition. The rule also sets forth the process which should be followed for a petition for representation without an election and how the Board will certify the representation. The rule further sets forth the manner in which the Board will handle a bargaining unit dispute.

9. In Rule OAC 585:20-7-3, the Board describes how it will make a determination of the collective bargaining unit and sets forth relevant factors to be considered in making the determination. These factors are also contained in the Municipal Employees Collective Bargaining Act.

CONTACT PERSON:

Debbie Tiehen, (405) 522.6723

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 1. GENERAL PROVISIONS

585:20-1-1. Purpose

The rules of this chapter have been adopted for the purpose of complying with the provisions of the Administrative Procedures Act 75 O.S., Section 250 et seq; and are intended as aids to the efficient operation of the Public Employees Relations Board, to the orderly administration of the Municipal Employees Collective Bargaining Act (The Act) and to provide meaningful avenues for realizing and enforcing statutory rights and obligation of certain public employees, public employee organizations, and the municipal employers of this state.

585:20-1-2. Matters not covered

Matters not specifically covered by these Rules will be handled as provided in the permanent rules implementing the Fire and Police Arbitration Act (FPAA), found at OAC 585: 1-1-1 e seq. If there is a conflict between the provisions of these rules and the provisions of OAC 585: 1-1-1 et seq., the provisions of these rules will prevail and control.

SUBCHAPTER 3. PROCEDURES [RESERVED]

SUBCHAPTER 5. PROHIBITED PRACTICE CHARGES

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585:20-5-1. Process

Except when a different procedure is required by the Municipal Employees Collective Bargaining Act or these rules, a prohibited practice charge will be handled in the same manner as an unfair labor practice charge is handled under the provisions of OAC 585:1-1-1 et seq.

585:20-5-2. Complaint

A complaint shall be deemed untimely and shall be dismissed if filed with the Board more than six (6) months following the alleged prohibited practice.

585:20-5-3. Answer

A respondent shall file a written answer, or other responsive pleading permitted by these rules, to a prohibited practice complaint within ten (10) days after service of the complaint.

SUBCHAPTER 7. CERTIFICATION CASES; REPRESENTATION PETITIONS

585:20-7-1. Petition for election

(a) **Who may file.** A representation or decertification petition may be filed with the Board by:

(1) An employee or employee organization alleging that thirty percent (30%) of the non-fire and police municipal employees in an appropriate bargaining unit wish to be represented for collective bargaining by an employee representative; or

(2) An employee organization alleging that fifty percent (50%) of the municipal employees in an appropriate bargaining unit assert that the designated exclusive bargaining representative no longer represents a majority of the municipal employees in the unit.

(b) **Contents of petition**

(1) **For certification.** A petition for certification shall contain those things required by Section 585:15-3-1(b)(1) & (b)(2) of the permanent rules implementing the FPAA.

(2) **For decertification.** A petition for decertification shall contain a description of the bargaining unit subject to the petition and a statement that a majority of the employees within the claimed bargaining unit do not want to be represented by the exclusive bargaining representative or seek certification of a different employee organization and have sufficient authorization cards or other evidence to substantiate it.

585:20-7-2. Petition for representation without an election

(a) **Who may file.** A petition for representation without an election may be filed with the Board by an employee organization alleging that a majority of the municipal employees in an appropriate bargaining unit wish to be represented for collective bargaining by the employee organization.

(b) **Contents of petition.** A petition shall contain the following:

(1) The name and affiliation of the employee organization.

(2) The name and address of the municipal employer.

(3) A description of the bargaining unit the petitioner claims to be appropriate and a statement that the petitioner is authorized to represent a majority of the employees within the claimed unit and has sufficient authorization cards or other evidence to substantiate it.

(4) The names and addresses of any other exclusive representative employee organizations, known to the petitioner, who claim to represent any employees within the alleged appropriate unit.

(5) The number of employees in the alleged appropriate unit.

(6) Any other relevant fact or facts.

(c) **Process**

(1) Within two (2) business days of receiving a petition for representation without an election, the Board shall direct the municipal employer to post copies of a notice to all employees in places where notices are normally posted for the employees affected by issues raised in the petition and/or to distribute copies of a notice in the usual manner for distribution. The municipal employer must post the notice in accordance with Board's direction within two (2) days of receiving such direction.

(2) The notice shall advise affected employees about the employee organization's petition for representation without an election.

(3) The notice shall be posted for ten (10) days.

(d) **Certification and disposition**

(1) If the Board does not receive a claim for representation accompanied by a thirty percent (30%) showing of interest from a rival employee organization within fifteen (15) calendar days of the filing of the initial petition, it shall issue a certification of representation upon validating that a majority of employees in an appropriate bargaining unit have authorized the employee organization to represent them for purposes of collective bargaining.

(2) If the Board receives a valid claim for representation by a rival employee organization within the fifteen (15) day period, it shall consider the initial petition for representation without an election as a petition for a representation election.

(e) **Bargaining unit disputes**

(1) If the petition and the municipal employer agree on the organizational structure of the appropriate unit but disagree as to which employees are included in the appropriate unit based on the duties of the individual employee(s) (such as, but not limited to, supervisory, confidential, or management official designations), the Board shall first determine if the dispute affects the employee organization's majority status. If such dispute does not affect the petitioner's majority status, the Board shall issue a certification without an election and subsequently hold a hearing to determine if the challenged employees are included in the appropriate unit.

(2) If the bargaining unit dispute affects the employee organization's majority status, the Board shall make a determination of the appropriate bargaining unit and subsequently determine majority status.

585:20-7-3. Determination of collective bargaining unit

The Board shall decide in each case before it in which the issue is raised, the unit appropriate for the purpose of collective bargaining. The Board shall consider, along with other relevant factors, the desires of the employees, the community of interest including the existence of clearly identifiable crafts among employees, wages, hours, and other working conditions, the effect of over-fragmentation, the administrative structure of the municipal employer, the recommendation of the parties and the history of collective bargaining.

[OAR Docket #04-1605; filed 12-23-04]

**TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM
CHAPTER 10. PUBLIC EMPLOYEES RETIREMENT SYSTEM**

[OAR Docket #04-1565]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 1. General Provisions
590:10-1-19. Mailing Lists [NEW]

AUTHORITY:
Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S. §901

DATES:
Public hearing:
October 28, 2004

Adoption:
October 28, 2004

Approved by Governor:
December 14, 2004

Effective:
Immediately upon Governor's approval

Expiration:
Effective through July 14, 2005, unless superseded by another rule or disapproved by the legislature

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

FINDING OF EMERGENCY:
The Agency finds 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, amendment, revision, or revocation of an existing rule. The promulgation of an emergency rule is necessary to implement the provisions of Senate Bill 1384.

ANALYSIS:
This is a new rule proposed to allow organizations, with membership limited to state employees, to send one general mailing to all retired members of OPERS annually as a result of 74 O.S. Section 935 contained in Senate Bill 1384. The rule permits the mailing to be accomplished through a third-party mailing service.

CONTACT PERSON:
Tom Spencer (405) 858-6737

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 1. GENERAL PROVISIONS

590:10-1-19. Mailing lists

The addresses of all OPERS members are confidential and will not be disclosed to any person or entity. Pursuant to Title 74 O.S. Section 935, any statewide organization of state employees with a minimum membership of 1,000 dues-paying members may annually send one general mailing to all retired members of OPERS and shall pay for the total cost. In order to preserve the confidentiality of the addresses and to comply with the provisions, the System shall not provide the list of retiree addresses directly to the organization. At the sole discretion of the System, the System may require the use of a third-party mailing service. Appropriate agreements shall be entered into between OPERS, the statewide organization, and the third-party mailing service to conduct the mailing, with provisions to protect the confidentiality of the addresses and to prohibit furnishing them to any other person or entity. All costs associated with the mailing or services of the third-party mailing service shall be paid entirely by the statewide organization. The organization shall file a copy of any such mailing with the System.

[OAR Docket #04-1565; filed 12-20-04]

**TITLE 675. STATE BOARD OF LICENSED SOCIAL WORKERS
CHAPTER 12. GUIDELINES FOR SUPERVISION**

[OAR Docket #04-1597]

RULEMAKING ACTION:
EMERGENCY adoption.

RULES:
675:12-1-6. Board Approved Supervisors [AMENDED]

AUTHORITY:
TITLE 59 O.S., Section 1250.1-1256, State Board of Licensed Social Workers

DATES:
Adoption:
November 19, 2004

Approved by Governor:
December 20, 2004

Effective:
Immediately upon Governor's approval

Expiration:
Effective through July 14, 2005 unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

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FINDING OF EMERGENCY:

The Board found that a compelling public interest requires an emergency rule amendment to require persons approved as a Board Approved Supervisor to obtain initial supervisor training within one year. The rule currently requires additional training at least every three years to maintain the supervisor status; however, the initial training requirement was inadvertently left out during the last rule amendment earlier this year. The Board currently has persons applying for and being approved as Board Approved Supervisors.

ANALYSIS:

This rule sets forth the requirements and expectations of a licensee applying for and obtaining the status of Board Approved Supervisor. Applicants for licensure as a Licensed Social Worker, Licensed Clinical Social Worker, Licensed Social Worker-Administration and Licensed Social Work Associate are required to obtain 4,000 hours of supervision from a Board Approved Supervisor.

CONTACT PERSON:

Jan Ewing, Deputy Director, 405-848-6841, ext. 104

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):

675:12-1-6. Board Approved Supervisors

(a) **Requirements.** The two year experience requirement for specialty certification contracted external to the agency must be under the supervision of a Board Approved Supervisor. A Board approved social worker with one of the specialty certifications presently recognized by the Board does not automatically qualify as a Board Approved Supervisor. The knowledge, experience, and skill base of a Board Approved Supervisor exceeds the minimum requirements for specialty certification. Applicants for a Board Approved Supervisor shall:

- (1) Submit an application on the most current forms provided by the Board.
- (2) Be a Licensed Social Worker with the title licensure in the same method as supervisor status is sought.
- (3) Have at least five (5) years of full time work experience (or equivalent) beyond the master's degree in social work. Three of these five years must be full time work experience (or equivalent) in the specialty that supervisory status is sought.
- (4) Have at least two years of supervisory work experience following completion of the master's degree in social work.
- (5) Have two (2) letters of reference submitted to the Oklahoma State Board of Licensed Social Workers. At least one letter shall be from a licensed social worker holding the same licensure title. Documentation of such participation will be furnished the Board and will be updated periodically as required by the Board.

(b) **Approved supervisor status.** Board approved supervisor status remains in effect contingent upon maintaining a current license in good standing and completing ~~additional~~ supervisor training, sponsored or approved by the Board, within one year of approval and at least every three years thereafter.

(c) **Minimum supervision expectations.**

(1) A supervisee must receive an average of one hour per week of face-to-face supervision for two years (minimum of 100 hours). Group supervision is acceptable if such supervision does not exceed at least one-fourth of the total supervisory time per evaluation period. Group supervision is defined as educational supervision conducted with more than one supervisee by an LSW with appropriate certification in the specialty sought by supervisees, or a Board Approved Supervisor with appropriate certification in specialty sought by supervisees. The group should be limited in size to no more than 4 supervisees.

(2) A contract will be negotiated by supervisor and supervisee and a copy furnished to the Oklahoma State Board of Licensed Social Workers prior to beginning. Any supervision completed prior to approval of the supervision contract will not be accepted. An official transcript with degree posted and current job description must accompany the contract. Such a contract shall not be valid if the supervisor and supervisee have a relationship that could affect the employment or benefits of the supervisor, and that relationship could, in any way, bias or compromise the supervisor's evaluation of the supervisee. Should the contract be terminated before completion of the minimum number of hours required, the supervisee is responsible for negotiating a new contract and obtaining all evaluation and termination forms required to document prior supervision. The supervisee shall notify the Board within 30 days of any job change and submit a new job description.

(3) There will be a periodic written evaluation:

- (A) no less than 6 months and a total of 25 hours of supervision
- (B) no less than 12 months and a total of 50 hours of supervision
- (C) no less than 24 month and a total of 100 hours of supervision

(4) A copy of the written evaluation will be provided by the supervisee to the Board office.

(5) If supervision is terminated by either party, the supervisee is responsible for notifying the Board and completing a termination form which the Board will provide. Such termination form must be received by the Oklahoma State Board of Licensed Social Workers within 14 days of the termination.

(6) If there is any question regarding the supervisee's competency, the supervisor is free to ask for a sample of supervisee's work.

(7) It is required that all supervisors for licensure participate in supervision training sponsored or approved by the Board. Board Approved Supervisors are required to participate in the training. Documentation of such participation will be furnished the Oklahoma State Board of Licensed Social Workers and will be updated periodically as required by the Board.

(8) When the proposed supervisor is not a staff member of the supervisee's agency, social work ethics demand that the proposed supervisor insure that the agency administration (or its representative) is in accord with the

arrangements for supervision by a qualified LSW supervisor. This is essential whether these arrangements are made by the agency or the supervisee and regardless of whether the agency contributes to financial compensation of the supervisor. The supervisor is responsible for securing agreement from the agency administration as to the purpose and content of the desired supervision and the supervisor's specific role responsibilities and limitations. The supervisor is also responsible for learning agency functions and policies so that any supervisory suggestions are constructive and realistic within agency purposes and resources.

(9) Supervision from a Board Approved Supervisor may be contracted from outside the agency should internal supervision be unavailable.

(10) All supervisors will adhere to the guidelines on supervision required by the Oklahoma State Board of Licensed Social Workers.

[OAR Docket #04-1597; filed 12-23-04]

**TITLE 710. OKLAHOMA TAX
COMMISSION
CHAPTER 10. AD VALOREM**

[OAR Docket #04-1599]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. General Provisions

710:10-1-4. Limitation of the fair cash value on homestead property of qualified owners; implementation of Article 10, Section 8C of the Oklahoma Constitution [AMENDED]

AUTHORITY:

Oklahoma Tax Commission; 68 O.S. § 203; S.Q. 714, as approved by vote of the citizens of Oklahoma on November 2, 2004

DATES:

Adoption:

November 9, 2004 (Commission Order No. 2004-11-09-07)

Approved by Governor:

December 20, 2004

Effective:

January 1, 2005

Expiration:

Effective through July 14, 2005, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

State Question 714 was approved by a vote of the people of Oklahoma on November 2, 2004. The proposal amended the Oklahoma Constitution providing for a change in the method for determining qualification for the limitation on the valuation of homestead property for seniors, age 65 or older. Timely implementation of the rule amendments was found to be of compelling public interest by the Commission in order to implement the new law for those affected before the commencement of the 2005 filing period.

ANALYSIS:

The amendments to the rule reflect a new basis for determining who will qualify for the valuation limitation, changing the basis from a fixed income amount, to a range of income thresholds determined by reference to the United States Department of Housing and Urban Development estimated median income for the preceding year for the county or metropolitan statistical area which includes each county. Qualification is then determined by the gross

household income from all sources for an individual head of household, which cannot exceed the county threshold amount.

CONTACT PERSON:

Carolyn Swifthurst, Tax Policy Analyst, Tax Policy and Research Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, OK 73194, 405-521-3133.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S. SECTION 253(D), WITH A LATER EFFECTIVE DATE OF JANUARY 1, 2005:

SUBCHAPTER 1. GENERAL PROVISIONS

710:10-1-4. Limitation of the fair cash value on homestead property of qualified owners; implementation of Article 10, Section 8C of the Oklahoma Constitution

The procedures and requirements set out in this Section shall be used to implement the limitation of the valuation on homestead property of qualified owners for ad valorem purposes:

(1) **General provisions.** "Senior valuation limitation" means the implementation of ~~the constitutional amendment added to the Oklahoma Constitution, Article X, 10, Section 8C, by State Question 677,~~ which directed county assessors to limit the fair cash value of the homestead property of any qualified person who has made proper application. The applicant's property must be a valid homestead property, with proper evidence of a homestead or an application made in 1997 or subsequent years. As with any homestead, the general statutes for homestead qualification apply to the limitation. Only one homestead, and by extension, only one limitation is permitted in any one year. The limitation applies only to the occupied homestead property and may not be applied to non-homestead property. [See: ~~68 O.S.1991, 68 O.S.2001, §§ 2888, 2889, 2890, 2893; 68 O.S.Supp.1996, § 2890~~]

(2) **Relationship to exemptions and other programs.** The senior valuation limitation is available to qualified owners in addition to participation in the circuit breaker and additional homestead exemption. [See: 68 O.S. § 2802, for definitions of "circuit breaker" and "additional homestead exemption".] Availability of the senior valuation limitation is **not** dependent upon the county's compliance status with the State Board of Equalization.

(3) **Qualified owner.** The taxpayer must be 65 the year before the senior valuation limitation is approved, and the applicant's total household annual income for the previous year must not exceed ~~\$25,000.00~~ the amount as provided in the Oklahoma Constitution, Article 10, Section 8C. The income threshold for the gross household income from all sources for an individual head of household under this Section shall not exceed the amount determined by the

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United States Department of Housing and Urban Development to be the estimated median income for the preceding year for the county or metropolitan statistical area which includes such county. The Tax Commission shall provide this information to each county assessor each year, as soon as it is available.

(4) **Application; qualification; duties of assessor; right of appeal.** In order to be eligible for the senior valuation limitation, the individual must apply at the county assessor's office by completing **OTC Form 994 (Revised-04), Application for Property Valuation Limitation and Additional Homestead Exemption.** The application must be made between January 1 and March 15. However, the time within which to apply for **additional homestead exemption** may be extended thirty (30) days, if a Notice of Change in Assessed Value (OTC Form 926-R-87) is sent, as stipulated in 68 O.S. § 2890(C). The limitation will be in affect for the tax year in which the application is made and approved, based on the current year valuation.

(A) For the limitation to be valid, **OTC Form 994 (Revised-04), Application for Property Valuation Limitation and Additional Homestead Exemption,** must be completed in its entirety as to income, age, ownership, and other information.

(B) The county assessor has the right and duty to review the information provided, ask any necessary questions, request documentation of age, income, or other information.

(C) The county assessor shall deny any application that is inaccurate, incomplete, inadequately documented, or otherwise invalid pursuant to this Section.

(D) The county assessor may request assistance from the Oklahoma Tax Commission in determination of income qualifications under ~~68—O.S.1991, Section-68~~ O.S.2001, § 2890.

(E) The taxpayer may appeal any denial of a senior valuation limitation application by the county assessor to the county board of equalization in the same manner as an appeal of the denial of a homestead exemption.

(5) **Review of valuation for error.** The county assessor should review the valuation of the property for clerical errors, incorrect physical characteristics, or other material error affecting valuation in order to protect the taxpayer. This review shall **not** include a revaluation of the property solely because it may be below fair cash value.

(6) **Physical improvements to property.** If a physical improvement is made to the property, such as a room addition, additional square footage, garage, out buildings, enclosed garage, or similar improvement, the improvement shall be valued in the same manner as these improvements are presently valued. This additional valuation shall be added to the limited value of the property before the construction occurred. If improvements are added to the property, the fair cash value shall be increased by the amount attributable to the addition. The new total value is then limited again, so long as the owner and property

remain qualified. Physical additions or changes that are considered normal maintenance, such as normal repairs, minor re-modeling, roof repair or ~~installation~~ insulation, minor energy efficiency improvements, or retro fit improvements such as wheelchair ramps to provide access to the property, are not generally considered physical improvements affecting the valuation limitation.

(7) **Duration of, and conditions which terminate the limitation.** The senior valuation limitation is valid on the property as long as the taxpayer owns and occupies the property and title to the property is not transferred, changed, or otherwise modified. If the taxpayer fails to own and occupy the property or if title to the property is transferred, changed, or conveyed to another person, the senior valuation limitation shall expire. It is then the responsibility of the county assessor to value the property at fair cash value consistent with constitutional provisions, statutes and applicable rules. If the person's gross household income from all sources exceeds ~~\$25,000.00—the amount provided in the Oklahoma Constitution, Article 10, Section 8C,~~ the senior valuation limitation shall expire and the value of the property shall be subject to the five percent limitation increase for that year.

(8) **Instances in which tax amount may increase, despite limitation.** The senior valuation limitation applies to the valuation, but it does not limit all taxes. The tax amount could increase under three specific situations:

(A) If an additional millage such as a bond issue or other levy is added;

(B) If judgment is rendered against the county and a judicial order directs an additional levy; or,

(C) If the county voters adopt a measure increasing the assessment percentage within the county under the authority of Section 8, Article ~~X~~ 10, of the Oklahoma Constitution.

[OAR Docket #04-1599; filed 12-23-04]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 50. INCOME

[OAR Docket #04-1600]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 15. Oklahoma Taxable Income

Part 5. Other Adjustments to Income

710:50-15-48. Deduction for capital gains [NEW]

710:50-15-49. Deduction for ~~Oklahoma or federal government~~ retirement income [AMENDED]

Part 7. Credits Against Tax

710:50-15-96. Sales tax relief credit [NEW]

AUTHORITY:

Oklahoma Tax Commission; 68 O.S. § 203

DATES:

Adoption:

November 9, 2004 (Commission Order No. 2004-11-09-06)

Approved by Governor:

December 20, 2004

Effective:

January 1, 2005

Expiration:

Effective through July 14, 2005, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

State Question 713 (House Bill 2660) was approved by a vote of the people of Oklahoma on November 2, 2004. Section 14 of the proposal, in part, increased the deduction available to qualifying retirees and provides for a capital gains deduction to individuals. Section 15 extended and amended the manner in which the "sales tax relief" provision (68 O.S. 5011) is administered. Timely implementation of the rule amendments was found to be of compelling public interest by the Commission, in order to implement the new law for those groups affected prior to January 1, 2005, the effective date of the new laws.

ANALYSIS:

Section 14 of the proposal amended 68 O.S. 2358(D)(9), increasing the deduction available for retirement income for qualifying retirees from both government and the private sector. This Section 14 also amended 68 O.S. § 2358(E) to create a new capital gains deduction for individuals. The sales tax relief provision (68 O.S. 5011) was amended to remove the "budgetary shortfall" limitation making the relief uniformly available.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S. SECTION 253(D), WITH A LATER EFFECTIVE DATE OF JANUARY 1, 2005:

SUBCHAPTER 15. OKLAHOMA TAXABLE INCOME

PART 5. OTHER ADJUSTMENTS TO INCOME

710:50-15-48. Oklahoma source capital gain subtraction

(a) **General provisions.** For tax years beginning on or after January 1, 2005, individual taxpayers can subtract from the Oklahoma adjusted gross income, gains reported on their Oklahoma income tax return and included in federal taxable income receiving capital treatment. The gain must be realized on or after January 1, 2005, in order to be eligible for the Oklahoma exclusion.

(b) **Qualifying gains receiving capital treatment.** As used in this Section, "qualifying gains receiving capital treatment" means the amount of net capital gains, as defined under Internal Revenue Code Section 1222(11), [IRC § 1222(11)]. The gain must be included in the federal income tax return of the taxpayer. Further, the qualifying gain must also:

- (1) Be earned by an individual as a result of the sale of real or tangible personal property located within Oklahoma who must have held the asset for not less than five (5) years (uninterrupted) prior to the date of the transaction that created the capital gain; or,

- (2) Be earned by an individual as a result of the sale of stock or ownership interest in an Oklahoma company, limited liability company, or partnership, who must have held the stock or ownership interest for at least three (3) years (uninterrupted) prior to the date of the transaction that created the capital gain.

(c) **"Oklahoma company", "limited liability company", "partnership".** An Oklahoma company, limited liability company, or partnership is an entity whose primary headquarters has been located in Oklahoma for at least three (3) years prior to the capital gain transaction. The entity must meet the three (3) year rule for an uninterrupted period.

710:50-15-49. Deduction for Oklahoma or federal government retirement income

(a) **General provisions applicable to Oklahoma or federal government retirement income.** Each individual taxpayer may deduct up to Five Thousand Five Hundred Dollars (\$5,500.00) of retirement benefits paid by the State of Oklahoma or by the federal government. Effective for tax years beginning on or after January 1, 2005, this deduction increases to Seven Thousand Five Hundred Dollars (\$7,500.00). This deduction cannot exceed the amount included in the taxpayer's Federal Adjusted Gross Income. The total exclusion from all government retirement benefit plans may not exceed Five Thousand Five Hundred Dollars (\$5,500.00) or for tax years beginning on or after January 1, 2005, Seven Thousand Five Hundred (\$7,500.00), per individual.

(b) **Qualifying Oklahoma or federal government retirement income defined.** For purposes of this Section, "Oklahoma or federal government retirement income" means retirement income received from the following sources:

- (1) The Civil Service of the United States;
- (2) Any Component of the Armed Forces of the United States;
- (3) The Oklahoma Public Employees' Retirement System;
- (4) The Oklahoma Teachers' Retirement System;
- (5) Oklahoma Law Enforcement Retirement System;
- (6) Oklahoma Firefighters' Pension and Retirement System;
- (7) Oklahoma Police Pension and Retirement System;
- (8) The Employee retirement systems created by counties pursuant to 19 O.S. §§ 951 et seq.
- (9) The Uniform Retirement System for Justices and Judges;
- (10) The Oklahoma Wildlife Conservation Department Retirement Fund;
- (11) The Oklahoma Employment Security Commission Retirement Plan; or,
- (12) The Employee retirement systems created by municipalities pursuant to 11 O.S. §§ 48-101 et seq.

(c) **Disability retirement income.** Disability retirement benefits received by an individual from sources listed in subsection (b) shall qualify for the retirement income deduction, without regard to the recipient's age.

(d) **General provisions for other retirement income.** Each individual taxpayer aged sixty-five (65) and over may deduct

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up to Five Thousand Five Hundred (\$5,500.00) of other retirement benefits received and included in Federal Adjusted Gross Income. Effective for tax years beginning on or after January 1, 2005, this deduction increases to Seven Thousand Five Hundred Dollars (\$7,500.00). This deduction cannot exceed the amount included in the taxpayer's Federal Adjusted Gross Income. The total exclusion from all retirement benefit plans may not exceed Five Thousand Five Hundred Dollars (\$5,500.00) or, for tax years beginning on or after January 1, 2005, Seven Thousand Five Hundred (\$7,500.00), per individual.

- (1) **Income eligibility levels for tax years through 2004.** In order to qualify for this exclusion, Oklahoma Adjusted Gross Income cannot exceed Twenty Five Thousand Dollars (\$25,000.00) for individuals using the filing status of "single, married filing separately, or head of household". For individuals using "married filing jointly or for qualifying widows" filing status, Oklahoma Adjusted Gross Income cannot exceed Fifty Thousand Dollars (\$50,000.00) in order to qualify for the exclusion.
 - (2) **Income eligibility levels for tax year 2005 and subsequent years.** Effective for tax years beginning on or after January 1, 2005, Oklahoma Adjusted Gross Income cannot exceed Thirty Seven Thousand Five Hundred Dollars (\$37,500.00) for individuals using the filing status of "single, married filing separately, or head of household". For individuals using "married filing jointly or for qualifying widows" filing status, Oklahoma Adjusted Gross Income cannot exceed Seventy Five Thousand Dollars (\$75,000.00) in order to qualify for the exclusion.
- (e) **"Qualifying other retirement income" defined.** For purposes of this Section "other retirement income" must be received from the following and satisfy the requirements of the Internal Revenue Code (IRC):
- (1) An employee pension benefit plan under IRC Section 401;
 - (2) An eligible deferred compensation plan under IRC Section 457;
 - (3) An individual retirement account, annuity, or trust or simplified employee pension under IRC Section 408;
 - (4) An employee annuity under IRC Section 86; or,
 - (5) Lump-sum distributions from a retirement plan under IRC Section 402(e).

PART 7. CREDITS AGAINST TAX

710:50-15-96. Sales tax relief credit

- (a) **General provisions.** Eligible individual taxpayers may claim an income tax credit for "Sales Tax Relief" pursuant to 68 O.S. § 5011. The credit is forty dollars (\$40.00) multiplied by the number of allowable personal exemptions the taxpayer is entitled to claim under the Oklahoma Income Tax Act.
- (b) **Eligible taxpayers.** For purposes of this Section, "**Eligible Taxpayer**" means an individual who is a resident of, and domiciled in Oklahoma, for the entire calendar year.
- (c) **Gross Household Income.** For purposes of this Section "**Gross Household Income**" is the gross income of every type

received by all persons occupying the same household. It includes, but is not limited to, pensions, annuities, federal social security benefits, unemployment payments, veterans disability compensation, loss-of-time insurance payments capital gains, and any other type of income. It is not relevant whether or not the income is taxable for state or federal income tax purposes. "**Gross Household Income**" does not include gifts, or income that is considered deferred.

(d) **Eligibility for tax year 2004.** To be eligible to claim this credit, the following Gross Household Income limits apply for tax year 2004:

- (1) For those taxpayers that can claim no allowable personal exemption other than themselves or their spouse, Gross Household Income cannot exceed Fifteen Thousand Dollars (\$15,000.00).
 - (2) For those taxpayers who:
 - (A) can claim a personal exemption other than themselves or their spouse;
 - (B) are at least 65 years of age; or,
 - (C) have a physical disability that is a substantial handicap to employment;
 - (D) Gross Household Income cannot exceed Thirty Thousand Dollars (\$30,000.00).
- (e) **Eligibility for tax year 2005 and following years.** To be eligible to claim this credit, the following Gross Household Income limits apply for tax year 2005 and following years:
- (1) For those taxpayers that can claim no allowable personal exemption other than themselves or their spouse, Gross Household Income cannot exceed Twenty Thousand Dollars (\$20,000.00).
 - (2) For those taxpayers who:
 - (A) can claim a personal exemption other than themselves or their spouse;
 - (B) are at least 65 years of age; or,
 - (C) have a physical disability that is a substantial handicap to employment;
 - (D) Gross Household Income cannot exceed Fifty Thousand Dollars (\$50,000.00).
- (f) **Filing Requirements.** Procedures for claiming the "Sales Tax Relief" credit are:

- (1) Persons that do not have an income tax filing requirement must file Oklahoma Tax Commission Form 538S (OTC Form 538S) as a stand-alone refund claim, using the eligible number of exemptions. If there is no income tax filing requirement, claims must be made by June 30.
 - (2) Persons that do have an income tax filing requirement, the Oklahoma Tax Commission Form 538S is filed as part of their regular income tax return. For those who have an Oklahoma income tax filing requirement, the due date to claim the "Sales Tax Relief" Credit is April 15. Valid extensions of time to file an Oklahoma income tax return will not extend the time to file for the Sales Tax Relief Credit.
- (g) **Exceptions and exclusions.** The exceptions and exclusions set out in this subsection apply to the "Sales Tax Relief" credit.

- (1) Persons who have received temporary assistance for needy families (TANF) for any month during year are not eligible for the sales tax refund.
- (2) The Oklahoma Department of Human Services will issue the sales tax refund to persons who have continuously received aid to the aged, blind, disabled or Medicaid payments for nursing home care for the tax year.
- (3) A person convicted of a felony shall not be permitted to file a claim for sales tax relief for any year for which that person is an inmate in the custody of the Department of Corrections for any part of that year.
- (4) Individuals living in Oklahoma under a Visa do not qualify for the sales tax relief
- (5) If a taxpayer or spouse died during the tax year, the sales tax credit cannot be claimed for the deceased. If the death occurred after the close of the tax year, but before the claim for sales relief was filed, the sales tax credit or refund for the deceased will be issued to the deceased's estate.

[OAR Docket #04-1600; filed 12-23-04]

**TITLE 710. OKLAHOMA TAX
COMMISSION
CHAPTER 65. SALES AND USE TAX**

[OAR Docket #04-1601]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:

- Subchapter 13. Sales and Use Tax Exemptions
- Part 5. ~~Aircraft; Boats and Motors; Motor Vehicles; Items Subject to Other Taxes~~ [AMENDED]
- 710:65-13-30. Exemption for ~~airplanes, boats, boat motors, and motor vehicles, including low-speed electrical vehicles; excise tax in lieu of sales tax~~ the sale of tangible personal property subject to other taxes [AMENDED]
- Subchapter 19. Specific Applications and Examples
- Part 1. "A"
- 710:65-19-5. Sales of alcoholic beverages ~~and tobacco products~~ [AMENDED]

AUTHORITY:

Oklahoma Tax Commission; 68 O.S. § 203

DATES:

Adoption:

November 9, 2004 (Commission Order No. 2004-11-09-05)

Approved by Governor:

December 20, 2004

Effective:

January 1, 2005

Expiration:

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

House Bill 1889(3) of the 49th Legislature, 2nd Regular Session, enacted a new sales tax exemption for charity games equipment sold to qualifying veterans' organizations. Additionally, State Question 713 (House Bill 2660) was approved by a vote of the people of Oklahoma on November 2, 2004. The proposal altered the manner in which cigarettes and tobacco products will be taxed in Oklahoma, removing these items from the purview of the Sales Tax Code. Timely implementation of new rules and rule amendments was found to

be of compelling public interest by the Commission in order to implement the new laws for those groups affected prior to January 1, 2005, the effective date of both measures.

ANALYSIS:

Section 710:65-13-30 has been amended to reflect both the new exemption for sales of charity games equipment to certain veteran's organizations, and the new sales tax exemption for cigarettes or tobacco products on which the Cigarette Stamp Tax or the Tobacco Products Tax has been paid, pursuant to State Question 713, approved in the general election of November 2, 2004.

Section 710:65-19-5 has been amended to delete language referring to the taxability of cigarettes and tobacco products, in conformity to the new law.

CONTACT PERSON:

Carolyn Swifthurst, Tax Policy Analyst, Tax Policy and Research Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, OK 73194, 405-521-3133.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S. SECTION 253(D), WITH A LATER EFFECTIVE DATE OF JANUARY 1, 2005:

**SUBCHAPTER 13. SALES AND USE TAX
EXEMPTIONS**

**PART 5. ~~AIRCRAFT; BOATS AND MOTORS;
MOTOR VEHICLES~~ ITEMS SUBJECT TO
OTHER TAXES**

710:65-13-30. Exemption for ~~airplanes, boats, boat motors, and motor vehicles, including low-speed electrical vehicles; excise tax in lieu of sales tax~~ the sale of tangible personal property subject to other taxes

(a) **Aircraft, boats, boat motors, and motor vehicles, including low-speed electrical vehicles.** Sales and use tax does not apply to the sale of airplanes, boats, boat motors, and motor vehicles, including low-speed electrical vehicles, which are subject to the "Oklahoma Aircraft Excise Tax Act" [See: 68 O.S. § 6002], the "Oklahoma Vessel and Motor Registration Act" [See: 63 O.S. § 4107], or the "Oklahoma Vehicle Excise Tax Act" [See: 68 O.S. § 2106].

~~(b) The These excise taxes noted in (a) of this Section are levied on all aircraft, small vessels, watercraft, sailboats, motors greater than ten (10) horsepower, motorboats, or motor vehicles, including low-speed electrical vehicles, and also the optional equipment and accessories attached at the time of the sale and included in the purchase price or manufacturer statement of origin.~~

(eb) **Accessories, optional equipment, and parts.** Sales tax is due on accessories, optional equipment, or parts which are not attached and sold as part of the purchase price on the sale of aircraft, motors greater than ten (10) horsepower, vessels, motorboats, motor vehicles and low-speed electrical vehicles.

~~(dc) Boats motors.~~ The sale of boat motors in excess of ten (10) horsepower is subject to boat and motor excise tax. [See: 63 O.S. §§ 4003(B)(1), 4107] The sale of boat motors ten (10)

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horsepower or less is subject to sales/use tax. [See: 68 O.S. § 1355]

(ed) **Leases of aircraft.** Leases of aircraft are not subject to sales tax if either the aircraft excise tax has been paid on the lease transaction or an exemption applies to the transfer from the lessor to the lessee, pursuant to 68 O.S.Supp.2000, §§ 1355(9) and 6001(4).

(e) **Sales of crude petroleum, natural or casinghead gas, and other products.** *Sales of crude petroleum, natural or casinghead gas, and other products subject to gross production tax pursuant to 68 O.S. § 1001 et seq. and 68 O.S. §1101 et seq. are not subject to sales tax. This exemption shall not apply when such products are sold to a consumer or user for consumption or use, except when used for injection into the earth for the purpose of promoting or facilitating the production of oil or gas.* [See: 68 O.S. § 1355(3)]

(f) **Sales from coin-operated vending devices.** Sales from coin-operated vending devices on which the fee imposed by 68 O.S. §§ 1501-1512 has been paid are not subject to sales tax.

(g) **Sales of charity game equipment.** *Sales of charity game equipment on which a tax is paid pursuant to the Oklahoma Charity Games Act, (3A O.S. § 401 et seq.), or which is sold to a veterans' organization exempt from taxation pursuant to the provisions of Section 501(c)(4),(7),(8),(10), or (19) of the Internal Revenue Code are not subject to sales tax.*

(h) **Sales of cigarettes and tobacco products.** Sales of cigarettes and tobacco products are exempt from sales tax in the following instances:

(1) Sales to a federally-recognized Indian tribe or nation which has entered into a compact with the State of Oklahoma pursuant to the provisions of 68 O.S. § 346(C) or to a licensee of such a tribe or nation, upon which the payment in lieu of taxes required by the compact has been paid;

(2) Sales to a federally-recognized Indian tribe or nation or to a licensee of such a tribe or nation upon which the tax levied by 68 O.S. § 349 or 426 has been paid; or,

(3) From and after January 1, 2005, sales of cigarettes on which the tax levied in 68 O.S. § 301 et seq. or tobacco products on which the tax levied in 68 O.S. § 401 et seq. has been paid. [See: 68 O.S. § 1355(11)]

SUBCHAPTER 19. SPECIFIC APPLICATIONS AND EXAMPLES

PART 1. "A"

710:65-19-5. Sales of alcoholic beverages and tobacco products

(a) Persons selling alcoholic beverages to purchasers for use or consumption are required to remit sales tax to the Commission upon the total retail value from such sales, pursuant to OAC 710:20-5-4, notwithstanding the fact that manufacturers and importing distributors of alcoholic beverages are required to pay certain taxes.

~~(b) Persons selling cigarettes, cigars and other tobacco products must collect, report and remit sales tax when selling such products to purchasers for use or consumption.~~

[OAR Docket #04-1601; filed 12-23-04]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 15. TECHNOLOGY CENTERS

[OAR Docket #04-1570]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. Technology Centers Education
780:15-3-5. [AMENDED]

AUTHORITY:

State Board of Career and Technology Education; 70 O.S. 2001, §14-104, as amended.

DATES:

Adoption:

November 23, 2004

Approved by Governor:

December 13, 2004

Effective:

Immediately Upon Governor's approval

Expiration:

Effective through July 14, 2005, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The compelling public interest that necessitated the promulgation of an emergency rule amendment dealing with annexation is based upon 1) access to classes of the technology center school district and not depriving students of an opportunity to attend classes at a technology center, and 2) clarification needed immediately for Oklahoma citizens about the annexation process.

Seven inquiries, from communities and territories not presently within technology center school districts, have already been received in FY 05. This is a tremendous increase from the number received in past years. These inquiries are seeking information on the rules dealing with annexation, as the citizens are testing local interest and support for voting themselves into a technology center school district.

Citizens are aware that the State Board of Career and Technology Education has an administrative rule dealing with deannexations where a phasing-out of ad valorem tax collections for the deannexed area is discussed, and that there are proposed rules to make permanent the language in this emergency rule, making the annexation rules consistent with the deannexation rules. However, they note presently the absence of any rule allowing a phase-in for citizens voting to annex into a technology center school district.

Permanent rules addressing this topic, if adopted, would not likely take effect until approximately July 1, 2005. Pre-enrollment takes place in a technology center in February and March of each school year, and is finalized in April. This is when schools and high school students plan for the next school term that starts in August.

In Oklahoma, high school students that live within territory that has been annexed to a technology center school district are pre-enrolled at the technology center before out-of-district high school students. In-district high school students do not pay tuition to attend classes there. High school students that do not live within the district are required to pay out-of-district tuition, pre-enroll later than in-district students, and their tuition cannot be less than two times the local costs of providing the program by the technology center school district. Adult students in the annexing territory would begin paying the lower in-district tuition rates immediately following certification of a successful annexation election verses the higher out-of-district tuition currently applied.

Submission of this rule as a permanent rule in the absence of an emergency rule, with the accompanying timelines for permanent rules, would effectively disallow some students from ever having the opportunity to consider enrolling at a technology center. As a permanent rule (versus submission as an emergency rule based upon compelling public interest), the proposed change would not take effect until approximately July 1, 2005. Applying that timeframe and the required advance time needed by election boards to call elections, any election to decide whether to annex into a technology center school district could not occur until approximately September or October, 2005. An election that late in the calendar year, even if favorable to annexation, would likely prevent high school students from attending the entire 2005-06 school year because of the pre-enrollment deadlines.

Submission of the proposed rule as an emergency would allow an election, hopefully as early as March 2005, on one resolution recently received by the State Board of Career and Technology Education, and would allow all Oklahoma citizens an incentive to seek an opportunity to vote under the new rule in time for their students to pre-enroll in time for this next school year.

The compelling public interest that necessitated the promulgation of an emergency rule is based upon the above situation, as it applies to Article 10, Section 9B of the Oklahoma Constitution. The relevant portion of that provision states as follows:

D. Until otherwise provided for by law, technology center school districts and the governance thereof shall be established in accordance with criteria and procedures prescribed by the State Board of Career and Technology Education.

Additionally, 70 O.S. §14-108 provides a legal basis for the proposed emergency rule amendment. Paragraph A states in part, that technology center school districts shall be operated in accordance with rules of the State Board of Career and Technology Education. Paragraph E of that statute states in part, "Territory may be annexed to or detached from a technology center school district, in accordance with rules prescribed by the State Board of Career and Technology Education." The proposed amendment addresses annexation into a technology center school district.

ANALYSIS:

Under the proposed emergency rule amendment, citizens of the annexing territory would receive full benefits of residing within a technology center school district, but would pay a reduced ad valorem rate for the first two years following a successful annexation election. At the end of the second year, the newly annexed citizens would pay the same rate of ad valorem taxes as all district citizens. Current technology center school district residents would not be adversely impacted by this proposed emergency rule because it would not raise or lower their ad valorem tax bills.

Current State Board rules contain a phase-out reduction of ad valorem rate provision for residents in a territory that votes to deannex out of a technology center school district. There is no comparable provision for residents in a territory seeking to annex into a technology center school district. Currently proposed permanent rules are being considered and it is anticipated that they will be drafted to have the annexation and deannexation provisions mirror each other so that taxpayers will better understand these processes.

CONTACT PERSON:

Marie Saatkamp, (405) 743-5455

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 3. TECHNOLOGY CENTERS EDUCATION

780:15-3-5. Changes in districts' status

(a) Rezoning of existing technology center districts.

(1) **Review of zone population.** In order to comply with the federal and state rules of equal representation in all units of government, it will be necessary from time to time to review the population of the zones as originally designed to see that reasonably equal zones exist as far as

population is concerned. Between August 1 and December 31 of the year following the submission of the official Federal Decennial Census, the board of education will reapportion the school district into board districts. The local technology center will formulate the rezoning plan, that must be submitted to the State Board for approval.

(2) Board of education; zone size.

(A) **Five members.** The board of education shall consist of five (5) members, except as provided in 70 O.S. Supp. 1990, §5-107A, 70 O.S. Supp. 1990, §14-110, 70 O.S. Supp. 1990, §4419, 780:15-3-2(I)(6) rules and regulations governing technology center districts, and 780:15-3-5(a)(2)(E) of this section.

(B) **Size of zones.** Internal boundaries of board districts shall follow clearly visible, definable, and observable physical boundaries that are based upon criteria established and recognized by the Bureau of the Census of the United States Department of Commerce for the purposes of defining census blocks for its decennial census and shall follow, as much as is possible, precinct boundaries. Board districts shall be compact, contiguous and shall be as equal in population as practical with not more than a ten percent (10%) variance between the most populous and least populous board districts.

(C) **Restructure of noncontiguous zones.** Technology center districts that are not contiguous shall structure their zones where there are no intervening zones between the noncontiguous portion of the district and the remainder of the same zone that contains the noncontiguous portion of said technology center district.

(D) **Zone residency.** All members shall reside in the zone that they represent.

(E) **Seven-member zones; annexation.** Any technology center district that consisted of a seven (7) member school board on July 1, 1987, and later has added or will add more geographical territory by annexation, shall continue to have a seven (7) member school board whose terms of office shall be the same as previously served.

(b) Annexations.

(1) Proposed annexations.

(A) **Annexation, as proposed by a board of education.** Boards of education of a public school district desiring their district or a part of their district to annex to an existing technology center district shall submit a resolution to the State Board requesting an election be called for that purpose. A study of the proposed annexation will be conducted by the Department to ascertain whether the annexation would unlawfully exclude students on the basis of race, color, national origin, or disability. If the board of education of the technology center district agrees to the annexation, and if the resolution is approved, the State Board after counseling with the local school district board will set the election date and shall request the county election

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board to conduct the aforementioned annexation election. If a majority of the electors voting vote for the proposition, the State Board shall declare the public school district, or that portion designated, annexed to the local technology center.

(B) **Annexation, as proposed by patrons/electors.** In the event the patrons of any designated territory comprising all or part of a local public school district desire to have such designated territory annexed to a technology center district, a petition may be submitted to the State Board calling for an election on the desired annexation. The petition shall be signed by at least 50 percent of the number of school district electors who voted in the last school board election in the territory proposed to be annexed, as determined by the secretary of the county election board, who shall certify the adequacy of the number of signatures on the petition. The State Board, after obtaining approval of the technology center district to which the territory is sought for annexation, shall request the county election board to conduct the requested annexation election—provided the period of time from which the petition was initiated to its time of filing with the State Board did not exceed 90 days. All qualified voters within the local school district shall be entitled to vote at such election. If a majority of the electors voting at such election vote in favor of the proposition, as certified by the county election board, the designated territory shall thereupon be declared by the State Board to be annexed to the respective technology center districts.

(C) **Annexation, as proposed by a board of county commissioners.** When a large area such as a county, or portions thereof, desires to be annexed to an established technology center district, the board of county commissioners may submit a resolution to the State Board requesting the State Board to call an annexation election for the area so designated. If a majority of the electors voting in the designated area vote for the proposition, the State Board shall declare the area annexed.

(D) **Annexations or transfers of independent and elementary school districts, or portions thereof.** Technology center district membership resulting from annexation or transfers of territory shall be determined by the following:

(i) When an elementary or independent school district, whose territory is a part of a technology center district, is annexed to another elementary or independent school district whose territory is not a part of a technology center district, the annexation shall not affect the status of the annexing district with respect to the technology center district.

(ii) When an elementary or independent school district, or a portion thereof, whose territory is not a part of a technology center district, is annexed or transferred to another elementary or independent

school district whose territory is a part of a technology center district, the territory of the annexed or transferred elementary or independent school district shall become a part of the technology center district.

(iii) When an elementary or independent school district or a portion thereof, whose territory is already a part of a technology center district is annexed or transferred to another elementary or independent school district whose territory is a part of a second technology center district, the territory of the annexed or transferred elementary or independent school district shall become a part of the second technology center district.

(2) **Liability of annexed territory for bonded indebtedness of technology center district.** If the territory is annexed to a technology center district, the assessed valuation of property in the territory will be subject to taxes thereafter levied to pay existing bonded indebtedness that was incurred by the technology center district before the territory was annexed.

(3) **Benefits of annexed territory.** When a public school district or a part of a public school district is annexed to a technology center district, the people residing in the newly annexed district or part of a district shall immediately become eligible to all the rights and privileges as those residing in the technology center district and shall be subject to the tax levies of the technology center district provided by Section 9B Article 10 of the Oklahoma Constitution except as outlined in section (4) below.

(4) **Newly annexed territory tax collection.** For all successful annexation elections occurring after January 1, 2005, the collection of ad valorem taxes from patrons in the annexing territory shall begin with a phase-in period of three consecutive tax years following the successful annexation election. Taxes will be collected according to the following schedule:

(A) First tax year following the election, 50% of the current technology center rate.

(B) Second tax year following the election, 80% of the technology center rate.

(C) Third tax year following the election, 100% of the technology center rate and to remain at 100% for all subsequent years unless a successful deannexation election occurs as outlined in these rules.

(c) **Deannexation.**

(1) **Proposed deannexation.**

(A) **Approval of State Board.** Territory shall not be deannexed from a technology center district without the approval of the State Board. No territory may be included in a petition for deannexation within one (1) year from the date of an unsuccessful election for deannexation where that territory was a part of the territory seeking to deannex. A study of the proposed deannexation will be conducted by the Department to ascertain whether deannexation would unlawfully exclude students on the basis of race, color, national origin, or disability.

(B) **Petition.** A petition form shall be developed by the Oklahoma Department of Career and Technology Education. Any petition to be circulated must be on that form or must incorporate the exact language of the form, in addition to the reason for deannexing. To effect the deannexing of territory, a petition requesting the deannexation must be:

- (i) submitted to the technology center board of education, and
- (ii) filed with the State Board.

(C) **Petition content.** The petition shall state the reason for deannexing and shall be signed by at least 50 percent of the number of school district electors who voted in the last school board election in the territory proposed to be deannexed. Each page of the petition shall contain the same information except for signatures of school district electors. Electors must personally sign their own name to any petition and must swear or affirm that they have read the contents of the petition and are signing the document as a free and voluntary act.

(D) **Order and Notice of Election.** If the State Board determines that there is a valid reason for the deannexation, it will issue an "Order and Notice of Election," and the election will be held and conducted by the County Election Board at some public place in the technology center district. Copies of the "Order and Notice of Election" will be published in one issue of a newspaper of general circulation in the technology center district.

(E) **Eligible electors.** If, prior to the issuance of the "Order and Notice of Election," the board of education of the technology center district shall have given written notice of approval of the deannexation to the State Board, only those school district electors who reside in the territory proposed to be deannexed shall be eligible to vote at the election. In the event the board of education of the technology center district will not give written approval of the deannexation, then school district electors of the entire technology center district shall be eligible to vote on the deannexation question.

(F) **Exceptions.** In situations where the reason for deannexation is because an approved consolidation has resulted in a sending school district with membership in two or more technology center districts, approval from the local technology center board is not necessary and upon approval from the State Board, only those school district electors who reside in the territory proposed to be deannexed shall be eligible to vote at the election.

(G) **Deannexation approval.** If a majority of the eligible school district electors voting at the election approve the deannexation, the State Board shall issue an order deannexing the territory from the technology center district and will transmit copies thereof to the county clerk, county assessor, and county treasurer of each county in which any of the deannexed area lies.

(H) **Property valuation; taxation.** If the territory is deannexed from a technology center district, the assessed valuation of property in the deannexed territory will be subject to taxes thereafter levied to pay bonded indebtedness that was incurred by the technology center district while the deannexed territory was a part of the technology center district.

(I) Should a successful deannexation election occur the collection of advalorem from patrons in the deannexing territory shall continue for a period of five consecutive tax cycles following the successful deannexation election. Collections taxes will be prorated from the date of the election according to the following schedule:

- (i) Cycle one following the election, 85% of the current technology center rate.
- (ii) Cycle two following the election, 70% of the current technology center rate.
- (iii) Cycle three following the election, 55% of the current technology center rate.
- (iv) Cycle four following the election, 40% of the current technology center rate.
- (v) Cycle five following the election, 25% of the current technology center rate.
- (vi) Cycle six following the election no advalorem taxes will be collected from patrons in the territory voting to deannex from the technology center.

(2) **Annexation/detachment without an election.** The State Board may annex or detach territory from a technology center district as authorized in 70 O.S. Supp. 1990, §14-108, provided such action is in the best interest of the citizens of Oklahoma and in a situation where there are no qualified electors residing in the affected area. Such action will not require an election and will take effect immediately following the adoption of a resolution by the State Board.

(d) **School consolidation.**

(1) **Nondiscrimination study.** When consolidation of school districts is being considered, the Department of Career and Technology Education will conduct a study to ascertain whether or not consolidation would unlawfully exclude students on the basis of race, color, national origin, or disability.

(2) **Consolidation of technology center member district and nonmember district.** When two common school districts consolidate to form a new district and one of the school districts has a majority of its territory located in a technology center district, then the State Board shall call a separate election to be held on the same day as the consolidation election, in that part of the new district that is not already a part of the technology center district, for membership in the technology center district.

(3) **Consolidation of districts with membership in different technology center districts.** When two or more common school districts consolidate to form a new district and each district already is included in a different technology center district, the location of the high school

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shall determine the technology center membership for the entire consolidated district. When more than one high school will be located within the new consolidated district, a feasibility study will be performed by the State Board. After consideration of the feasibility study and such other information as may be deemed relevant, the State Board shall determine the technology center membership for the entire consolidated district.

(4) **Consolidation of three or more districts.** When three or more common school districts consolidate to form a new district and at least one of the school districts has a majority of its territory located in a technology center

district and one or more of the other districts to be merged is not a part of any technology center district, a feasibility study performed by the State Board shall include a recommendation for membership in a technology center district and, on the same date as the consolidation election, the State Board shall call a separate election in that part of the newly formed district, that is not already a part of a technology center district, for membership in the recommended technology center district.

[OAR Docket #04-1570; filed 12-21-04]

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

1:2004-38.

EXECUTIVE ORDER 2004-38

I, Brad Henry, pursuant to the authority vested in me as Governor of the State of Oklahoma and the federal Drug-Free Workplace Act of 1988 direct the following:

1. All State government work places shall be free from illegal manufacture, distribution, dispensation, possession or use of any controlled substance. Such activities shall be grounds for disciplinary action, up to and including termination.

2. State employees convicted of any work-place-related drug offense which does not result in discharge or forfeiture of position may be required to successfully complete a recognized drug treatment or rehabilitation program.

3. All state agencies directly receiving federal funds through grants or contracts are hereby directed to develop and implement policies for identifying and reporting work-place-related drug convictions of State employees and any personnel actions taken pursuant to such convictions to appropriate federal funding agencies.

4. All state agencies, boards and commissions are directed to adopt such policies and procedures as are necessary to implement the provisions of this order and to avoid any associated loss of federal funding.

A copy of this order shall be distributed to all Cabinet Secretaries and to the Administrator of the Office of Personnel Management for the distribution to all state agencies and institutions of higher education, who will distribute to all current and new employees.

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 22nd day of December, 2004.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #04-1606; filed 12-22-04]
